
Ontario Civilian Police Commission



Rules of Practice

Revised 2014

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PART I - General

1.0 Application

- 1.1 Part I applies to hearings, inquiries and where necessary to appeals conducted by the Ontario Civilian Police Commission (the “Commission”) under the *Police Services Act*.

2.0 Definitions

- 2.1 In these Rules:
- (a) “*accommodation*” means the steps taken by the Commission to ensure that its proceedings are accessible to a participant in accordance with the *Human Rights Code*, R.S.O. 1990 c. H.19 as amended;
 - (b) “*Act*” means the *Police Services Act*, R.S.O. 1990, c. P.15 as amended;
 - (c) “*applicant*” means a person who serves and files a Notice Of Application (**Form 1**) in respect of hearings under sections 39 (5), 116 and 118 of the *Act*;
 - (d) “*Commission*” means:
 - (i) one or more Members of the Commission authorized by the Associate Chair of the Commission for a particular purpose, under section 21 of the *Act*; or
 - (ii) the Associate Chair of the Commission if the Associate Chair has not authorized one or more Members in respect of the matter;
 - (e) “*decision*” means an order of the Commission which concludes the appeal or the proceeding;
 - (f) “*deliver*” means to serve and file with proof of service in accordance with Rules 9 and 10;

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- (g) “*document*” includes information stored or recorded by means of any device including written communication, audio or visual recordings, photographs, and electronically stored data;
- (h) “*electronic devices*” include all forms of computers, personal electronic and digital devices, mobile, cellular and smart phones as well as wearable technologies;
- (i) “*hearing*” means that part of the proceeding before the Commission where evidence or submissions are heard, and includes a motion hearing;
 - (i) “*oral hearing*” means a hearing or part of a hearing during which the parties or their representatives attend in person before the Commission;
 - (ii) “*written hearing*” means a hearing or part of a hearing held by the exchange of hard copy or electronic documents;
 - (ii) “*electronic hearing*” means a hearing held by teleconference, videoconference or another form of technology which allows the parties and the Commission to hear and see one another or their representatives or witnesses throughout the hearing;
- (j) “*order*” means a decision or a ruling;
- (k) “*Panel*” means the Member or Members assigned to conduct a hearing;
- (l) “*presiding Member*” means the Commission Member who is the Chair of a particular hearing;
- (m) “*Registrar*” means the Registrar of the Commission;
- (n) “*representative*” means a legal counsel or agent who is retained to represent a person in the proceeding;
- (o) “*respondent*” means a person who responds to a Notice Of Application (**Form 1**) or an appeal;
- (p) “*ruling*” means a finding or order of the Commission which is not a decision and which does not conclude a proceeding, and may include interim rulings, motion rulings, rulings concerning evidence or procedure, and other directions of the Commission.

3.0 Commission Powers

- 3.1 The Commission may exercise any of its powers on its own initiative or at the request of a party.
- 3.2 The Commission may issue general or specific procedural or practice directions at any time.
- 3.3 The Commission may make such rulings and orders as it deems necessary for the proper functioning of Commission proceedings and processes, including interim rulings and orders. Such interim rulings or orders may contain conditions that the Commission considers appropriate.
- 3.4 The Commission may, at any time, waive or vary any of these Rules, including time limits set out in these Rules, on such conditions as the Commission considers appropriate.
- 3.5 Where matters are not covered by these Rules, the practice will be decided by the Commission as the Commission considers just.

4.0 Interpretation

- 4.1 The Rules and procedures of the Commission shall be liberally and purposively interpreted and applied to:
 - (a) promote the fair, just and expeditious resolution of every proceeding on its merits;
 - (b) allow parties to participate effectively in the proceeding, whether or not they have a representative; and,
 - (c) ensure that procedures, orders and directions are proportionate to the importance and complexity of the issues in the proceeding.

5.0 Accommodation Of *Human Rights Code* Needs

- 5.1 Parties, representatives and witnesses are entitled to accommodation of *Human Rights Code*-related needs by the Commission and should notify the Registrar as soon as possible in writing if accommodation is required. The provisions of these Rules will be interpreted and applied in a manner that is consistent with the *Human Rights Code* R.S.O. 1990, c. H.19, as amended.

6.0 Defects In Form

- 6.1 No proceeding is invalid by reason only of a defect or other irregularity in form.
- 6.2 The Forms contained in the Appendix to these Rules provide a guideline regarding required content or information, and reasonable compliance with the Forms shall be sufficient.

7.0 Representatives

- 7.1 Where a representative begins or ceases to act for a party in the proceeding, the party or the representative must immediately advise the Commission and the other parties in writing, and provide them with the current contact information for the party and any new representative.

