

JPRC



FIRST ANNUAL REPORT

2007

**JUSTICES OF THE PEACE
REVIEW COUNCIL**



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REVIEW COUNCIL**



The Honourable Annemarie E. Bonkalo

CHIEF JUSTICE
ONTARIO COURT OF JUSTICE

Chair, Justices of the Peace Review Council



JUSTICES OF THE PEACE REVIEW COUNCIL

March 31, 2009

The Honourable Chris Bentley
Attorney General for the Province of Ontario
720 Bay Street, 11th Floor
Toronto, Ontario
M5G 2K1

Dear Minister:

It is my pleasure to submit the first Annual Report of the Justices of the Peace Review Council concerning its operations throughout 2007, in accordance with subsection 9(7) of the *Justices of the Peace Act*. The period of time covered by this Annual Report is from January 1, 2007 to December 31, 2007.

Respectfully submitted,

A handwritten signature in black ink, reading "Annemarie E. Bonkalo".

Annemarie E. Bonkalo
Chief Justice
Ontario Court of Justice



INTRODUCTION

The period of time covered by this Annual Report is from January 1, 2007 to December 31, 2007. This report is the first Annual Report on the work of the Justices of the Peace Review Council.

Justices of the peace play an important role in the administration of justice in Ontario. They are appointed by the Province of Ontario and have their duties assigned by a Regional Senior Justice or a Regional Senior Justice of the Peace. They routinely conduct trials under the *Provincial Offences Act* and preside over bail hearings. They also perform a number of judicial functions, such as issuing search warrants. Justices of the peace do difficult, important work in the justice system. A justice of the peace may be the only judicial officer a citizen will encounter in his or her lifetime.

The Justices of the Peace Review Council is a Council established by the Province of Ontario under the *Justices of the Peace Act* with a mandate to receive and investigate complaints against justices of the peace and to fulfill other functions as described in this report. The Review Council does not have the power to interfere with or change a decision made by a justice of the peace. Those are matters to be considered by an appeal court.

The Justices of the Peace Review Council was in existence prior to 2007. However, effective January 1, 2007, the *Access to Justice Act, 2006* amended the *Justices of the Peace Act* to make changes to the composition, procedures and mandate of the Council. The new legislation provides for the Council to make an Annual Report to the Attorney General on its affairs including case summaries. The report may not include information that identifies a justice of the peace, a complainant or a witness.

This First Annual Report of the Justices of the Peace Review Council provides information on the procedures used to address complaints filed under and governed by the *Justices of the Peace Act* as it read prior to the changes enacted by the *Access to Justice Act*, as well as complaints filed and addressed under the current procedures. As well, for the period both before and after the legislation changed, the Annual Report provides information on membership, on the mandate of the Council and on cases closed during 2007.

The Justices of the Peace Review Council had jurisdiction over approximately 355 provincially-appointed justices of the peace during the period of time covered by this Annual Report.



FIRST JUSTICES OF THE PEACE REVIEW COUNCIL ANNUAL REPORT

2007

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1. Composition and Terms of Appointment

Prior to January 1, 2007, the Justices of the Peace Review Council (JPRC) was composed of:

- (a) the Chief Justice of the Ontario Court of Justice;
- (b) the Associate Chief Justice Co-ordinator of Justices of the Peace;
- (c) the Regional Senior Justice of the Ontario Court of Justice in the region in which the matter being considered by the Review Council arises;
- (d) a Justice of the Peace appointed by the Lieutenant Governor in Council; and,
- (e) not more than two other lay persons appointed by the Lieutenant Governor in Council.

The *Access to Justice Act, 2006* amended the *Justices of the Peace Act* to include a greater representation from the Justices of the Peace bench and from the community, and to add two more judges, in addition to the Chief Justice and Associate Chief Justice Co-ordinator of Justices of the Peace.

