

COBA CONFERENCE 2012
NAVIGATING TROUBLED
WATERS: CURRENT ISSUES IN
ADMINISTRATIVE JUSTICE



“The issue of self representation is not just a lack of legal skill but rather a lack of emotional distance from their case”

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- **Tribunals fulfill a critical role in providing a transparent & accessible means of dispute resolution**
 - **Tribunals exist for the user & cannot fulfill their function unless they are accessible by the people who want to use them**
 - **Justice must not only be done, but seen to be done**
 - **Facilitate quality participation in a process where participants are able to tell their story**

STRATEGIES

- **Workshops & Training for Staff**
- **Establishing Competency Standards – including technical skills, knowledge, cultural competencies & code of conduct**
- **Design of Website & Publications Design**
- **Use of plain language**

TRAINING FOR OPS EMPLOYEES

Employee Assistance Program (EAP)

- Workshops may assist employees deal with difficult clients by learning techniques in workplace violence prevention, stress, trauma and change management, mediation and alternative dispute resolution..

Some examples are...

Dealing with Difficult Behaviours

- Learn to acquire techniques to handle a difficult, aggressive or hostile situation; including building listening and communication skills to respond calmly and effectively.
- Assisting stakeholders by learning to stay calm even when dealing with difficult clients leading to stressful situations.

Workplace Violence Prevention

- Understand the spectrum of behaviours considered unacceptable, abusive or aggressive in employees or external stakeholders, and how to identify any potentially unsafe situations that may arise.

Expect the Unexpected: Trauma Training

- Prepare employees how to respond quickly and effectively to any critical incident that disrupts organizational functioning

Crisis Response Team Training

- Team members will learn to act as first responders to colleagues affected by trauma, to implement strategies to support their colleagues and to establish efforts to maintain a productive and healthy work environment during and after a critical incident.

Emotional Intelligence

- Emotional Intelligence (EQ) is the ability to recognize and pay attention to our emotions to make better decisions.

LEARNING AND DEVELOPMENT

OPS Courses

Service Excellence: Exceptional Customer Service

- How to demonstrate empathy through active listening and communication skills

The Art of Managing Conflict

- Webinar designed for all OPS employees to provide a framework for assessing the types of conflict people typically experience in the workplace and will propose strategies for their resolution.

SafeSmart

- Learning about the impact of workplace accident, legislated health and safety responsibilities, and becoming familiar with OPS health and safety related policies, guidelines, bulletins etc.

May I Help You? Welcoming Customers with Disabilities

- Learn how to respond appropriately to a customer with a disability and distinguish their individual needs.

Operational Strategies

- **Manage client expectations - ensure individual understands what they can expect from the agency**
- **Treating individuals with the same level of respect and professionalism regardless of their behaviour. Treat each conversation as if you are being recorded & remain calm and professional at all times.**
- **Maintaining a principled, evidence-based approach with a focus on objective issues.**
- **Explore the issues. Use active listening to the responses. Ask probing questions.**
- **Be flexible by using the best method of communication on a case-by-case basis especially in cases with a potential disability.**
- **Develop a plan on the most effective way to deal with individuals (i.e. maintaining regular contact or managing contacts in writing only, etc.)**
- **Staff should consult with their manager to determine an appropriate response and required security protocol.**

Documenting Difficulties

- **Document all contact, including the nature of any contacts and any challenges**
- **It's not helpful to simply state that the person was difficult or abusive**
- **It's helpful to refer to the actual behaviour and note or quote exactly what the person said rather than attempting to label it**
- **Ensure your notes include time, date, names of persons attending, potential witnesses and documents received.**

SELF-HELP BROCHURES:

BRINGING AN APPEAL

NOTICE OF MOTIONS

A party to an appeal may raise a preliminary issue by serving and filing a Notice of Motion.