8.0 Communications With The Commission

- 8.1 All communications with the Commission regarding a particular proceeding shall be made through the Commission's Registrar and copied to the other parties to the proceeding.

9.0 Service Of Documents

- 9.1** Service may be effected by sending the document:
- (a)** by personal service;
 - (b)** by regular, registered or certified mail to the last known address of the person or their representative;
 - (c)** by fax to the last known fax number of the party or their representative, but only if the document (inclusive of the cover sheet) does not exceed sixteen pages, unless the party or representative being served consents to receiving a longer document;
 - (d)** by courier to the last known address of the person or their representative;
 - (e)** by e-mail where the person or party receiving the document consents to e-mail delivery; or
 - (f)** by any other means authorized or directed by the Commission.
- 9.2** If it is impractical to effect service in accordance with Rule 9.1, the Commission may give such directions for substituted service as it considers appropriate or, where necessary, it may dispense with service.
- 9.3** Service is deemed to be effective:
- (a)** by personal service before 4:00 p.m. on the day of delivery and after that time, on the next day;
 - (b)** by mail on the fifth day after the day of mailing;
 - (c)** by fax if received by 4:00 p.m. on the day the document was faxed and on the next day if received after 4:00 p.m.;
 - (d)** by courier on the second day after the document was given to the courier;
 - (e)** by e-mail on the day after it was sent; or

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- (f) by any means and date authorized or directed by the Commission.
- 9.4 Rule 9.0 does not apply where a person who acts in good faith does not receive the notice until later or at all.
- 9.5 Where there is a requirement to serve other parties, the serving party must file an affidavit of service with the Commission or provide a letter indicating who has been served, what documents have been served, when they were served, and by what method or provide other proof as the Commission may require.

10.0 Filing Of Documents With The Commission

- 10.1 Documents filed with the Commission shall be accompanied by two additional copies, or such other number as directed by the Commission, except in the case of filing by fax which shall be accompanied by delivery of the original and two or more additional copies forthwith.

- 10.2 The address for service on or filing with the Commission is:

Ontario Civilian Police Commission
Suite 605, 250 Dundas Street West
Toronto, Ontario
M7A 2T3

Please confirm the Commission's current address on its website at www.ocpc.ca.

11.0 Commencement Of Proceedings And Hearings

- 11.1 An applicant who wishes to commence a proceeding under sections 39 (5), 116 or 118 of the *Act* shall serve each respondent and file with the Commission a Notice Of Application (**Form 1**).
- 11.2 Hearings under sections 23, 25, 69 (8), 72 (3) (b) and 77 (7) of the *Act* will be commenced by a Notice of Hearing issued and served by the Commission.

12.0 Non-Attendance At A Hearing

- 12.1 Where a party has been notified of a motion, pre-hearing conference or hearing and fails to attend, the Commission may:
- (a) proceed in the party's absence;
 - (b) determine that the party is not entitled to further notice of the hearing;
 - (c) decide the hearing based solely on the materials before it; and
 - (d) take any other action it considers appropriate including making an order for costs.

13.0 Disclosure

- 13.1 This Rule applies to a proceeding under sections 23, 25 (1), 39 (5), 69 (8), 72 (3) (b), 77 (7), 116 or 118 of the *Act*.
- 13.2 At any time in a proceeding, the Commission may order any party to provide such further particulars as the Commission considers necessary for a full and satisfactory understanding of the issues in the proceeding.

Character, Conduct or Competence Issue

- 13.3 Where a person wishes to question the good character, conduct or competence of a party in a proceeding, the person shall provide the party with reasonable information about those allegations prior to the hearing.

Disclosure of Documents and Witnesses

- 13.4 A party to a hearing shall, at least 14 days before the hearing:
- (a) disclose to the other parties the existence of every document and anything else the party intends to present as evidence at the hearing;

- (b) disclose a list of witnesses whom the party may call to give evidence at the hearing together with a brief description of their anticipated testimony; and
- (c) serve a copy of the documents, numbered consecutively, on the other parties.

Expert Witnesses

- 13.5** For the purpose of this Rule, an expert witness is a person who is qualified to provide professional, scientific or technical information and opinion based on special knowledge through education, training or experience in respect of the matters on which he or she will testify.
- 13.6** Where a party intends to rely on or refer to the evidence of an expert witness, that party shall provide to every other party the following information in writing:
- (a) the name of the expert witness;
 - (b) the qualifications of the expert witness, referring specifically to the education, training and experience relied upon to qualify the expert;
 - (c) a report that sets out the expert's conclusions and the basis for those conclusions on the issues to which the expert will provide evidence to the Commission;
 - (d) where the report exceeds 12 pages (excluding photographs) a summary stating the facts and technical or factual issues that are admitted and that are in dispute, and, where applicable, the expert's conclusions or findings to remedy the problem; and
 - (e) where that party intends to rely on or refer to a report of the expert witness at the hearing, a copy of the report signed by the expert witness.