The newly constituted Justices of the Peace Review Council includes judges, justices of the peace, a lawyer and four community representatives:

- ◆ the Chief Justice of the Ontario Court of Justice, or another judge of the Ontario Court of Justice designated by the Chief Justice;
- ◆ the Associate Chief Justice Co-ordinator of Justices of the Peace;
- ◆ three justices of the peace appointed by the Chief Justice of the Ontario Court of Justice;
- ◆ two judges of the Ontario Court of Justice appointed by the Chief Justice of the Ontario Court of Justice;
- ◆ one regional senior justice of the peace appointed by the Chief Justice of the Ontario Court of Justice;
- ◆ a lawyer appointed by the Attorney General from a list of three names submitted to the Attorney General by the Law Society of Upper Canada;

- ◆ four persons appointed by the Lieutenant Governor in Council on the recommendation of the Attorney General.

In the appointment of community members, the importance is recognized of reflecting, in the composition of the Review Council as a whole, Ontario's linguistic duality and the diversity of its population and ensuring overall gender balance.

To provide for staggered terms among members of the Council, for its first appointments, one lawyer and one community person hold a six-year term, one community person holds a two-year term and the remaining two community members hold a four-year term. After those members complete their terms, lawyer and community members who are appointed to the Council will hold office for four-year terms and will be eligible for reappointment.

2. Members – Regular

The membership of the Justices of the Peace Review Council in the year covered by this report (January 1, 2007 to December 31, 2007) was as follows:

Judicial Members:

CHIEF JUSTICE OF THE ONTARIO COURT OF JUSTICE

Brian W. Lennox..... (Ottawa/Toronto)
(until May 3, 2007)

CHIEF JUSTICE OF THE ONTARIO COURT OF JUSTICE

Annemarie E. Bonkalo..... (Toronto)
(effective May 4, 2007)

ASSOCIATE CHIEF JUSTICE CO-ORDINATOR OF JUSTICES OF THE PEACE OF THE ONTARIO COURT OF JUSTICE

Donald A. Ebbs..... (London)
(until September 1, 2007)

ASSOCIATE CHIEF JUSTICE CO-ORDINATOR OF JUSTICES OF THE PEACE OF THE ONTARIO COURT OF JUSTICE

John A. Payne..... (Durham/Toronto)
(effective September 2, 2007)

Three Justices of the Peace Appointed by the Chief Justice of the Ontario Court of Justice

Her Worship Kathleen M. Bryant(Sault Ste. Marie)
(effective January 1, 2007)

His Worship Dan M. MacDonald (Brantford)
(effective January 1, 2007)

Her Worship Lorraine A. Watson.....(Kingston)
(effective January 1, 2007)

Two Judges of the Ontario Court of Justice Appointed by the Chief Justice of the Ontario Court of Justice

The Honourable Mr. Justice Ralph E. W. Carr..... (Timmins)
(effective January 1, 2007)

The Honourable Madam Justice Deborah K. Livingstone.....(London)
(effective January 1, 2007)

Regional Senior Justice of the Peace Appointed by the Chief Justice of the Ontario Court of Justice:

Her Worship Cornelia Mews..... (Newmarket/Toronto)
(effective January 1, 2007)

Lawyer Member:

Ms. S. Margot Blight..... (Toronto)
(effective June 1, 2007)

Community Members:

Mr. Michael S. Phillips(Gormley)
Consultant, Mental Health and Justice
(effective May 2, 2007)

Ms. Cherie A. Daniel (Toronto)
Lawyer
(effective May 2, 2007)

Mr. Steven G. Silver (Gananoque)
Chief Administrative Officer, Town of
Gananoque (effective May 2, 2007)

Mr. Emir A. C. Mohammed.....(Windsor)
Professor, Faculty of Law, University of
Windsor (effective May 30, 2007)

Members - Temporary

Subsection 8(10) of the *Justices of the Peace Act* permits the Chief Justice of the Ontario Court of Justice to appoint a judge or a justice of the peace to be a temporary member of the Justices of the Peace Review Council of a complaints committee or hearing panel where it is necessary in order to meet the requirements of the *Act*. During the period covered by this report, no temporary members were appointed to serve as temporary members.

3. Administrative Information

Separate office space adjacent to the Office of the Chief Justice in downtown Toronto is utilized by both the Ontario Judicial Council and the Justices of the Peace Review Council. The proximity of the Councils' office to the Office of the Chief Justice permits both Councils to make use of clerical and administrative staff, as needed, and computer systems and support backup without the need of acquiring a large support staff.