Such issues typically include:

- the Commission's jurisdiction;
- a stay of proceedings;
- constitutional issues;
- the disclosure of information;
- the status of a party or legal standing; or
- other significant legal issues.

The issue raised in a party's Notice of Motion may be dealt with before or at the hearing of the appeal.

The Notice of Motion must set out the grounds for the motion and specify the decision that is requested of the Commission. The Notice of Motion must be accompanied by the supporting evidence.

The Notice of Motion must be filed with the Commission 14 days before the motion is scheduled to be argued.

When responding to a motion, a party must serve and file a Factum and all supporting evidence at least seven days prior to the date on which the Commission will hear the motion.

TRANSLATION, INTERPRETATION AND SPECIAL NEEDS

The Commission may conduct proceedings in English or French, or partly in both languages.

If a party requires English-to-French or French-to-English translation, or requires an interpreter in any other language, the Commission must be notified at least 15 days before the date the appeal is scheduled to be argued.

ACCESSIBILITY

If you or anyone in your party has accessibility needs, please contact the Commission Registrar at least 15 days prior to the argument of the appeal.

CHECK LIST

Have I remembered to:

- Serve all parties with my Notice of Appeal and file it with the Commission within 30 days of receiving notice of the decision of the disciplinary hearing.
- (If necessary) Notify the Commission, in writing, with reasons to ask for more time to prepare my Appeal Factum.
- Make sure all parties receive copies of necessary documents at every stage of the appeal.
- (If necessary) File my Notice of Motion with the Commission at least 14 days before the appeal is scheduled to be argued, including the evidence supporting the motion.
- Inform the Commission at least 15 days before the appeal is scheduled to be argued about the need for translation or interpretation services, and with regard to individuals with disabilities who may require special accommodation.

More information on the Commission's appeal process, sample forms and the Rules of Practice governing an appeal are available on the Commission's website: www.ocpc.ca.

The information contained in this pamphlet is provided for your information and is not intended as legal advice or direction. Specific questions about your appeal should be referred to your lawyer.



Mind Sources
Product group: Paper and Packaging
Product: Certified Recycled Paper
Product number: 100-100-1000
www.mindsources.com
1-800-451-1000

BRINGING AN APPEAL



ONTARIO CIVILIAN POLICE COMMISSION

OFFICE OF THE REGISTRAR
6TH FLOOR, SUITE 605
250 DUNDAS STREET WEST
TORONTO ON M7A 2T3

416-314-3004
TOLL FREE: 1-888-515-5005
WEBSITE: WWW.OCPC.CA

How to Appeal an Acquittal

The Act provides that you may appeal a finding of no misconduct (i.e. an ‘acquittal’). You have the automatic right to do so.

WHO DOES IT	WHAT TO DO	WHEN
Public Complainant	<ul style="list-style-type: none"> File with the Commission and serve the police officer and the prosecutor at the disciplinary hearing with your notice of appeal (Form 4) along with a copy of the decision being appealed Where applicable, provide a copy of the Commission’s order granting your request to appeal a penalty decision File proof of services on the parties with the Commission <i>Rules 8, 9 and 28.1</i> 	<ul style="list-style-type: none"> Within 7 days after receiving notice of the Commission’s decision to grant your request for leave to appeal, OR within 30 days after receiving notice of the hearing officer’s finding of “no misconduct” which you are appealing <i>Rules 8, 9, 27, 28 and Form 4</i>
Public Complainant	<ul style="list-style-type: none"> If your appeal relates to an incident which occurred on or after October 19, 2009, you must also serve the Solicitor General and the Independent Police Review Director (Director) with the same documents, and file proof of service on them with the Commission <i>Rules 8, 9, 28.2, 28.3 and Form 4</i> 	<ul style="list-style-type: none"> Same timing as immediately above
All Parties	<ul style="list-style-type: none"> If you are bringing a motion related to the appeal, serve and file your notice of motion, factum and brief of authorities for use on the motion If you are responding to a motion related to the appeal, serve and file your responding factum and brief of authorities for the motion <i>Rules 8, 9 and 10.5</i> 	<ul style="list-style-type: none"> If you are bringing the motion, within 15 days of the date the motion is to be heard If you are responding, within 7 days before the motion is heard
Public Complainant	<ul style="list-style-type: none"> File proof with the Commission that you have ordered from the chief of police of the police service involved in the disciplinary hearing a copy of the transcript of all oral evidence and copies of any documents marked as exhibits (from the disciplinary hearing) upon which you rely for your appeal <i>Rule 28.4</i> 	n/a
Public Complainant	<ul style="list-style-type: none"> Receives notice that the Solicitor General and/or the Director wish to be heard on the argument of the appeal <i>Rule: 28.4</i> 	<ul style="list-style-type: none"> Within 30 days after being served by you with your notice of appeal and a copy of the decision you are appealing
Public Complainant and All Parties	<ul style="list-style-type: none"> If the Solicitor General and the Director do serve notice of their wish to be heard on the argument of the appeal, they must be served with ALL appeal documents by ALL parties to the appeal The Solicitor General and Director must prepare and serve their own appeal documents for the appeal 	<ul style="list-style-type: none"> n/a