- 13.7** The disclosure required by Rule 13.6 shall be made:
- (a)** by the party who first serves a notice of intent to rely on the evidence of an expert witness at least 30 days before the hearing;
 - (b)** by any responding party at least 20 days before the hearing;
or
 - (c)** as ordered by the Commission.
- 13.8** A party intending to challenge an expert's qualifications, report or witness statement shall give notice, with reasons, for the challenge to the other parties as soon as possible and no later than 14 days before the commencement of the hearing, and file a copy with the Commission.

Order for Disclosure

- 13.9** The Commission may at any stage of the proceeding order a party to:
- (a)** disclose to any other party the existence of all documents and things that the party will refer to or present as evidence at the hearing;
 - (b)** disclose to and serve on all other parties at least 14 days before the hearing, or as otherwise ordered by the Commission, copies of all documents that the party will produce or present as evidence at the hearing;
 - (c)** make available for inspection, subject to conditions established by the Commission, any document or thing that the party will present as evidence at the hearing; and
 - (d)** disclose any document or thing the Commission considers relevant to the issues in dispute.
- 13.10** If a party fails to comply with these Rules with respect to disclosure or inspection of documents or things, that party shall not refer to or file the documents or things in evidence without the consent of the Commission.

14.0 Pre-Hearing Conference

- 14.1** The Commission may on its own initiative or in response to a party's written request, direct the parties to participate in a pre-hearing conference to consider:
- (a)** the identification of parties and other interested persons, the addition of parties, and the scope of each party's or person's participation at the hearing;
 - (b)** facts or evidence that may be agreed upon;
 - (c)** the identification and simplification of the issues and whether further particulars are required;
 - (d)** disclosure and the exchange of documents including witness statements and expert reports;
 - (e)** the settlement of any or all of the issues;
 - (f)** the dates by which any steps in the proceeding are to be taken or begun;
 - (g)** the estimated length of the hearing including setting hearing dates; and
 - (h)** any other matter that may assist in a fair and efficient resolution of the issues in the proceeding.
- 14.2** The Commission shall direct the parties to participate in a pre-hearing conference in all proceedings where one of the parties is self-represented.
- 14.3** The Member or Commission staff member assigned to preside at a pre-hearing conference may make such orders as they consider proper for the conduct of the proceeding.
- 14.4** All parties directed by the Commission to participate in a pre-hearing conference shall disclose to and serve on all other parties at least 14 days before the pre-hearing conference all documents or things then available to them which the parties intend to rely on or refer to as their evidence at the hearing before the Commission.

- 14.5** Where a Member presides at a pre-hearing conference, he or she will not preside at the hearing except with the written consent of the parties.

Confidentiality of Pre-Hearing Conference

- 14.6** Unless the parties otherwise consent, all settlement discussions in a pre-hearing conference and the documents put forward solely for the purpose of settlement are confidential and shall not be communicated to the Panel that presides at the hearing or be relied on in the hearing before the Commission for any purpose.
- 14.7** Communication during the pre-hearing conference is confidential and shall not be relied on in the hearing or communicated to the Panel for any purpose, unless contained in a pre-hearing conference report or with the parties' consent.
- 14.8** A pre-hearing conference is not open to the public unless the Commission so directs.
- 14.9** No party shall disclose publicly any document from a pre-hearing conference.

Attendance at Pre-Hearing Conference

- 14.10** Parties or their representatives must attend the pre-hearing conference. Where a party does not attend, their representative must have instructions with respect to the issues and the authority to make agreements, including settlement of any issues.
- 14.11** The Commission Member or employee who presides at a pre-hearing conference shall cause to be recorded, in a written report, any binding orders, agreements or undertakings which are made at the pre-hearing conference.

15.0 Motions

- 15.1** A party may bring a motion at a hearing or before a hearing. Where the motion is brought before the hearing, a date to hear the motion must be obtained from the Registrar.
- 15.2** The Commission may direct that a motion be dealt with in writing or by any other means, and may direct the procedure to be followed.
- 15.3** Unless the Commission permits, a party bringing a motion shall deliver a Notice Of Motion (**Form 3**), a factum and a brief of authorities at least 14 days before the Commission deals with the motion which may involve but is not limited to:
- (a)** a contested adjournment;
 - (b)** the jurisdiction of the Commission;
 - (c)** a stay of proceeding;
 - (d)** constitutional issues including the *Charter of Rights and Freedoms*;
 - (e)** disclosure of particulars, documents or things;
 - (f)** standing or party status;
 - (g)** a request to introduce new or additional evidence under section 87 (5) of the *Act*; or
 - (h)** any matter with significant legal issues or significant disputes in fact.
- 15.4** A Notice Of Motion (**Form 3**) shall set out the grounds for the motion and the relief requested, and shall be accompanied by any evidence to be relied upon which may include an affidavit setting out the facts.
- 15.5** A party who wishes to respond to the motion shall deliver any evidence to be relied upon which may include an affidavit setting out the facts together with a factum and a brief of authorities at least 7 days before the Commission deals with the motion.

