

**MINISTRY OF ATTORNEY GENERAL
JUSTICE SERVICES BRANCH
BRIEFING NOTE**

PURPOSE: For INFORMATION for Richard J. M. Fyfe, QC
Deputy Attorney General

ISSUE:

Status update on the British Columbia Review Board (BCRB) Chair position.

SUMMARY:

- Bernd Walter, Chair of the BCRB Chair, is resigning effective August 31, 2019, after 22 years of service.
- A Notice of Position (NOP) is required to advertise and fill the position vacancy. As no original NOP existed in ministry records, a draft NOP accurately reflecting the role was developed in consultation with Mr. Walter and a human resources contractor. Mr. Walter provided insight on the BCRB functions, along with details about the Chair's responsibilities.
- The BCRB Chair NOP will be advertised in early fall. For the interim, a temporary acting Chair, Alison J. MacPhail, will be in place until a merit-based competition process is completed and a full-time Chair is appointed.
- The Tribunal Transformation and Supports Office (TTSO) anticipates the competition will conclude in early 2020.

BACKGROUND:

- The BCRB is an independent adjudicative tribunal established under section 672.38 of Part XX.1 of the *Criminal Code of Canada*.
- The BCRB has jurisdiction to hold hearings to make and review dispositions (orders) where individuals charged with criminal offenses have been given verdicts of not criminally responsible on account of mental disorder or unfit to stand trial on account of mental disorder, by a court.
- Pursuant to the *Criminal Code of Canada*, the BCRB Chair must be a judge of the Federal Court or of a superior, district or county court of a province, or a person who is qualified for appointment to, or has retired from, such a judicial office as Chair, with at least 10 years call to the bar.
- Based upon the information provided by Mr. Walter, TTSO drafted a BCRB Chair NOP (attached). To begin the recruitment process, the NOP will be advertised in early fall.

- Due to the BCRB's important and time-sensitive work balancing the interests of public safety and individual liberty, it is imperative there are no interruptions to service. Effective August 31, 2019, Alison J. MacPhail will be appointed as acting Chair for a term up to six months. Ms. MacPhail is currently a BCRB board member.
- Ms. MacPhail's appointment as acting Chair enables the BCRB's to continue delivering its mandate and allows time for a robust recruitment process.
- July 09, 2019, Mr. Walter and Ms. MacPhail advised the BCRB members via email about this change.
- As the Chair position requires specialized experience and knowledge, TTSO will lead the comprehensive recruitment strategy and process to identify and onboard a qualified candidate. TTSO will seek assistance and guidance from branch staff, the Public Service Agency, ministry legal counsel and other individuals/organizations, as necessary.

Prepared by:

Kiren Thandi
Program Policy & Research Analyst
Transformation & Supports Office
250-419-8946

Prepared by:

Alanna Valentine Pickett
Director, Strategic Transformation
Transformation & Supports Office
778.698.8896

Approved by:

Kurt J.W. Sandstrom, QC
Assistant Deputy Minister
Justice Services Branch
250 356-0383

Approved by:

Carmen Zabarauckas
Executive Director, Tribunal
Transformation & Supports Office
Justice Services Branch
778-698-3196

Attachment(s)

BCRB Chair Notice of Position



NOTICE OF POSITION

BRITISH COLUMBIA REVIEW BOARD

CHAIR

July 2019

Freedom of Information and Protection of Privacy Act (FOIPPA) – The personal information on this form is collected for the purpose of administering a variety of statutes that authorize the appointment of individuals to public sector organizations under the authority of section 26(c) of the FOIPPA. Questions about the collection or use of this information can be directed to the Crown Agencies and Board Resourcing Office by email at abc@gov.bc.ca or by telephone at 604 660-0465.

Business and Structure

The British Columbia Review Board (BCRB) is an independent adjudicative tribunal established under section 672.38 of Part XX.1 of the *Criminal Code of Canada*. The Review Board has ongoing jurisdiction to hold hearings to make and review dispositions (orders) where individuals charged with criminal offenses have been given verdicts of not criminally responsible on account of mental disorder or unfit to stand trial on account of mental disorder, by a court. The Review Board is independent of Canada's Criminal Justice system.