How do you appeal a penalty?

The Act provides that the Commission MAY hear an appeal from a public complainant regarding the penalty imposed as a police disciplinary hearing. However, if you wish to appeal a penalty, you must first obtain permission, or, 'leave' from the commission.

WHO DOES IT	WHAT TO DO	WHEN
Public Complainant	<ul style="list-style-type: none"> • Prepare a request to appeal a disciplinary penalty (Form 3), file it with the Commission and serve it on the police officer and prosecutor at the disciplinary hearing • <i>Rules 8, 9, 27.1 and Form 3</i> 	Within 30 days after receiving notice of the penalty decision
Public Complainant	<ul style="list-style-type: none"> • Serve police officer and prosecutor at the disciplinary hearing with your factum and brief of authorities, and file 3 copies with the Commission • <i>Rules 8, 9 and 27.2</i> 	Within 30 days after you serve and file your request for leave to appeal
Police Officer and Prosecutor from Disciplinary Hearing	<ul style="list-style-type: none"> • Serve you with and file their responding factums and briefs of authorities • <i>Rules 8, 9 and 27.3</i> 	Within 30 days after you serve them with your request for leave to appeal (Form 3)
Parties	<ul style="list-style-type: none"> • Agree that your request for leave to appeal will be decided in writing with no attendance before the Commission for oral argument • <i>Rule 27.4</i> 	n/a
Parties	<ul style="list-style-type: none"> • File a written objection to your request being decided in writing • Commission Registrar will arrange a date for the parties to appear before the Commission for oral argument • <i>Rule 27.4</i> 	When filing factum and brief of authorities
Public Complainant	<ul style="list-style-type: none"> • If the Commission grants your request to appeal, you must prepare your notice of appeal (Form 4), file it with the Commission and serve it on the parties to the appeal • Follow all of the steps required of an appellant as described in the Commission's Guide and in the chart for appellants below • <i>Rules 8, 9, 27.5, 28, 30, 31 and Form 4</i> 	Within 7 days after receiving notice of the Commission's order granting your request to appeal the penalty decision

Motions

Under *Rule 10*, a party to an appeal may bring a motion before or at the appeal hearing.

