

ONTARIO POLICE ARBITRATION COMMISSION



ANNUAL REPORT

FISCAL YEAR 2017-18

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**ONTARIO POLICE ARBITRATION COMMISSION
ANNUAL REPORT
FISCAL YEAR 2017-18**

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ONTARIO POLICE ARBITRATION COMMISSION
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MESSAGE FROM THE CHAIR

In the last fiscal year, as in previous years, the Ontario Police Arbitration Commission (OPAC) fulfilled its legislated mandate to administer (among other requirements) the conciliation and mediation/arbitration processes under [Part VIII of the Police Services Act](#). OPAC appointed professional, impartial, conciliators and arbitrators to assist Police Associations and Police Services Boards in the resolution of labour relations disputes. Historically, OPAC largely fulfilled a reactive role by providing conciliators and arbitrators only after labour disputes occurred.

As the newly appointed OPAC Chair, with involvement in approximately 350 rights and interest police disputes as a conciliator, I am committed to exploring ways of enhancing and improving relations in the province's police sector. Complex labour relations dynamics which result in conflict can arise between, and within, Police Associations, Police Services Boards, Police Chiefs and Police Services. While OPAC will continue fulfilling all obligations prescribed by the Police Services Act, it will also place greater emphasis on finding preventative ways to mitigate labour relations issues.

Since my appointment as Chair on November 1, 2017, the OPAC Board of Directors unanimously voted to endorse my objective to meet with Police Services Boards, Chiefs of Police and Police Associations throughout the province. To date meetings have been held with the Board of Directors from the Police Association of Ontario (PAO) and the Ontario Association of Police Services Boards (OAPSB). Both the PAO and the OAPSB support the initiative to create an environment where the parties are receptive to exploring ways to mitigate workplace relationship issues.

OPAC has scheduled meetings with Police Services and Police Associations to determine their willingness to participate in discussions on mitigating workplace relationship issues. OPAC will gladly participate where the parties jointly agree to OPAC's involvement. OPAC will not interfere with the parties' right, or ability, to manage their own affairs. As Chair, my involvement will only be that of a neutral facilitator (not conciliator, mediator, or arbitrator) to guide discussions and to explore ways of improving labour relations. Individual rights grievances or interest disputes would not be part of any facilitated discussion. Lastly, OPAC and I are reaching out to the policing community to seek joint input and advice on the best way to constructively mitigate relationship difficulties and workplace disputes.

Sig M. Walter

Chair

EXECUTIVE SUMMARY

During the 2017-18 fiscal year, the Ontario Police Arbitration Commission (OPAC) successfully carried out its legislated mandate under Part VIII of the Police Services Act. OPAC focused on the recruitment and transition to a new Chair, explored the implications of the Safer Ontario Act, 2018, and enhanced the conciliator and mediator-arbitrator rosters. The Chair introduced a new strategic direction, which was well received by stakeholders. Details of the new strategic direction, including implementation, are highlighted in the Program and Activity Overview section of this report.

As previously noted, there was the appointment of a new Chair, and two Board Members were finalized, resulting in a full Board composition for the remainder of the fiscal year.

Operationally, OPAC has experienced one of its busiest years. OPAC handled a record high of 165 conciliation files and 41 arbitration files. Activity summaries for conciliations and arbitrations in 2017-18 can be found in Appendix 1. The total number of files, including carryover from earlier years, reached 206 compared to the previous 10-year average of 173. The 10-year activity summary is located in Appendix 2.

The following strategies outlined in the 2017-18 Business Plan were successfully implemented:

- Maintaining timely delivery of service by conciliators and mediator-arbitrators.
- Succession planning, appointment, and onboarding of Commission's new Chair.
- Staff training and commencing to develop a database to enhance statistical organization, collection, and analysis.

Additionally, these strategies for the 2018-19 Business Plan were initiated:

- Studying/Reviewing the implications of an expanded mandate stemming from the Safer Ontario Act, 2018, and addressing OPAC's concerns with appropriate parties.
- Enhancing conciliator and mediator-arbitrator rosters to address retirements and maintain availability of high quality services.
- Exploring options in which policing labour relations conflict can be mitigated with the agreement of Police Associations, Police Services Boards and Police Chiefs.