Councils' offices are used primarily for meetings of both Councils and their members. Each Council has a phone and fax number and its own stationery. Each has a toll-free number for the use of members of the public across the province of Ontario and a toll-free number for persons using TTY/teletypewriter machines.

During the period covered by this report, the staff of the Ontario Judicial Council and the Justices of the Peace Review Council consisted of a registrar, two assistant registrars and a secretary:

Tara Dier, Acting Registrar (until November 18, 2007)
Thomas Glassford – Assistant Registrar (Acting Registrar
November 19, 2007 to December 31, 2007)
Ana Brigido – Acting Assistant Registrar
Melissa Johnston – Acting Secretary
(until August 17, 2007)
Jacqueline Okumu – Acting Secretary
(effective August 13, 2007)

4. Functions of the Review Council

Prior to January 1, 2007, the functions of the Review Council were:

- ◆ to consider all proposed appointments and designations of justices of the peace and make reports concerning them to the Attorney General;
- ◆ to receive and investigate complaints against justices of the peace;
- ◆ to deal with continuing education plans; and,
- ◆ to approve requests to do extra-remunerative work.

The amendments to the *Justices of the Peace Act* resulting from the *Access to Justice Act* provided that the functions of the Review Council are:

- ◆ to consider applications under section 5.2 of the *Justices of the Peace Act* for the accommodation of needs
- ◆ to establish complaints committees from amongst its members to receive and investigate complaints against justices of the peace, and decide upon dispositions under section 11(15);
- ◆ to hold hearings when hearings are ordered by complaints committees under section 11(15);
- ◆ to review and approve standards of conduct;
- ◆ to deal with continuing education plans; and,
- ◆ to decide whether a justice of the peace who applies for approval to engage in other remunerative work may do so.

The Review Council does not have the power to interfere with or change a decision made by a justice of the peace. Only an appeal court can do that.

As it began its first year, the newly constituted Review Council developed procedures and policies to guide the work of the Council, undertook the review of complaint files, reviewed and approved an education plan for the justices of the peace, and reviewed and approved principles of judicial office for justices of the peace.

5. Education Plan

The Associate Chief Justice Co-ordinator of Justices of the Peace of the Ontario Court of Justice is required, by section 14 of the *Justices of the Peace Act*, to implement, and make public, a plan for the continuing judicial education of justices of the peace. The education plan must be approved by the Justices of the Peace Review Council. During the period of time covered by this Annual Report a continuing education plan was developed by the Associate Chief Justice Co-ordinator of Justices of the Peace in conjunction with the Advisory Committee on Education. The Committee includes the Associate Chief Justice Coordinator of Justices of the Peace as Chair (*ex officio*) and justices of the peace nominated by the Associate Chief Justice and by the Association of Justices of the Peace of Ontario. The continuing education plan was approved by the Justices of the Peace Review Council on November 23, 2007. A copy of the continuing education plan can be found at Appendix “A” in this report.

6. Standards of Conduct

The Associate Chief Justice Co-ordinator of Justices of the Peace may, under section 13(1) of the *Justices of the Peace Act* establish standards of conduct for justices of the peace and he/she implements the standards when they have been reviewed and approved by the Review Council.

Principles of judicial office set out standards of excellence and integrity to which all justices of the peace subscribe.

These principles are not exhaustive. They are designed to be advisory in nature and are not directly related to any specific disciplinary process.

Intended to assist justices of the peace in addressing ethical and professional dilemmas, they may also serve in assisting the public to understand the reasonable expectations which the public may have of justices of the peace in the performance of judicial duties and in the conduct of their personal lives. The principles were approved by the Justices of the Peace Review Council on December 7, 2007. A copy of the Principles of Judicial Office can be found at Appendix “B” in this report.

7. Other Remunerative Work

In 1997, the Justices of the Peace Review Council approved a policy regarding extra-remunerative work. On November 23, 2007, the newly constituted Review Council approved the current policy regarding other remunerative work in which justices of the peace may engage. Under section 19 of the *Justices of the Peace Act*, all justices of the peace are required to seek the written approval of the Review Council before accepting or engaging in any extra-remunerative work. Applications received from justices of the peace to engage in other remunerative work are considered in accordance with the policy. The policy applies to all justices of the peace, full-time and part-time.