WHO DOES IT	WHAT TO DO	WHEN
Appellant	<ul style="list-style-type: none">• Serves those participating in the appeal (likely the police officer and the prosecutor from the disciplinary hearing) with a notice of motion, factum and a brief of authorities seeking permission to introduce new or additional evidence on the appeal (under s. 87(5) of the <i>Police Services Act</i>), or dealing with the process of the appeal, and file with the Commission• <i>Rule 10</i>; Form 2	As soon as possible after either receiving permission to appeal a penalty decision or after serving your notice of appeal, and at least 14 days before the motion is to be argued
Respondent	<ul style="list-style-type: none">• Serves responding factum and brief of authorities on those participating in the appeal, and file with Commission• <i>Rule 10.5</i>	At least 7 days before date on which the motion will be argued
All Parties	<ul style="list-style-type: none">• Attend at Commission office in Toronto to argue motion	On date set by the Commission Registrar

Resources for Legal Assistance

- **Lawyer Referral Service (Law Society of Upper Canada) provides a free, half-hour consultation with a legal counsel at 416-947-3330 or 1-800-268-8326**

Lawsociety@lsuc.on.ca

- **Law Help Ontario provides information and resources about *pro bono* (free) legal services to persons of limited means who cannot afford to hire a lawyer and are unrepresented in legal matters. Sponsored by Pro Bono Law Ontario, Law Help Ontario operates self-help centres. There are financial and other criteria that must be met.**

www.LawHelpOntario.org

- **Justice Ontario is a central source for questions about Ontario's legal system, and provides legal information in more than 170 languages. 416-326-2220 or 1-800-518-7901**

www.JusticeOntario.org

- **Legal Aid Ontario is available to low-income individuals who may qualify for a Legal Aid Certificate to help pay their legal fees. Legal Aid Ontario also operates Community Legal Clinics that provide legal representation to low-income individuals. 416-979-1446 or 1-800-668-8258**

www.legalaid.on.ca

Legal Aid Ontario

- Users can navigate the “Getting Legal Help” section on the website, which presents options such as legal aid eligibility, preparing for court, making a legal aid appeal, a toll free number and an ethics hotline to report suspected fraud or wrongdoing. Clients can also report a fraud or wrong doing online.
- Under “Publications and Resources” there are various links to brochures and handouts. Examples:

LEGAL AID ONTARIO CAN HELP

Legal services for low-income Ontarians

Legal Aid Ontario can help
Legal Aid Ontario helps low-income people with family, criminal or immigration/refugee legal matters. Legal Aid Ontario also provides help with civil legal matters such as landlord/tenant issues and social assistance through many community legal clinics.

Legal aid services: where to get help
You can access our services through any of the following:

- In court: duty counsel lawyers and Family Law Information Centres help unrepresented people.
- Over the phone: toll-free services include legal aid applications and advice from a lawyer.
- At a community legal clinic: clinics help with social issues such as housing, employment, and health care.
- On Legal Aid Ontario's website: find family and criminal legal information, as well as links to other resources.

Legal services eligibility
Legal Aid Ontario will provide you with the services best suited to your legal matter. To receive assistance, you must qualify financially and your legal matter must be covered by Legal Aid Ontario.

Will likely qualify for many Legal Aid Ontario services if gross family income is below:	
■■■■■	\$18,000
■■■■■	\$27,000
■■■■■	\$31,000
■■■■■	\$37,000
■■■■■	\$43,000

For the most serious legal matters, Legal Aid Ontario may offer full representation through its certificate program. In some cases, you may have to repay some or all of your legal fees. Please note that you must qualify under a separate financial eligibility test for this program.

To find out more, call us or visit legalaid.on.ca/eligibility

Community legal clinics
Clinics can help with basic needs such as housing, health care and employment. Available services may vary. Please note that the eligibility criteria for clinics is different from Legal Aid Ontario's. To find a local legal clinic, visit legalaid.on.ca/clinics

Criminal law services
Legal Aid Ontario's criminal law services include in-court duty counsel, up to 20 minutes of summary legal advice from a lawyer, a referral to a legal aid clinic, legal representation or a referral to our online legal website, LawFacts.ca. For more information, visit legalaid.on.ca/criminal

Domestic violence
Victims of domestic violence seeking assistance or counselling can contact the Assaulted Women's Helpline at 1-866-863-0511.
If this is an emergency, call 911.
Legal Aid Ontario can help victims of domestic violence receive legal assistance and emergency access to a lawyer. Services extend to all low-income Ontarians, regardless of immigration status. Telephone interpretation services are available.