OPAC's budget for fiscal year 2017-18 was \$458,700. Despite the increase in activities, OPAC was able to operate under-budget with a total expenditure of \$444,593. The Financial Report is located on page 6.

LEGISLATIVE AUTHORITY

The legislative authority of OPAC is set out under section 131(1) of the Police Services Act, R.S.O. 1990, c.P. 15 as amended. The statutory responsibilities of OPAC are set out specifically in subsection 131 (5):

131 (5) The Arbitration Commission has the following responsibilities:

1. Maintaining a register of arbitrators who are available for appointment under section 124.
2. Assisting arbitrators by making administrative arrangements in connection with arbitrations.
3. Fixing the fees of arbitrators appointed by the Solicitor General under section 124.
4. Sponsoring the publication and distribution of information about agreements, arbitrations and awards.
5. Sponsoring research on the subject of agreements, arbitrations and awards.
6. Maintaining a file of agreements, decisions and awards made under this Part.

MANDATE

OPAC is an independent adjudicative agency whose mission is to provide for the neutral administration of the Labour Relations, Part VIII, of the Police Services Act in an effective and timely manner.

Responsibilities of OPAC as outlined in the Memorandum of Understanding between OPAC and the Ministry of Community Safety and Correctional Services (MCSCS) are to:

- promote harmonious labour relations in the police community
- administer the mediation-arbitration process for police contract bargaining disputes and rights grievances
- provide conciliation services prior to arbitration
- assist parties negotiating a voluntary collective agreement
- sponsor research with respect to police arbitration processes and awards

ROLE OF OPAC

OPAC was established in 1972 to facilitate an effective, efficient process to assist Police Associations and Police Services Boards in Ontario in resolving outstanding labour and contract bargaining disputes. There are two types of disputes:

- a “rights” dispute involves the interpretation, application, administration or alleged violation of an existing agreement or award
- an “interest” dispute involves settling the terms of a new collective agreement

In accordance with the Labour Relations Part VIII of the Police Services Act, OPAC appoints conciliators and mediator-arbitrators to resolve rights and interest disputes between Police Associations and Police Services boards across the province.

OPAC does not influence the mediator-arbitrators or conciliators who are appointed to facilitate dispute resolution, and does not in any way influence the parties in their actual negotiations. These processes are intended to promote harmonious labour relations in the police community and improve the long-term effectiveness of policing in Ontario.

COMPOSITION OF OPAC

Section 131(2) of the Police Services Act sets out the composition of OPAC. It consists of a Chair and two representatives of Boards, recommended for appointment by the Ontario Association of Police Services Boards (OAPSB) and two representatives of Associations, recommended for appointment by the Police Association of Ontario (PAO). The Minister must consult with or attempt to consult with the bargaining agents or employers’ organizations prior to a Chair being appointed to OPAC.

In June of 2016, new gender diversity targets were announced to ensure more women have the opportunity to achieve leadership positions on boards and agencies. OPAC is fully aware of, and supportive of, the inclusion of women in leadership positions. OPAC has, since 2017, increased female representation on the Board of Directors by 25 per cent. While there has been improvement, more needs to be done to meet the 40 per cent target. OPAC has informed the board members of the gender diversity target requiring greater female representation.