The policy sets out criteria that are used by the Review Panel in assessing applications:

- ◆ whether there is an actual, or perceived, conflict of interest between the duties as assigned and the extra-remunerative activity for which approval is sought;
- ◆ whether the nature of the activity for which the justice of the peace seeks approval will present an intrusive demand on the time, availability or energy of the justice of the peace and his or her ability to properly perform the judicial duties assigned; and,
- ◆ whether the activity for which the justice of the peace seeks approval is a seemingly or appropriate

activity in which a judicial officer should engage, having regard to the public perceptions of judicial demeanour, independence and impartiality.

A copy of the policy can be found at Appendix “C”.

In 2007, the Review Council received and considered three applications for approval to engage in extra-remunerative work. The applications were approved. Information on the applications can be found at Appendix “C” following the policy.

8. Communications

The website of the Justices of the Peace Review Council includes information on the Council, as well as information about upcoming hearings. Copies of “Judicial Inquiry Proceedings” held under the former legislation and “Reasons for Decision” from any public hearings are posted on the website when released and all of the publicly available Annual Reports will be available in their entirety.

The address of the JPRC website is:
www.ontariocourts.on.ca/jprc/.

9. Complaints Procedure

Any person may make a complaint to the Review Council about the conduct of a justice of the peace. Complaints to the Review Council must be made in writing and signed by the complainant. The governing legislation and the principles of natural justice do not provide for the Review Council to act on anonymous complaints or to initiate inquiries into the conduct of a judicial officer. Rather, an investigation conducted by the Review Council must be in response to specific allegations submitted by a complainant. Most of the complaints received by the Justices of the Peace Review Council are received from members of the public. All correspondence is reviewed to determine whether or not a complaint is within the jurisdiction of the Review Council. If an individual is actually complaining about his/her lawyer or a Crown Attorney, or another office, the complainant is directed to make the complaint to the appropriate agency or authorities.



In those cases where the complaint is within the jurisdiction of the Review Council, a complaint file is opened and a letter of acknowledgement is sent to the complainant, usually within a week of his or her letter being received by the Review Council. If the complainant expresses dissatisfaction with a decision that has been made, the letter of acknowledgement advises the complainant that the Review Council has no power to change a decision made by a justice of the peace. In such cases, the complainant is advised that he or she may wish to consult legal counsel to determine what, if any, remedies may be available.

As a result of the *Access to Justice Act, 2006*, amendments of the *Justices of the Peace Act* came into effect on January 1, 2007 that provide the current framework for addressing complaints against justices of the peace.

The legislation provides for transition from the former *Justices of the Peace Act* to the new *Act*. Under section 11.1(22), for a small number of existing complaints that were made before January 1, 2007 and that were considered by the former Review Council before that date, the procedures under the former legislation related to section 11 investigative hearings and to section 12 public inquiries will still apply.

Information is provided below on the procedures of the Review Council for complaints filed prior to the amendments to the *Justices of the Peace Act* that resulted from the *Access to Justice Act*, and on the current procedures for complaints governed by the new legislation.

9.1. Complaints Addressed Under Former Legislation

For outstanding complaints addressed under the provisions of the former legislation, the new Review Council took steps to replicate, as much as possible, the procedure of the former legislation. A more detailed description of the Review Council's procedures for complaints addressed under the former legislation can be found at Appendix "D" of this Report.

Investigation and Review of Complaints

Under the former *Justices of the Peace Act*, four of the six members on the Review Council constituted a quorum and were sufficient for the exercise of all of the jurisdiction and powers of the Review Council. For complaints governed by the former legislative sections, investigation was carried out and each case was considered by four members of the newly established Review Council.

Usually, a transcript of a court hearing was ordered and when deemed necessary, a copy of the audiotape may have also been ordered.

The Council would review the investigative materials. Pursuant to section 11(1), the Review Council would determine whether or not further investigation was needed prior to making a decision. In some cases, the Council may have decided to retain external counsel to conduct further investigation such as interviewing witnesses. The justice of the peace may also have been asked by the Council for a response to the concerns raised by the complaint. If a response was requested from the justice of the peace, a copy of the complaint, the transcript (if any) and all the relevant materials on file were provided to the justice of the peace, together with the letter from the Review Council requesting the response.