The *Criminal Code* requires Review Boards to be appointed in every province and territory by the Lieutenant Governor in Council (the Cabinet) of each province. The BCRB reports to the Attorney General and operates at arm's length from the government in its decision-making capacity. Each Review Board must consist of at least five persons. The Chair of the Review Board must be either a judge or a person qualified to be a judge (at least 10 years call to the Bar). The Chair is responsible to the appointing authority for the Board's performance. At least one member of the Review Board must be qualified to practice psychiatry. The Review Board also customarily includes "other" members whose qualifications are unspecified, typically (in B.C.) individuals with experience in mental health, medicine, psychology, social work or criminology.

A "quorum" (a panel of members designated to conduct a hearing) of the BCRB must consist of at least the Chair or a designated alternate chair, a psychiatrist and any other member.

Further information about the tribunal is available at: www.bcrb.bc.ca

Strategic Direction

The BCRB has the mandate to make decisions regarding important interests or values in our society: public safety and the liberty of an individual. Part XX.1 of the *Criminal Code* gives the Review Board the responsibility to make decisions about the liberty of a particular group of individuals – those charged with crimes who have been found by a court to be (a) unfit to stand trial, or (b) not criminally responsible by reason of mental disorder.

Vacant Position(s)

The BCRB has one full-time Chair position available.

Diversity and Inclusion

People from all regions of our province are invited to help renew B.C.'s public sector tribunals. Consideration will be given to qualified individuals with a broad range of backgrounds in community, labour and business environments. The selection process will recognize lived experience and volunteer roles as well as paid employment and academic achievements.

To support strong tribunals that reflect the diversity of our province, women, visible minorities, Indigenous Peoples, persons with disabilities, persons of diverse sexual orientation, gender identity or expression (LGBTQ2S+), and others who may contribute to diversity in public sector tribunal appointments are encouraged to put their names forward for appointments.

Responsibilities and Accountabilities

- The position is a member of the BCRB and is expected to adjudicate hearings pursuant to the *Criminal Code*.
- The Chair has the authorities of a Superior Court Judge.
- The position must ensure that hearings are processed and decided in an independent, objective, fair and timely manner, and in accordance with the *Criminal Code* and the rules of criminal law, administrative law, and the tribunal's rules of procedures.
- The position also provides adjudicative leadership by:
 - Providing direction and training to the BCRB, its members and staff, consistent with their respective statutory jurisdictions;
 - Recruiting, screening, advising and consulting with the Minister on the appointment and reappointment of competent, knowledgeable and experienced members;
 - Assigning, managing, monitoring and evaluating the work and performance of members within the framework of their adjudicative independence;
 - Recruiting, setting standards, and evaluating the performance of staff;
 - Overseeing and managing the financial, human resources, administrative, information technology, legal and infrastructure functions in compliance with the accountabilities imposed by provincial legislation;
 - Managing and maintaining publicly available information regarding the BCRB;
 - Overseeing the BCRB communications policy, including responding to media inquiries, ombudsperson investigations and freedom of information inquiries;

- Managing and directing the development of policies and procedures;
- Developing and implementing procedural change and innovation through on-going training and learning opportunities;
- Implementing performance measures;
- Monitoring the BCRB's compliance with governing legislation;
- Participating in the development, review and approval of the BCRB's strategic plans to ensure consistency with their mandate as set by government;
- Preparing and submitting an annual report on the performance and activities of the BCRB;
- Maintaining relationships with government and non-government administrative law organizations at the provincial, federal and international levels;
- Maintaining relationships with the Crown and Criminal Defense Bar;
- Maintaining relationships within the Forensic Psychiatric Services and
- Articulating, implementing and monitoring compliance with the highest standards of performance, quality adjudication and public service in all facets of the BCRB's respective activities.