- 15.6** Where a motion is made on notice, proof of service in accordance with Rules 9.5 and 10 of the required motion materials shall be filed with the Commission.
- 15.7** This Rule applies with necessary modifications to a statutory intervener as defined in Rules 29 and 31 which has served a Notice Of Intent To Be Heard On Appeal (**Form 6**) in respect of an appeal brought under section 87 (1) of the *Act*.

16.0 Adjournments

- 16.1** A request for an adjournment of a motion, pre-hearing conference or hearing must be made in writing, be served on the other parties, and include:
- (a)** the reason for the request;
 - (b)** written agreement to the adjournment from the other parties or their representatives, if given; and
 - (c)** at least three alternative hearing dates that are within 45 days of the hearing date to be adjourned.
- 16.2** If a party does not agree to the adjournment request, it shall provide the Commission, the party requesting the adjournment, and all other parties its reasons for opposing the adjournment, in writing, as soon as possible after receipt of the adjournment request.
- 16.3** The parties may be required to attend before the Commission in person or by other means to deal with the adjournment request.
- 16.4** Rules 16.1 (a), (b) and (c) do not prevent a party from requesting an adjournment at a motion, pre-hearing conference or hearing. The Commission may consider whether an adjournment is necessary to permit an adequate motion, pre-hearing conference or hearing to be held, and may impose such conditions as it considers appropriate including an order for costs.

- 16.5** In determining whether or not to adjourn a motion, pre-hearing conference or hearing, the Commission may consider any relevant factors, which may include:
- (a) the reason for the request;
 - (b) prejudice a party may suffer if the request is refused or granted;
 - (c) the amount of notice given by the requesting party to the other parties and the Commission;
 - (d) any agreement to the adjournment request by the other parties;
 - (e) the length of the adjournment;
 - (f) previous delays and requests for adjournments;
 - (g) the public interest in the timely conduct of proceedings; and
 - (h) the conditions imposed by the Commission on any previous adjournment request or other request.

17.0 Summons To Witness

- 17.1** At the request of a party or on its own motion, the Commission may issue a summons to require a person to attend at an oral or electronic hearing to give evidence and to produce documents or things relevant to the subject-matter of the proceeding and admissible at a hearing.
- 17.2** A Summons To Witness (**Form 2**) shall be signed by a Member of the Commission.
- 17.3** The issuance or refusal to issue Summons To Witness (**Form 2**) may be reviewed by the Commission.
- 17.4** A party requesting a summons shall:
- (a) write to the Registrar with the name and address of the witness;

- (b) ensure that the Summons To Witness (**Form 2**) is personally served on the witness with reasonable notice prior to the hearing;
 - (c) pay the witness the same fees or allowances for attending or otherwise participating in the hearing, as are paid to a person summoned to attend before the Ontario Superior Court of Justice [see Tariff A in the Rules of Civil Procedure]; and
 - (d) where directed by the Commission, file an affidavit or other satisfactory proof of service.
- 17.5** When the Commission issues a Summons To Witness (**Form 2**) on its own motion, the costs of serving the Summons and witness fees will be borne by the Commission.

18.0 Written Hearings

- 18.1** The Commission may hold a written hearing, unless a party objects by serving and filing an objection within 7 days after receiving notice of the written hearing.
- 18.2** Whenever the Commission considers it appropriate, the Commission may continue a written hearing or direct that it continue as an oral hearing or, subject to Rule 19, as an electronic hearing.
- 18.3** The Commission shall set out the time periods and other directions for the parties with respect to the exchange of documentary evidence, any opportunity to ask questions and receive answers, and the exchange of submissions.

19.0 Electronic Hearings

Hearing by Teleconference or Videoconference

- 19.1** The Commission may hold an electronic hearing for the determination of any issue in the proceeding. Where the Commission directs that an electronic hearing be held, the Panel may direct a party to make the necessary arrangements and to give notice of those arrangements to the Commission and other parties.

Objection to the Electronic Format

- 19.2** A party who objects to a hearing being held as an electronic hearing shall notify the Commission and all other parties of its objection within the time period specified in the notice of the electronic hearing. The objecting party shall set out the reasons why the electronic hearing is likely to cause the objecting party prejudice.