2017-18 Appointments

Ontario Police Arbitration Commission Chair

New: Sig Walter: November 1, 2017 to October 31, 2019

Ontario Association of Police Services Boards Representatives

Patrick Weaver: January 15, 2016 to January 14, 2019

New: Frances Caldarelli: January 8, 2018 to January 7, 2020

Police Association of Ontario Representatives

Bruce Chapman: March 2, 2016 to March 1, 2019

New: Mark Baxter: April 5, 2017 to April 4, 2019

Staff

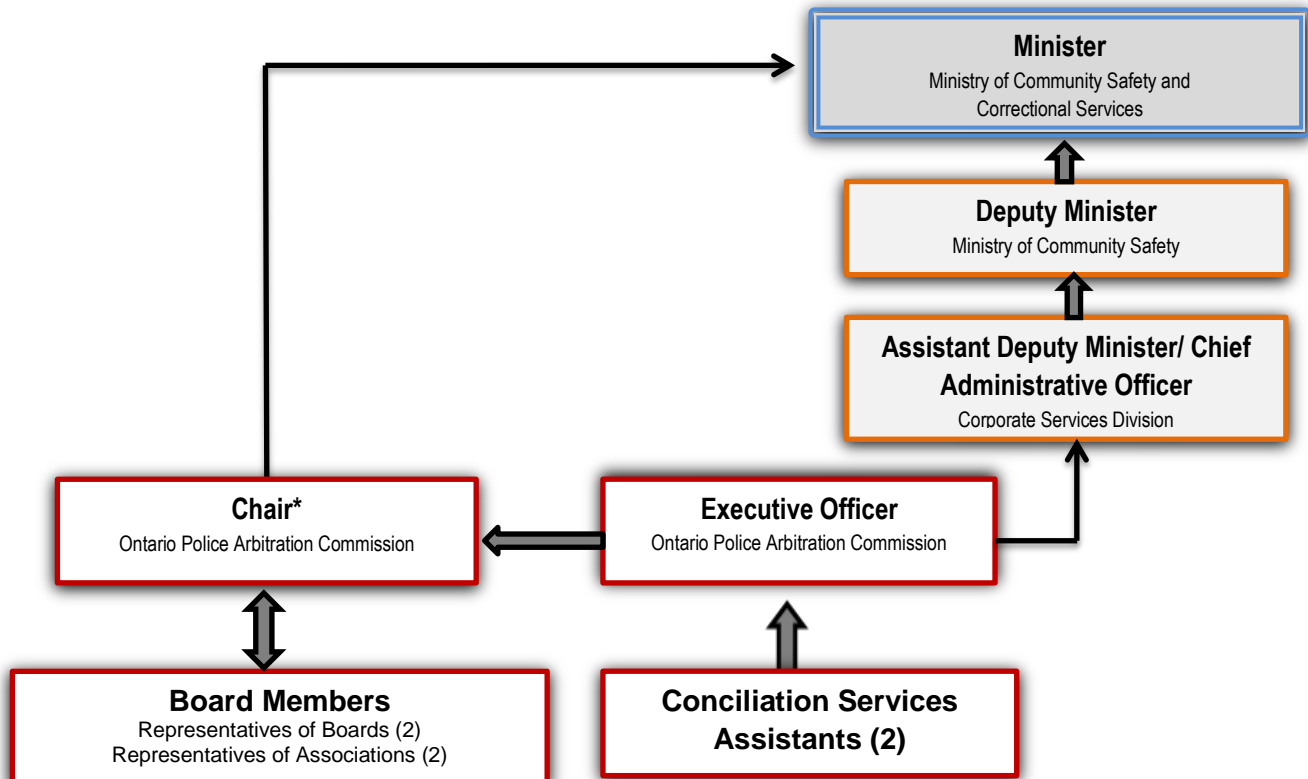
OPAC's staff is comprised of an Executive Officer and two full-time Conciliation Services Assistants. Employees of OPAC are appointed under Part III of the Public Service of Ontario Act, 2006.

Conciliator and Mediator-Arbitrator Rosters



One of OPAC's priorities for the last fiscal year and moving forward is to enhance the conciliator and mediator-arbitrator rosters. The passing of the Safer Ontario Act, 2018 will expand OPAC's mandate and it is anticipated that the volume of applications for service will increase. OPAC must diversify the arbitrator-mediator roster to accommodate the varied types of disputes that will arise under OPAC's expanded jurisdiction from the Safer Ontario Act, 2018. The passing of the new legislation coupled with the number of retirements within the existing roster means OPAC must recruit new conciliators and arbitrators.

The Chair has recruited three new mediator-arbitrators and one new conciliator and has established a reserve list. After updating the rosters to reflect retirements and new hires, OPAC has 5 conciliators and 31 mediator-arbitrators to deliver legislated programs and services. These rosters will be reviewed regularly, and as the implications of the Safer Ontario Act, 2018, evolve further.

Organization



LEGEND

-  Regular reporting relationship
-  Indirect relationship - less frequent or specific tasks/areas of operation
- * Per legislation, this position is subject to Minister's direction.