Competencies/Attributes

There is currently one vacancy on the tribunal. The following are the attributes sought for the position(s) currently under consideration:

- A judge of the Federal Court or of a superior, district or county court of a province, or a person who is qualified for appointment to, or has retired from, such a judicial office as Chair, with at least 10 years call to the bar
- Understanding of governing legislation (*Criminal Code*) and the Board's mandate
- Significantly experienced in criminal law and procedure and administrative law, procedure and practice
- Significantly experienced in forensic criminology and/or risk assessment and/or mental health law, practice and service delivery systems
- Significant experience in conducting hearings
- Excellent decision making, research and writing skills
- Excellent ability to interpret legislation and policies
- Ability to effectively listen and understand evidence

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- Demonstrated cultural awareness and respect for a variety of different cultures and ethnicities
- Demonstrated decisiveness
- Experience in matters related to the Board's mandate
- Ability to critically analyze information presented
- Experience at a senior-management level preparing, maintaining and reporting on a budget and current experience in leading and developing professional staff.

Time Commitment

This position is full time and may require travel throughout the province.

Term

Pursuant to the *Administrative Tribunals Act*, the Chair's initial term is 3 to 5 years, with a possibility for reappointment for additional terms of up to 5 years. This is an Order in Council appointment.

Compensation

The BCRB is classified as Group 4 in the Treasury Board Directives. The salary range is \$168,000 - \$190,000.

Personal Attributes

All tribunal members should possess the following personal attributes:

- high ethical standards and integrity in professional and personal dealings;
- appreciation of the responsibilities to the public;
- able and willing to raise potentially controversial issues in a manner that encourages dialogue;
- flexible, responsive and willing to consider others' opinions;
- empathetic and respectful;
- capable of a wide perspective on issues;
- ability to listen and work as a team member;
- no direct or indirect conflict of interest with the member's responsibility to the tribunal;
- strong reasoning skills;
- able and willing to fulfill time commitment required to carry out responsibilities;

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- able to withstand sometimes intense public and/or media attention;
- may include personal attributes relevant to the tribunal; and
- commitment to continuous learning about the tribunal and the relevant sector or industry.

List of Current Members

	First Appointed	Term Ends	Part-Time
Appointed:			
Sam Iskander	Sept 1, 2016	Sept 1, 2019	Part-Time
Todd M. Tomita	Sept 22, 2015	Sept 22, 2019	Part-Time
Jeremy Berland	Feb 28, 2018	Feb 29, 2020	Part-Time
Kim Heather Polowek	Aug 20, 2009	Jul 31, 2020	Part-Time
Peter D.A. Constance	Feb 28, 2005	Dec 31, 2020	Part-Time
Ingrid A. Friesen	Jan 20, 2015	Dec 31, 2020	Part-Time
Ronald W.D. Stevenson	Feb 24, 2005	Dec 31, 2020	Part-Time
Brenda Lee Edwards	Jan 2, 2018	Jan 2, 2021	Part-Time
John (Jim) James Threlfall	Jan 2, 2018	Jan 2, 2021	Part-Time
Christopher David Webster	Jun 18, 2018	Jun 18, 2021	Part-Time
Rakesh Lamba	Jan 2, 2019	Jan 2, 2022	Part-Time
Barry Lloyd Long	Jul 16, 1999	Jan 31, 2022	Part-Time
Alison J. MacPhail	Feb 28, 2014	Feb 28, 2022	Part-Time
Alan E. Markwart	Feb 28, 2014	Feb 28, 2022	Part-Time
Jeanette Elizabeth Smith	Sep 19, 2014	Sep 19, 2023	Part-Time
Lynda Louise Murdoch	Dec 15, 2016	Dec 15, 2023	Part-Time
Linda Joan Grasswick	Nov 8, 2007	Dec 31, 2023	Part-Time
Werner John Pankratz	Apr 21, 2010	Dec 31, 2023	Part-Time

Process for Submitting Expressions of Interest

You may submit an Expression of Interest in serving on this tribunal by clicking on the “Apply Online Now” button at the bottom of this page. For more information on the tribunal, refer to the [Directory of Agencies](#) website.

British Columbia Appointment Guidelines

Appointments to British Columbia’s public sector organizations are governed by written [appointment guidelines](#).

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