Dismissals or Referrals

Cases would be dismissed if the complainant's allegations were determined to be unfounded or outside of the mandate of the Review Council. For example, if a complaint was a disagreement with a decision, that would be a matter that would need to be considered by an appeal court and outside of the jurisdiction of the Review Council. In some cases, the complaint may have been referred to the Associate Chief Justice –Coordinator of Justices of the Peace or to the Regional Senior Justice to speak to the justice of the peace.

If the Review Council determined that no further investigation was required and a complaint should be dismissed, the complainant was then notified of the Review Council's disposition. The justice of the peace would also receive notice of the Review Council's disposition.



Section 11 Investigative Hearing

Section 11.1(22) of the current *Justices of the Peace Act* provides that section 11 and section 12 of the former *Act* continue to apply for complaints made before January 1, 2007. Under section 11, the members of the Review Council have the authority to decide to conduct an investigative hearing as part of the investigation process. In those cases where the complaint was made before January 1, 2007 and where the Review Council orders a section 11 investigative hearing, the Acting Registrar engages external legal counsel to prepare a “Notice of Hearing” which outlines the particulars of the complaint to be addressed by Council. The Notice is personally served on the justice of the peace. The external counsel presents the case to the Review Council. As the section 11 hearing is part of the investigation process, the same four members of the Review Council who investigated the case would also conduct the hearing. If those persons are no longer on the Council, four members of the newly established Review Council hear the case.

A section 11 investigative hearing is held in private and is recorded. The justice of the peace is entitled to appear in person and to be represented by counsel. The Review Council has all the powers of a commission under Part II of the *Public Inquiries Act*.

At the conclusion of the hearing, the members of the Review Council determine whether or not to recommend to the Attorney General that a public inquiry should be held pursuant to section 12 of the former *Justices of the Peace Act*. If a public inquiry is recommended, a report is sent to the Attorney General recommending a public inquiry. The report may also include a recommendation that the justice of the peace be compensated for all or part of his or her legal costs in connection with the investigation.

A copy of their report to the Attorney General must be given to the justice of the peace. The person who made the complaint is informed of the disposition of the complaint, but is not given a copy of Council’s report. The Attorney General could decide to make all or part of the report public, if he or she is of the opinion that it is in the public interest to do so, but this has rarely been done.

Section 12 Public Inquiry

Section 12 of the former *Act* provides that the Lieutenant Governor in Council may appoint a judge of the Ontario Court of Justice to conduct a public inquiry into the question of whether there has been misconduct by a justice of the peace, on the recommendation of the Review Council, following the conclusion of its investigation under section 11 of the former *Justices of the Peace Act*.

The *Public Inquiries Act* applies to “section 12 inquiries”.

Following the completion of the public inquiry, the judge who conducts the inquiry prepares a report to the Lieutenant Governor in Council. Section 12 of the former *Justices of the Peace Act* states that the report of the inquiry held under section 12 (the “public inquiry”) may recommend that the Lieutenant Governor in Council remove the justice of the peace from office in accordance with section 8 of the *Justices of the Peace Act* or it may recommend that the Justices of the Peace Review Council implement a disposition under subsection 12(3.3) of the *Act*. Alternatively, the judge who conducts the public inquiry may also determine that there was no misconduct by the justice of the peace and decide to “dismiss” the complaint at the conclusion of the inquiry.

The report of the public inquiry may also recommend that the justice of the peace be compensated for all or part of the cost of legal services incurred in connection with the inquiry. The amount of compensation recommended must be based on a rate for legal services that does not exceed the maximum rate normally paid by the Government of Ontario for similar services.

Removal from Office

For complaints filed under the former legislation, a justice of the peace can only be removed from office by the Lieutenant Governor in Council and only if removal is recommended by the judge conducting the section 12 public inquiry. The judge must have concluded that the justice of the peace has become incapacitated or disabled from the due execution of his or her office by reason of infirmity, conduct that is incompatible with the execution of the duties of his or her office, or having failed to perform the duties of his or her office as assigned.

The order of removal must be laid before the Legislative Assembly, if it is in session or, if not, within fifteen days after the commencement of the next session.

Disposition by Review Council

If, at the end of the section 12 public inquiry, the judge conducting the inquiry recommends that the Review Council implement a disposition under subsection 12(3.3) of the former *Justices of the Peace Act*, it is necessary for the members of the Review Council to reconvene and determine what disposition they think is appropriate in the circumstances.