FINANCIAL REPORT

FISCAL YEAR 2017-18 BUDGET: \$458,700

Fiscal Year 2017-18	Budget	Actuals	+/-
Salaries & Wages	\$182,000	\$169,993	\$12,007
Benefits	\$23,500	\$23,845	(\$345)
Transportation & Communication	\$40,000	\$47,892	(\$7,892)
Services <small>(see breakdown below)</small>	\$199,200	\$194,619	\$4,581
Conciliation Services		\$92,110	
Arbitration Services		\$28,387	
Other Services		\$74,122	
Supplies & Equipment	\$14,000	\$8,244	\$5,756
TOTAL:	\$458,700	\$444,593	\$14,107

The budget for 2017-18 was \$458,700. In 2017-18, OPAC operated within its budget with underspending of \$14,107 and a total expenditure of \$444,593.

OVERVIEW OF PROGRAMS AND ACTIVITIES

Conciliation Services

As a result of parties not being able to resolve their differences through negotiation, either party representing a Police Association or Police Services Board may request the appointment of a conciliator by applying to OPAC under sections 121 (interest disputes) or 123 (rights disputes) of the Police Services Act. An impartial conciliation officer is appointed to assist the parties to resolve or reduce the number of outstanding issues. Unresolved issues may be referred to arbitration. The purpose of conciliation is to assist parties in reaching a mutually agreeable resolution without proceeding to arbitration, which avoids an expensive and potentially lengthy process for all parties involved.

OPAC uses the services of five experienced conciliators who are paid a per diem per case. Conciliators have flexible schedules allowing them to accommodate a greater number of meeting dates within any given timeframe and hold multiple hearings on the same day in various locations throughout the province.

2017-18 Conciliation Highlights

- 130 new applications for conciliator appointments
- 165 conciliation files were handled in total, including carryover from previous years
- 118 appointments made
- 109 conciliations heard over 71 hearing days

Conciliation activity in fiscal year 2017-18 was higher than estimated. Activity increased nearly 55% from last fiscal year, reaching a record high of 130 new applications for a total of 165 files. The detailed conciliation activity report, which includes grievance types and outcomes, is available in Appendix 1.

Mediation-Arbitration Services

In the event parties are unable to resolve their differences through conciliation and cannot agree on the joint appointment of an arbitrator, either party representing a Police Association or Police Services Board may request the appointment of an arbitrator by applying to OPAC. The outcome of a dispute is determined by the arbitrator based on evidence presented at a hearing. In October 1997 the Police Services Act was amended to allow for an assisted dispute resolution mechanism to deal with all police contract bargaining disputes. As a result, the emphasis on mediation prior to arbitration has increased the number of settlements between Police Associations and Police Services Boards in both interest and rights disputes, as reflected in the number of the mediated settlements in OPACs statistics.

2017-18 Arbitration Highlights

- 23 new applications for arbitrator appointments
- 41 arbitration files were handled in total, including carryover from previous years
- 19 appointments made
- 20 arbitration files heard over 22 hearing days

Arbitration activity in fiscal year 2017-18 was within our 10 year average. Several carryover files from previous years were closed and a high number of mediated settlements were reached. The detailed activity report is available in Appendix 1.

Workplace Relationship Improvement Program

The Workplace Relationship Improvement Program (WRIP) has been abandoned due to lack of interest with agreement from the OPAC Board. Instead, OPAC will, in the future, take a more proactive approach to identifying ways to mitigate labour disputes and relationship breakdowns.

New Strategic Direction

In an effort to mitigate conflict in the policing community and to promote constructive labour relations, OPAC will explore ways of achieving its goals with input from Police Associations, Police Services Boards and Police Chiefs. The Chair will facilitate this initiative by meeting with the parties where they mutually agree to participate. The Annual Report "Message from the Chair" concisely addresses the direction OPAC is taking. Unlike the WRIP program, this initiative will require less formality, time commitment and expense for the involved parties.

Prior to formal implementation of this strategy, the Chair received unanimous endorsement from OPAC's Board. Further, the Chair met with the executive of PAO, as well as the executive of the OAPSB. Both stakeholder groups showed interest and support for the initiative.

To date, the Chair has begun meeting with representatives from Police Services to elicit their input and cooperation in finding ways to mitigate labour relations problems. Additional meetings will be scheduled throughout the coming next fiscal year. The acceptance and success of this strategy will be tracked over the next fiscal years.

