

Professional Standards Prosecutors/Police Association Representatives Course May 1 – 5, 2017 Midland Inn, Midland, ON

Time	Monday, May 1, 2017	Tuesday, May 2, 2017	Wednesday, May 3, 2017	Thursday, May 4, 2017	Friday, May 5, 2017
08:30 – 10:00	Orientation – Introductions <ul style="list-style-type: none"> • Course Objectives • In-course Assignment • Pre-course Exam • The Lesage Report • Principles of Legal Research • Current Trends & Issues 	Role of the PSA Prosecutor - Mike Shard <ul style="list-style-type: none"> • Function the Prosecutor • Prosecutor Conduct-Ethics • General Principles • Legislation - PSA, SPPA • Oversight Bodies • Investigations; the NOH • The Hearing Process • Production/Disclosure 	Public Complaint System <ul style="list-style-type: none"> • Part II.I & V, PSA • OIPRD Rules • Current Issues/Trends • Lessons Learned • Systemic Reviews • O. Reg. 58/16 • 83 (17) & (18) Delay Applications • Appeal & Judicial Review 	Evidentiary Issues <ul style="list-style-type: none"> • Standard of Proof • Compelled Statements • Credibility • Performance v Misconduct • Notices • Principle of Discoverability • Resignations 	OACP Hearing Officer Role of Adjudicator The Hearing Process <ol style="list-style-type: none"> 1. Tribunal Script 2. Conduct of the Hearing 3. Parties to a Hearing 4. Motions & Standing 5. 25.1 SPPA Rules 6. Preparation – Guilty 7. Preparation – Not Guilty
10:30 – 12:00	<ul style="list-style-type: none"> • Goals of Police Discipline • Case Law Updates • Natural Justice & Procedural Fairness • Abuse of Process • Resignations • Performance vs Misconduct 	<ul style="list-style-type: none"> • Dispositions/Penalties • Education-based Discipline • Charter Rights (Conway) • Witness Preparation • Delay Applications • McNeil & O'Connor • Character References • Administrative Decisions 	Pam Machado Machado Law <ul style="list-style-type: none"> • Role of Police Association Rep. • Duty-Fair Representation • Knowing your limitations • Motions, 25.1 Rules • Joint Submissions • PTSD & Accommodation 	Writing the Prosecution and Defence Submission <ul style="list-style-type: none"> • Motions, Decisions • The Disposition • Joint Submissions • ASF or Outcome • S. 85 (7) PSA • S. 25 (1) (b), SPPA 	OACP Hearing Officers <ol style="list-style-type: none"> 8. The Decision 9. Disposition - Penalty 10. Case Law Research 11. Recent Trends 12. Apprehension of Bias 13. Abuse of Process 14. Non-suit 15. Public Complainants
12:00	Lunch	Lunch	Lunch	Lunch	Lunch
13:00 – 14:30	O. Reg. 268/10 <ul style="list-style-type: none"> • Code of Conduct • Void for Duplicity • Off-Duty Conduct • Investigative Issues • Discoverability • Standard of Proof 	Alternate Dispute Resolution – Mike Shard <ul style="list-style-type: none"> • The Nature of Conflict • Interests v Rights • Communication • Barriers to resolution • Fight-flight instincts 	<ul style="list-style-type: none"> • OIPRD Directed Hearings • Standing at Hearings • Public Complainants • Appeals, Judicial Reviews • Informal Resolutions • 25 (1) (b), SPPA • Q & A - Trends 	In-Class Presentations <ul style="list-style-type: none"> • Joint Submissions • Principles Governing Dispositions • Proportionality • Book of Records • Book of Authorities 	Overview of Police Discipline System <ul style="list-style-type: none"> • <i>The Tulloch Report</i> Exam
14:30 – 17:00	In-class Assignment (pairs) <ul style="list-style-type: none"> • Disposition Principles • Proportionality • Book of Authorities • Book of Records 	Alternate Dispute Resolution – Mike Shard <ul style="list-style-type: none"> • Resolution process • Tools: listening/reframing • Related PSA provisions • Scenarios 	In-Class Preparation Assignment <ul style="list-style-type: none"> • Book of Records • Book of Authorities • Last Chance Agreements 	Evidentiary Issues <ul style="list-style-type: none"> • Compelled Statements • Credibility • Notices 	<ul style="list-style-type: none"> • Course Evaluation

Reasonable apprehension of bias - Adjudicator (perhaps I cover it quickly, leave any more for the Adjud)

b. Release of records (McNeil, OConnor etc)

c. The PSA Hearing: Open hearing; Designations; Calling Witnesses/leading qns; Entering documents & exhibits, Use of Experts? (I see that some pieces are covered on other dates - Compelled Statements; Standard of Proof; & Parties)

Administrative decisions (such as transferring someone either pending investigation or permanently, assigning them to desk duties, accounting for sick hours when the allegation relates to a false sick claim...). It's a tricky area – we may not have time and I'm not sure if it has become a big issue outside the OPP.

General Principles

- Nature of Proceedings

- Natural Justice & Procedural Fairness

- The Lesage Report on Public Complaint System

- Professionalism in Policing Report – Professional Ethics

Oversight Bodies

- Ontario Civilian Police Commission (OCPC)

- Office of the Independent Police Review Director (OIPRD)

The Legislation

- Police Services Act and the Regulations

- Statutory Powers Procedure Act (SPPA)

Functions of the Prosecutor

- Prosecutor Conduct

- OIPRD

Directed Hearings

- Time period -

Extensions

- Selecting the misconduct &

Drafting the Notice of Hearing

- Production

(“Disclosure”

- Notices

- Witness Prep (& ongoing Disclosure)

- The Unrepresented Complainant

- Motions – Abuse of Process, Delay & Charter

The PSA Hearing

Open hearing

- Parties to a Hearing

- Designations

- Calling Witnesses

- Compelled Statements

- Use of Experts

- Entering documents & exhibits

- Credibility

- Standard of Proof

Penalties

The Adjudicator

– 25.1 SPPA & Bias

Parallel Proceedings

- Criminal investigation/charge

- Special Investigations Unit (SIU)

- Ontario Human Rights Tribunal (HRTO)

Appeals (and 25(1) SPPA)

Release of records

s95, Open Court principle, McNeil & OConnor

<p>Role of the PSA Prosecutor - Mike Shard</p> <ul style="list-style-type: none">• Purpose of the Act

- Underlying principles of police discipline
- Education-based Discipline
- Abuse of Process
- SPPA
- 25.1 rules, 25 (1) (b), SPPA
- Charter Rights (Conway)
- Natural Justice & Procedural Fairness
- S. 83, PSA
- OIPRD Rules

- Selecting & Drafting Notice of Hearing
- Witness Preparation
- Unrepresented Complainant
- Conduct of Prosecution & Investigative Team
- HRTO
- S. 11, Investigations
- Parallel Investigations
- Production/Disclosure
- Principles governing dispositions
- Last Chance Agreements
- Principle of Proportionality
- Delay Applications
- Character References

Accommodation

- Use of Experts
- PTSD/ Disabilities
- Drugs/Alcohol

OHRC

- Case Preparation