In order to make this determination, the Review Council will conduct a meeting, which will be public, and will provide the justice of the peace with an opportunity to make submissions as to the appropriate disposition under subsection (3.3).

Under subsection (3.3) of section 12, the Review Council may:

- (a) warn the justice of the peace;
- (b) reprimand the justice of the peace;
- (c) order the justice of the peace to apologize to the complainant or to any other person;
- (d) order the justice of the peace to take specified measures, such as receiving education or treatment, as a condition of continuing to sit as a justice of the peace;
- (e) suspend the justice of the peace with pay, for any period; or
- (f) suspend the justice of the peace without pay, but with benefits, for a period of up to 30 days.

When the Review Council has dealt with a complaint regarding a justice of the peace, the person who made the complaint and the justice of the peace are informed of the disposition of the complaint.

Former Legislation

The applicable legislative provisions, as they were under the former *Justices of the Peace Act*, prior to the

amendments resulting from the *Access to Justice Act*, are included as Appendix “F” to this report.

9.2 Current Complaints Process

The *Justices of the Peace Act* and the procedures that have been established by the Review Council provide the current framework for addressing complaints against justices of the peace. The procedure is outlined below. A more detailed outline of the Justices of the Peace Review Council’s current procedures is included as Appendix “E” to this report.

Preliminary Investigation and Review

As soon as possible after receiving a complaint about the conduct of a justice of the peace, the office of the Review Council will acknowledge receipt of the complaint and establish a complaints committee of the Review Council to investigate the complaint. Members of the Review Council serve on complaints committees on a rotating basis. Each complaints committee is composed of a provincially appointed judge who acts as chair, a justice of the peace and either a community member or a lawyer member. Complaints are not generally assigned to members from the same region where the justice of the peace who is the subject of the complaint presides. This avoids any risk of or perception of bias or conflict of interest between a member of Council and the justice of the peace.

Section 11(8) of the *Act* requires that investigations by the Review Council must be conducted in private.

Frequently a transcript of a court hearing is ordered to be considered by the members of the complaints committee. An audiotope, if available, may also be ordered and reviewed. In some cases, it is necessary to conduct further investigation in the form of interviewing witnesses. If so, an external counsel is retained on behalf of the Review Council to carry out the investigation.

The complaints committee will determine whether or not a response to the complaint is required from the justice of the peace in question. If a response is requested from

the justice of the peace, a copy of the complaint, the transcript (if any) and all of the relevant materials considered by the committee will be provided to the justice of the peace, together with the letter sent from the Review Council requesting a response. The justice of the peace may seek independent legal advice to provide assistance in responding to Council.

Section 11(15) of the *Justices of the Peace Act* gives the complaints committee the authority to dismiss a complaint after reviewing the complaint where, in the opinion of the committee, it is frivolous or an abuse of process; it falls outside the Review Council's jurisdiction because it is a complaint about the exercise of judicial discretion; it does not include an allegation of judicial misconduct; the allegation is unproven; or, the misconduct does not rise to the level of misconduct that requires further action on the part of the Review Council.

Interim Recommendations

The complaints committee may consider whether the allegation(s) warrants making an interim recommendation pending the disposition of a complaint. Under section 11(11) of the *Act*, an interim recommendation for non-assignment or re-assignment may be made to a Regional Senior Justice. It is within the discretion of the Regional Senior Justice as to whether he or she may decide to act upon the recommendation.

The Review Council has approved the following criteria in their procedures to guide the complaints committee as to when an interim recommendation should be made:

- ◆ where the complaint arises out of a working relationship between the complainant and the justice of the peace and the complainant and the justice of the peace both work at the same court location;
- ◆ where allowing the justice of the peace to continue to preside would likely bring the administration of justice into disrepute;
- ◆ where the complaint is of sufficient seriousness that there are reasonable grounds for investigation by law enforcement agencies;
- ◆ where it is evident to the complaints committee that a justice of the peace is suffering from a mental

or physical impairment that cannot be remedied or reasonably accommodated.