New Legislation, Safer Ontario Act, 2018

The Safer Ontario Act, 2018, directly impacts OPAC and its primary stakeholders. OPAC was able to review the proposed legislation and make recommendations before it was passed. The Chair drafted a detailed report with revisions and request for clarification on several parts of the Act where OPAC is impacted.

Many of OPAC's concerns will be addressed in the regulations; however, it is certain OPAC will have an increased mandate with additional service responsibility. OPAC will continue to study the implications of the Safer Ontario Act, 2018, including, but not limited to organizational structure, budget and service provider rosters.

Distribution of Labour Relations Information

OPAC is committed to providing information about its services to stakeholders and the public in a transparent and accessible manner. OPAC's website (www.policearbitration.on.ca) provides historic information on arbitration decisions and communicates policies, procedures, and accountability documents to stakeholders, legal counsel, labour relations personnel in the broader public sector and the general public. Individuals can freely access this information and utilize the awards, summaries, and agreements as research materials.

OPAC's website has removed barriers for users in compliance with the Accessibility for Ontarians with Disabilities Act, including Web Content Accessibility Guidelines 2.0.

Performance Measures – Fiscal Year 2017-18

The following performance measures outline desired results for meeting OPAC's business objectives and strategies. These measures have been adjusted and are under review for further development in the next business planning phase. As new strategies are implemented, new data can be tracked in the upcoming fiscal year.

1. Core Business Function: Conciliation

The following statistics are used to ensure efficient response to applications for conciliation services. The expectation is that every application is acknowledged within the same business day, with the exception of complex applications that require further interpretation or direction from the Chair. The results below indicate that OPAC's five year average response time is 1.25 days. In fiscal year 2017-18, the average response time was 1.01 day. OPAC achieved its objective.

Objective	Outcome Statement	Measure	Result Achieved
Ensure timely delivery of professional services by qualified conciliators	Efficient delivery of conciliation services	At or below the previous 5-year average number of days to respond from receipt of application to first contact of 1.25 days	Average number of days to respond from receipt of application to first contact = 1.01 days

2. Core Business Function: Mediation-Arbitration

The statistics below are used to ensure efficient and timely response to applications for arbitration services. As with conciliation, the expectation is that every application for arbitration is acknowledged within the same business day, with the exception of complex applications that require further interpretation or direction from the Chair. The results below indicate that OPAC's five year average response time is 1.31 days. In fiscal year 2017-18 the average response time was 1.00 day. OPAC achieved its objective.

Objective	Outcome Statement	Measure	Result Achieved
Ensure timely delivery of professional services by qualified mediator-arbitrators	Efficient delivery of mediation-arbitration services	At or below the previous 5-year average number of days to respond from receipt of application to first contact of 1.31 days	Average number of days to respond from receipt of application to first contact = 1.00 day

3. Core Business Function: Maintain and Distribute Information & Research Materials

The statistics below display the expediency at which OPAC publicly posts arbitration awards and decisions on the website for public use. This ensures OPAC meets its mandated requirement of publishing and distributing information on agreements and awards. The results below indicate that the OPAC's five year average posting time is 1.39 days. In fiscal year 2017-18 the average posting time was below, within 1.00 day of receipt of summary. OPAC achieved its objective.

Objective	Outcome Statement	Measure	Result Achieved
Improve stakeholder accessibility to the application process	Enhanced access to information on OPAC's website	At or below the previous 5-year average number of days for new awards to be published on OPAC website from receipt of summary of 1.39 days	Average number of days for new awards to be published on website from receipt of summary = 1.00 day

APPENDIX 1

Activity Summary: Fiscal Year 2017-18

Conciliation Activity Summary

Requests for Appointment	Files Processed	Rights Disputes	Interest Disputes	Duty of Fair Representation	Section 40
Carryover of files from 2013-14	1	1	0	0	0
Carryover of files from 2014-15	2	2	0	0	0
Carryover of files from 2015-16	7	6	1	0	0
Carryover of files from 2016-17	25	22	3	0	0
New conciliation requests 2017-18	130	117	9	4	0
Total files handled:	165	148	13	4	0
Conciliation files heard 2017-18	109	101	7	1	0
Number of hearing days	71	65	5	1	0
Average hearing days required/ file	0.65				