Duty counsel
Duty counsel lawyers can assist people who appear in court without a lawyer. Duty counsel services are available in courthouses across Ontario. To find out more, visit legalaid.on.ca/court

Family law services
Legal Aid Ontario can assist with many family law matters, including child custody, access and support payments. Assistance is available through:

- Family Law Service Centres (FLSC);
- Family Law Information Centres (FLIC);
- the Family Law Information Program (FLIP);
- legal representation, mediation, settlement conferences and more.

See a full list of family law services and locations at legalaid.on.ca/family

Immigration/refugee law services
Legal Aid Ontario can help with refugee claims, detention reviews, deportation orders, sponsorship appeals, judicial reviews, and more. Find out more at legalaid.on.ca/immigration

Unhappy with our services? Talk to us
If you are unhappy with a Legal Aid Ontario service, a community legal clinic or a legal aid lawyer, you can make a complaint. Call us to find out more or visit legalaid.on.ca/complaints

Website information

- Complaints: legalaid.on.ca/complaints
- Contact us: legalaid.on.ca/contact
- Criminal: legalaid.on.ca/criminal
- Duty counsel: legalaid.on.ca/court
- Eligibility: legalaid.on.ca/eligibility
- Family: legalaid.on.ca/family
- Immigration: legalaid.on.ca/immigration
- Legal clinics: legalaid.on.ca/clinics


Contact us

By phone

- Toll-free at 1-800-668-8258 or 416-979-1446.
- TTY service for the hearing impaired: 1-866-641-8867 or 416-598-8867
- Service is available Monday to Friday, 8:00 a.m. to 5:00 p.m. in more than 200 languages.

Online

- Visit legalaid.on.ca for more information on Legal Aid Ontario's services or LawFacts.ca for answers to criminal legal questions.



Criminal Injuries Compensation Board

- Website offers users the ability to translate the entire website to any language using the drop down menu, powered by Google Translate

Alcohol and Gaming Commission of Ontario

- Drop down menu entitled “Services for You” can be found on the left hand side.

Agriculture, Food and Rural Affairs Appeal Tribunal

- Menu on the left hand side of the website has an option entitled “The Appeal Process” with a link to a pdf guide entitled “Preparing for your Hearing”

Consent and Capacity Board

- Links to various forms for use by the Board, divided under the applicable acts (eg. Health Care Consent Act -> Form A, B, C etc.; Mental Health Act -> Form 16, 17, 18 etc.)
- Also a section for general FAQs

[Environment and Land Tribunals Ontario](#)

- Website divided into sections with links to multiple affiliated boards and tribunals

[Assessment Review Board](#)

- Menu entitled “e-Services” allows clients to e-file an appeal and check their status online

[Environmental Review Tribunal](#)

- Offers patrons the ability to e-file documents from their website

[Ontario Municipal Board](#)

- Quick Links offers a link to FAQs, Information Sheets, OMB Appeal Forms, Other Forms, Glossary and the ability to e-file
- All sheets, forms and guides are available in Word and pdf format

[Ontario Civilian Police Commission](#)

- Website outlines various important time limits on a tip sheet
- Use of plain language “who is your contact”

Child and Family Services Review Board

- Section on the website entitled “Self-Represented Applicants” which gives information about the CFSRB and its powers
- Sections under “Your Rights” and also “How to Apply” give links to applications under the various acts.

Human Rights Tribunal of Ontario

- Guides & Forms link offers links to Word and pdf guides, as well as an American Sign Language guide, whereby users may watch a visual presentation. Application Forms, Response Forms and Other Forms also available.
- “Smartform” application form available; users may open a form online with fillable fields and drop down menus integrated and submit it via email directly from the website.