Where a complaints committee proposes to recommend temporarily not assigning or re-assigning a justice of the peace, it may give the justice of the peace an opportunity to be heard on that issue in writing. Particulars of the factors upon which the complaints committee's recommendations are based are provided to the Regional Senior Judge to assist the Regional Senior Judge in making his or her decision, and to the justice of the peace to provide him or her with notice of the complaint and the complaints committee's recommendation.

Dispositions of the Complaints Committee

When the investigation is completed, pursuant to section 11(15) of the *Act*, the complaints committee will do one of the following:

- a) dismiss the complaint if it is frivolous, an abuse of process or outside the jurisdiction of the complaints committee;
- b) invite the justice of the peace to attend before the complaints committee to receive advice concerning the issues raised in the complaint or send the justice of the peace a letter of advice concerning the issues raised in the complaint, or both;
- c) order that a formal hearing into the complaint be held by a hearing panel; or,
- d) refer the complaint to the Chief Justice of the Ontario Court of Justice.

The complaints committee reports to the Review Council on its decision and, except where it orders a formal hearing, does not identify the complainant or the justice of the peace who is the subject of the complaint in its report.

Except for hearings ordered under section 11(15)(c) to consider complaints against specific justices of the peace, proceedings of the Review Council are not held in public. Investigations must be conducted in private under section 11(8) of the *Act*.

The Review Council informs the person who made the complaint and the justice of the peace of the decision made.



If the complaint is dismissed, brief reasons for the decision are provided.

The complaints committee may recommend to the Attorney General that the justice of the peace be compensated for all or part of his or her legal services in connection with the investigation. The amount of compensation recommended must be based on a rate of legal services that does not exceed the maximum rate normally paid by the Government of Ontario for similar services.

Public Hearing Under section 11.1

When the complaints committee orders a public hearing, under section 11.1(1) of the *Act*, the Chief Justice of the Ontario Court of Justice, who is also the Chair of the Review Council, establishes a three-member hearing panel from among the members of the Council, composed of: a provincially-appointed judge who chairs the panel; a justice of the peace; and, a member who is a judge, a lawyer or a member of the public. Complaints committee members who participated in the investigation of the complaint do not participate in its review by a hearing panel.

By the end of the investigation and hearing process, all decisions regarding complaints made to the Justices of the Peace Council will have been considered and reviewed by a total of six members of Council – three members of the complaints committee and three members of the hearing panel.

Provisions for temporary members have been made to ensure that a quorum of members of the Council, who have not been involved in earlier stages of reviewing the complaint, is available to conduct a hearing into a complaint if a hearing has been ordered. The Chief Justice of the Ontario Court of Justice may appoint a judge or a justice of the peace who is not a member of the Review Council to be a temporary member of a hearing panel where necessary to form each quorum to meet the requirements of the *Act*.

The Review Council engages legal counsel for the purposes of preparing and presenting the case against the justice of the peace. The legal counsel engaged by the Review Council operates independently of the Review Council. The duty of legal counsel engaged under this

Part is not to seek a particular order against a justice of the peace, but to see that the complaint against the justice of the peace is evaluated fairly and dispassionately to the end of achieving a just result.

The justice of the peace has the right to be represented by counsel, or to act on his or her own behalf in any hearing under this procedure.

The *Statutory Powers Procedure Act*, with some exceptions, applies to hearings into complaints. The panel, on application at any time by presenting counsel or by the justice of the peace, may require any person, including a party, by summons, to give evidence on oath or affirmation at the hearing and to produce in evidence at the hearing any documents or things specified by the panel which are relevant to the subject matter of the hearing and admissible at the hearing.

The question of compensation of the justice of the peace's costs incurred for legal services in the investigation and/or hearing of a complaint may be considered by the complaints committee or the hearing panel. They may recommend that the justice of the peace be compensated for all or part of the cost of legal services based on a rate for legal services that does not exceed the maximum rate normally paid by the Government of Ontario for similar services.

Public or Private Hearing

A section 11.1 hearing into a complaint is public unless the Review Council determines, in accordance with criteria established under the *Statutory Powers Procedure Act*, that matters involving public security may be disclosed; or, intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure of such matters, in the interests of any person affected or in the public interest, outweighs the desirability of following the principle that the hearing be open to the public.