Response to Notice of Objection

- 19.3** The Commission may request a written response from other parties to the objection of electronic hearing within a time period set out by the Commission.

Procedure When Objection is Received

- 19.4** If the Commission receives an objection to hold an electronic hearing, it may:
- (a)** accept the objection, cancel the electronic hearing, and schedule an oral or written hearing; or
 - (b)** if the Commission is satisfied that no significant prejudice will result to a party after considering any responding submissions and the factors included in Rule 4, then the Commission may reject the objection and proceed with the electronic hearing.

20.0 Joint Hearings

- 20.1** If two or more proceedings involve the same or similar questions of fact or law, the parties may consent to an order made by the Commission to combine the proceedings, or any part of them, or to hear the proceedings at the same time.
- 20.2** Where two or more proceedings are heard together in a joint hearing:
- (a) the individual proceedings remain separate, each with their own set of parties; and
- (b) the evidence at a joint hearing shall be considered as the evidence of each of the individual proceedings unless otherwise ordered by the Commission with respect to that Commission's proceeding.
- 20.3** Where the combining of proceedings or the hearing of proceedings together unduly complicates or delays the proceedings or causes prejudice to a party, the Commission may order that the proceedings or the hearing be continued separately.

21.0 Use Of Electronic Devices

- 21.1** Members of the public are not permitted to use electronic devices in the hearing room unless the Panel orders otherwise.
- 21.2** Unless the Panel orders otherwise, the use of electronic devices in silent mode and in a discreet and unobtrusive manner is permitted in the hearing room by:
- counsel;
 - paralegals who are licensed by the Law Society of Upper Canada;
 - law students and law clerks assisting counsel during the proceeding;
 - self-represented parties; and
 - media or journalists,

subject to the following restrictions:

- (a) the electronic device cannot interfere with decorum in the hearing room or otherwise interfere with the proper administration of justice;
 - (b) the electronic device cannot interfere with the recording equipment or other technology in the courtroom; and
 - (c) the electronic device cannot be used to send publicly accessible live communications where to do so would breach a restriction on publication made by statute or the Panel.
- 21.3** Anyone using an electronic device to transmit publicly accessible live communications from the hearing room has the responsibility to identify and comply with any publication bans or other restrictions that have been imposed either by statute or by order of the Panel.
- 21.4** The electronic device cannot be used to take photographs or videos unless the Panel has granted permission to do so in accordance with section 136 of the *Courts of Justice Act* R.S.O. 1990, c. C.43.
- 21.5** Only counsel, self-represented parties, the media and journalists are permitted to use electronic devices to make an audio recording of the hearing and only for the purpose of note-taking. However, such audio recordings cannot be sent from the electronic device.
- 21.6** Talking on electronic devices is not permitted in the hearing room.
- 21.7** Anyone who uses an electronic device in a manner that is inconsistent with this Rule, any order of the Panel, or that the Panel determines to be unacceptable may be:
- (a) subject to prosecution for breaches of section 136 of the *Courts of Justice Act* R.S.O. 1990, c. C.43;
 - (b) ordered to turn the device off;
 - (c) ordered to leave the device outside the hearing room;
 - (d) ordered to leave the hearing room; and / or
 - (e) ordered to abide by any other order the Panel may make.

22.0 Photography And Video Recording

- 22.1 It is prohibited for any person to take a photograph, video, or motion picture at a hearing without the consent of the Panel.

23.0 Notice Of Constitutional Question

- 23.1 Where a party intends to question the constitutional validity or applicability of a law, regulation, by-law or Rule, or where a party claims a remedy under section 24 (1) of the *Charter of Rights and Freedoms* in relation to an act or omission of the Government of Canada or the Government of Ontario, a Notice of Constitutional Question must be served on the Attorneys General of Canada and Ontario and all other parties. The Notice of Constitutional Question shall be filed with the Commission as soon as the circumstances requiring the Notice become known and not less than 15 days before the question is argued.

24.0 Proceedings In English And French

- 24.1 The Commission may conduct proceedings in English or French, or partly in English and partly in French.
- 24.2 If a party wishes any part of a proceeding to be conducted in French, or requires a French-to-English or English-to-French interpreter for the party or witnesses, the party shall notify the Commission not less than 14 days before the hearing. After receiving such notice, the Commission will arrange for an interpreter at its expense.

25.0 Interpreters

- 25.1** If a party or a witness requires an interpreter in a language other than English or French either for the party's testimony or to understand the proceeding, the party shall notify the Commission not less than 14 days before the hearing, and the Commission will arrange for an interpreter at its expense.
- 25.2** An interpreter shall be competent and independent and shall swear or affirm that they will interpret accurately.