Conciliation File Outcomes in 2017-18	
OPAC Lacks Jurisdiction	0
Withdrawn	19
Settled Prior to Conciliation	13
Resolved	41
Unresolved	54
On Hold	16
In Process	22
Total files handled:	165

Arbitration Activity Summary

Requests for Appointment	Files Processed	Rights Disputes	Interest Disputes	Duty of Fair Representation	Section 40
Carryover of files from 2013-14	1	0	0	1	0
Carryover of files from 2015-16	1	1	0	0	0
Carryover of files from 2016-2017	16	15	0	1	0
New Arbitration requests 2017-18	23	20	3	0	0
Total files handled:	41	36	3	2	0
Arbitration files heard 2017-18	20	16	2	2	0
Number of hearing days	22	15	1	6	0
Average hearing days required/ file	1.1				

Arbitration Hearing Outcomes 2017-18	
OPAC lacks jurisdiction	0
Withdrawn	5
Agreed To Own Arbitrator	0
Settled Prior To Arbitration	2
Mediated Settlement	10
Final Awards Delivered	7
Adjourned Sine Die	0
On Hold	0
In Process	17
Total files handled:	41

APPENDIX 2

Activity Summary – 10 Year Overview:

Conciliation Files Breakdown

Fiscal Year	08-09	09-10	10-11	11-12	12-13	13-14	14-15	15-16	16-17	17-18	Average
New Concil. Applications	119	104	100	111	71	100	106	103	84	130	102.8
Rights	94	80	84	89	61	84	94	85	72	117	86.0
Interest	19	16	11	19	7	11	7	15	7	9	12.1
DFR	5	8	4	3	2	4	5	3	5	4	4.3
Section 40	1	0	1	0	1	1	0	0	0	0	0.4
Total Concil. Applications	159	137	119	133	108	123	120	129	115	165	130.8
Rights	129	106	101	107	91	104	106	109	97	148	109.8
Interest	21	21	13	19	12	13	8	17	13	13	15.0
DFR	8	10	4	5	1	4	6	3	5	4	5.0
Section 40	1	0	1	2	4	2	0	0	0	0	1.0
Cases heard	98	113	82	94	63	92	90	87	76	109	90.4
# of Hearing Days	57	69	56	57	51	70	71	64	48	71	61.3
Avg days per case	0.58	0.61	0.68	0.61	0.81	0.76	0.79	0.74	0.63	0.65	0.7

Arbitration Files Breakdown

Fiscal Year	08-09	09-10	10-11	11-12	12-13	13-14	14-15	15-16	16-17	17-18	Average
New Arb. Applications	27	42	31	34	22	31	21	15	29	23	27.6
Rights	24	30	28	26	11	21	17	11	24	20	20.9
Interest	1	2	1	8	8	3	3	4	1	3	3.7
DFR	1	10	1	0	0	4	1	0	4	0	2.2
Section 40	1	0	1	0	3	3	0	0	0	0	0.8
Total Arb. Applications	44	55	49	56	44	47	44	37	39	41	45.8
Rights	38	41	39	45	29	29	29	26	30	36	33.8
Interest	4	3	3	8	9	9	5	4	3	3	5.2
DFR	1	11	6	1	1	4	5	3	6	2	4.3
Section 40	1	0	1	2	5	5	5	4	0	0	2.4
Cases heard	21	33	28	16	25	22	19	12	20	20	21.4
# of Hearing Days	51	40	60	27	36	35	36	18	18	22	32.3
Avg days per case	2.43	1.21	2.14	1.69	1.44	1.59	1.89	1.50	0.90	1.1	1.5

Total Files

Fiscal Year	08-09	09-10	10-11	11-12	12-13	13-14	14-15	15-16	16-17	17-18	Average
Total New Applications	146	146	131	145	93	131	127	118	113	153	130.3
Total (New + Carryover) Applications	203	192	168	189	152	170	164	166	154	206	176.4
Total Cases Heard	119	146	110	110	88	114	109	99	96	129	111.8
Total Hearing Days	108	109	116	84	87	105	107	82	66	93	95.5

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