26.0 Power To Award Costs

- 26.1** An award of costs may be made at the request of a party or on the initiative of the Commission upon the grounds set out in this Rule.
- 26.2** Where a party believes that another party in the proceeding has acted unreasonably, frivolously, vexatiously or in bad faith, that party may make a request to the Commission for costs, which shall be made with notice to the other parties.
- 26.3** A request for costs may be made orally at a motion, pre-hearing conference, hearing, or in a written submission to the Commission at any time before the decision or order is released.
- 26.4** A representative's conduct on behalf of a party may be deemed to be the conduct of a party for the purposes of this Rule.
- 26.5** A request for costs shall set out the reasons for the request and describe the conduct that is alleged to be unreasonable, frivolous, vexatious or in bad faith, such as:
- (a)** failing to attend a motion, pre-hearing conference or hearing, or to send a representative without notifying the Commission and other parties;
 - (b)** failing to comply with the Commission's direction or order, or with the party's or representative's undertaking, that results in prejudice or delay to another party;

- (c) failing to comply with the disclosure requirements in the Rules;
 - (d) knowingly presenting false or misleading evidence; or
 - (e) causing unreasonable and undue delay in the proceeding.
- 26.6** The amount of costs shall not exceed \$500 for each half-day of attendance at a motion, pre-hearing conference or hearing, and shall not exceed \$1,000 for each full day of attendance at a motion, pre-hearing conference or hearing.
- 26.7** The Commission will not award costs, whether requested by a party or on its own initiative, without giving the parties an opportunity to make submissions on costs.

27.0 Decisions

- 27.1** The Commission shall promptly give to all those who participated in the proceeding as a party or statutory intervener, a copy of the written reasons for its decision in a manner of service provided under Rule 9, and post a copy on its website at www.ocpc.ca.
- 27.2** A decision of the Commission is effective from the date of the written decision unless the Commission orders otherwise.
- 27.3** The Commission may give a copy of its written reasons for decision to the chief of police and any other interested persons.
- 27.4** Where circumstances warrant, the Commission may issue oral orders or reasons for decision.

PART II – Disciplinary Appeals

28.0 Application

- 28.1** Part II applies to appeals to the Commission under section 87 (1) of the *Police Services Act*.

29.0 Definitions

- 29.1** In this Part,
- (a)** “*appellant*” means a person who has served and filed a Notice Of Appeal (**Form 5**) with the Commission;
 - (b)** “*Director*” means the person appointed Independent Police Review Director under section 26.1 (1) of the *Act*;
 - (c)** “*disciplinary hearing*” means the hearing held under Part V of the *Act*;
 - (d)** “*public complainant*” means a member of the public who made a complaint under Part V of the *Act* which resulted in a disciplinary hearing under Part V of the *Act*;
 - (e)** “*police officer*” means a sworn officer, including a chief of police or deputy chief of police, who is the subject of a disciplinary hearing under Part V of the *Act*;
 - (e)** “*respondent*” means a person who responds to an appeal;
 - (g)** “*Solicitor General*” means the Solicitor General of Ontario.

30.0 Parties

- 30.1** The parties to an appeal include:
- (a) the police officer;
 - (b) the prosecutor at the disciplinary hearing appealed from; and
 - (c) the public complainant.

31.0 Statutory Interveners

- 31.1** The statutory interveners entitled to be heard at an appeal relating to an event or events occurring on or after October 19, 2009 include:
- (a) the Solicitor General; and
 - (b) the Director, where a member of the public made the complaint or complaints which were the subject of the disciplinary hearing.

32.0 Leave To Appeal

- 32.1** A public complainant who wishes to appeal the penalty imposed on a police officer following a disciplinary hearing under section 87 (4) of the *Act* shall file with the Commission and serve on the other parties to the hearing, a Request For Leave To Appeal A Disciplinary Penalty (**Form 4**) and a copy of the decision being appealed within 30 days of receiving notice of the decision.
- 32.2** Within 30 days after delivering the request for leave to appeal, the proposed appellant shall deliver a factum and brief of authorities supporting the request.
- 32.3** The other parties to the hearing shall deliver their factums and briefs of authorities within 30 days of receiving the proposed appellant's factum and brief of authorities.

- 32.4** Requests for leave to appeal will be heard in writing unless a party serves and files an objection when he or she delivers their materials on the Request for Leave To Appeal A Disciplinary Penalty (**Form 4**).
- 32.5** If leave to appeal is granted, unless otherwise directed, within 7 days of receiving notice of the Commission's order the public complainant shall comply with Rules 33.1 – 33.4 inclusive.

33.0 Appeal Process

- 33.1** A police officer or public complainant who appeals to the Commission under sections 87 (1) or 87 (4) of the *Act* shall file with the Commission and serve on the other parties to the appeal a Notice Of Appeal (**Form 5**) and a copy of the decision being appealed within 30 days of receiving notice of the decision and, where applicable, a copy of the Commission's order under Rule 32.5.
- 33.2** If the Solicitor General or the Director is entitled to be heard on the argument of an appeal, the appellant shall also serve on each of them the Notice Of Appeal (**Form 5**) and a copy of the decision being appealed within 30 days of receiving notice of the decision and, where applicable, a copy of the Commission's order under Rule 32.5.
- 33.3** The appellant shall file with the Commission proof of service on the other parties and the statutory interveners of the Notice Of Appeal (**Form 5**) and a copy of the decision being appealed in accordance with Rule 9.5 and, where applicable, a copy of the Commission's order under Rule 32.5.
- 33.4** The appellant shall also file with the Commission proof that he or she has ordered a transcript of all oral evidence, if any, at the hearing which the appellant intends to rely on for the appeal. When the appellant is a member of the public, he or she shall file proof that the transcript has been requested from the chief of police. When the transcript has been received by the appellant he or she shall provide written notice to all parties and the Registrar.

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- 33.5** If the Solicitor General or the Director wishes to be heard on an appeal within 30 days after receiving the Notice Of Appeal (**Form 5**), a copy of the decision being appealed and, where applicable, a copy of the Commission's order under Rule 32.5, they shall serve on the parties a Notice Of Intent To Be Heard On Appeal (**Form 6**) and file proof of service with the Commission.

34.0 Record From Disciplinary Hearings

- 34.1** When the Commission intends to hold an appeal hearing, the chief of police shall prepare and submit a copy of the record of the disciplinary hearing to the Commission.
- 34.2** The record of a disciplinary hearing shall include the decision appealed from and shall be accompanied by copies of all documents, physical evidence and exhibits considered at the disciplinary hearing.
- 34.3** The appellant shall provide to the parties, the Commission, and, if they have delivered a Notice Of Intent To Be Heard On Appeal (**Form 6**), the Solicitor General and the Director, a copy of the portions of the transcript, if any, of the disciplinary hearing upon which the appellant intends to rely. If the appellant is a public complainant, the chief of police shall provide a copy of the portions of the transcript upon which the appellant intends to rely, if any, to the parties, the Commission and, if they have delivered a Notice Of Intent To Be Heard On Appeal (**Form 6**), the Solicitor General and the Director.

35.0 Appeal Materials

- 35.1** In all appeal hearings, each party, and, where they deliver a Notice Of Intent To Be Heard On Appeal (**Form 6**), the statutory interveners, shall prepare a factum and a brief of authorities, serve one copy on the other parties and, where applicable, the statutory interveners, and file three copies of each with the Commission, or such other number as directed by the Commission.

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35.2 Appeal factums, briefs of authorities, and any supporting materials shall be filed with Commission, cerlox-bound, with covers as follows:

Appellant	Blue
Respondent	Green
Public Complainant	Red
Solicitor General & Director	Buff

35.3 Unless otherwise directed by the Commission, the appellant's factum and brief of authorities shall be delivered within 30 days of receiving the transcript. All other parties and, where applicable, the statutory interveners, shall deliver their factums and briefs of authorities within 30 days of receiving the appellant's factum and brief of authorities.

35.4 A factum shall contain the following in consecutively numbered paragraphs:

Part I	Concise Summary of the Facts
Part II	Statement of the Issues
Part III	Statement of Order Sought
Part IV	Authorities Being Relied Upon

36.0 Address For Service

36.1 The addresses for service of appeal materials on the statutory interveners are as follows:

(a) on the Solicitor General:

Legal Services Branch, Ministry of Community Safety
and Correctional Services
Suite 501, 655 Bay Street
Toronto, Ontario M7A 0A8

(b) on the Director:

Legal Branch, Office of the Independent Police Review
Director
10th Floor, 655 Bay St
Toronto, Ontario M7A 2T4

FORM 1

Ontario Civilian Police Commission

Police Services Act

Applicant(s)

and

Respondent(s)

- Notice Of Application -

- A. The Applicant(s) Makes Application For** *(set out the relief or order that you are requesting)*
- B. The Grounds for the Application Are** *(set out the reasons/material facts supporting your application)*

Date

Applicant or Representative
Current Address and Contact
Information

FORM 2

Ontario Civilian Police Commission

Police Services Act

In The Matter Of:

- *Summons To Witness* -

To: *(full name and address)*

YOU ARE HEREBY SUMMONED and required, under section 12 of the *Statutory Powers Procedure Act*, to attend before the Ontario Civilian Police Commission at a hearing to be held at: *(location)*

and from day to day until the hearing is concluded or the Commission otherwise orders, to give evidence on oath touching the matters in question in the proceeding and to bring with you and produce at such time and place:

DATE: _____

Summons requested and served by:

Counsel for: _____

Phone number: _____

Ontario Civilian Police Commission

Member _____

NOTE: You are entitled to be paid the same personal allowances for your attendance as are paid for the attendance of a witness summoned to attend before the Ontario Superior Court of Justice.

If you fail to attend and give evidence at the hearing, or to produce the documents or things specified, at the time and place specified, without lawful excuse, you are liable to punishment by the Ontario Superior Court of Justice in the same manner as if for contempt of that Court for disobedience to a summons.

FORM 3

Ontario Civilian Police Commission

Police Services Act

- Notice Of Motion -

The _____ will make a motion to the Ontario Civilian Police Commission

(the party making the motion)

on [or: a date to be set by the Commission]

(date and time, if known)

at *(location)*

THE MOTION IS FOR:

(state the relief or order which you are requesting)

THE GROUNDS FOR THE MOTION ARE:

(state the reasons supporting your motion)

THE FOLLOWING EVIDENCE WILL BE RELIED ON AT THE HEARING OF THIS MOTION:

(list the affidavits or other documentary evidence to be relied upon)

Date:

Moving Party or Representative
Current Address and Contact
Information

TO: *(Insert the names and addresses of other parties or representatives who must be served this Notice Of Motion and supporting materials in accordance with Rule 9. File copies with the Commission in accordance with Rule 10 of the Commission's Rules of Practice.)*

FORM 4

Ontario Civilian Police Commission

Police Services Act

Public Complainant:

Police Officer: (include Rank, Station/Detachment, Police Service)

Prosecutor:

Penalty Sought to be Appealed (please attach copy of penalty decision):

Date Proposed Appellant Received Notice of the Penalty Decision:

- Request For Leave To Appeal A Disciplinary Penalty -

I am seeking leave to appeal to the Commission under section 87 (4) of the *Police Services Act* in respect of the penalty imposed by the Decision.

1. The grounds for my proposed appeal are:
2. The reasons leave to appeal should be granted are:
3. The evidence I rely on is:

Dated: _____

Public Complainant / Representative
Current Address and Contact Information

TO: *(names and addresses of other parties or their representatives who must be served with this Request for Leave to Appeal; file a copy with the Commission as required by Rules 9, 10 and 32.1 of the Commission's Rules of Practice)*

NB: *Please note that under Rule 32.4 of the Commission's Rules of Practice a Request For Leave To Appeal A Disciplinary Penalty will be heard in writing unless a party delivers an objection.*

FORM 5

Ontario Civilian Police Commission

Police Services Act

- Notice Of Appeal -

Police Officer(s): *(include Rank, Number, Station/Detachment, Police Service)*

Complainant(s):

Prosecutor:

Date of Decision Being Appealed:

Decision: *(please attach copy of decision being appealed)*

Date of Appellant Receiving Written Notice of Decision Being Appealed:

I, hereby appeal to the Ontario Civilian Police Commission under subsection 87 (1) of the *Police Services Act*, in respect of the following matter(s):

(Check one or more boxes that apply)

- The finding of misconduct or unsatisfactory work performance.
- The penalty imposed.
- The finding that misconduct or unsatisfactory work performance was not proved on clear and convincing evidence.

1. The grounds for my appeal are as follows: *(please use a separate sheet if more space is needed)*

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2. The evidence I will rely upon is as follows:

3. The order which I seek from the Commission is:

Date

Appellant or Representative
Current Address and Contact
Information

Please file with the Commission an affidavit of service proving service pursuant to Rules 9.5 and 10, or a letter stating who has been served, what documents have been served, the method of service and the date of service.

The Solicitor General for Ontario is entitled to be heard on the argument of an appeal of a decision made after a hearing in respect of a complaint concerning events which occurred on or after October 19, 2009 and must be served as required by the Commission's Rules of Practice.

The Independent Police Review Director for Ontario is entitled to be heard on the argument of an appeal of a decision made after a hearing in respect of a complaint made by a member of the public concerning events which occurred on or after October 19, 2009 and must be served as required by the Commission's Rules of Practice.

Where there are multiple findings of misconduct you must specify which finding or findings are being appealed.

Where there are multiple penalties imposed you must specify which penalty or penalties are being appealed.

FORM 6

Ontario Civilian Police Commission

Police Services Act

- Notice Of Intent To Be Heard On Appeal -

Appellant:

Respondent:

The *(Solicitor General or the Independent Police Review Director)* wishes to be heard on the argument of this appeal.

Dated: _____

Counsel for SG or Director
Current Address and Contact
Information

To: The Public Complainant
To: Police Officer
To: Prosecutor