In certain circumstances where a complaint involves allegations of sexual misconduct or sexual harassment, the Council also has the power to prohibit publication of information that would disclose the identity of a

complainant or a witness who testifies to having been the victim of the conduct. If a complaint involves allegations of sexual misconduct or sexual harassment, the hearing panel will, at the request of the complainant or of a witness who testifies to having been the victim of such conduct by the justice of the peace, prohibit the publication of information that might identify the complainant or the witness, as the case may be.

Dispositions after section 11.1 Hearing

After hearing the evidence, under section 11.1(10) of the *Justices of the Peace Act*, the hearing panel of the Council may dismiss the complaint, with or without a finding that it is unfounded or, if it upholds the complaint, it may decide upon any one of the following sanctions singly or in combination:

- ◆ warn the justice of the peace;
- ◆ reprimand the justice of the peace;
- ◆ order the justice of the peace to apologize to the complainant or to any other person;
- ◆ order the justice of the peace to take specified measures such as receiving education or treatment, as a condition of continuing to sit as a justice of the peace;
- ◆ suspend the justice of the peace with pay, for any period; or,
- ◆ suspend the justice of the peace without pay, but with benefits, for a period up to 30 days.

Removal From Office

Following the hearing, the Review Council may make a recommendation to the Attorney General that the justice of the peace be removed from office. This sanction stands alone and cannot be combined with any other sanction. A justice of the peace may be removed from office only if a hearing panel of the Review Council, after a hearing under section 11.1, recommends to the Attorney General under section 11.2 that the justice of the peace be removed on the ground of:

- ◆ he or she has become incapacitated or disabled from the execution of his or her office by reason of inability to perform the essential duties of

the office because of a disability and, in the circumstances, accommodation of his or her needs would not remedy the inability, or could not be made because it would impose undue hardship to meet those needs;

- ◆ conduct that is incompatible with the execution of the office; or
- ◆ failure to perform the duties of his or her office.

Only the Lieutenant Governor in Council may act upon the recommendation and remove the justice of the peace from office.

Notification of Disposition

The Review Council communicates its decision to the person who made the complaint and to the justice of the peace. In accordance with the Procedure of the Review Council, if the Review Council decides to dismiss the complaint, it will provide brief reasons.

Legislation

The legislative provisions of the *Justices of the Peace Act* concerning the Justices of the Peace Review Council are included as Appendix “G” to this report.

10. Summary of Complaints

The Justices of the Peace Review Council carried forward 48 complaints to 2007 from previous years. During 2007, 43 complaint files were opened with the Review Council. Forty-two related to new complaints. One matter was a file that had previously been closed when a justice of the peace had retired, resulting in a loss of jurisdiction of the Council over the outstanding complaint against him. On November 1, 2006, all previously retired justices of the peace were invited to apply for per diem status. However, when his application to serve on a per diem basis was granted, jurisdiction was re-established and the Council re-opened the earlier file.

Of the 91 open files in 2007, 52 files were completed and closed before December 31, 2007, leaving 39 complaints to be carried over into 2008.

Of the 43 files opened in 2007, 18 were closed before the end of that year. Of the 39 files carried over into 2008, 28 were from 2007, 1 was the re-opened file, and 10 were from previous years, including 8 complaints that the Review Council had previously reported to the Attorney General under section 11(7) of the former *Justices of the Peace Act* with recommendations that public inquiries be held under section 12 of the *Act* to inquire into the question of whether there had been misconduct.

10.1 Complaints Addressed Under Former Legislation

Under section 11.1(22), if a complaint was filed before January 1, 2007, and was considered at a meeting of the former Review Council, two sections of the former *Justices of the Peace Act* prior to the amendments resulting from the *Access to Justice Act* in 2006 still apply: investigations under section 11 and inquiries under section 12.

A quorum of at least four members of the Review Council reviewed and investigated each complaint. In each case the members reviewed the complainant's letter and, where necessary, reviewed the transcript and/or the audiotape of the proceedings that took place in court in order to make a fully informed decision about a complaint. In some instances, further investigation was conducted where warranted.

Fifteen complaints that were closed in 2007 were complaints that were filed and addressed under the former legislation. In one case, the justice of the peace reached mandatory retirement age and retired. As a result, the Review Council lost jurisdiction to consider the matter. Five cases were dismissed on the basis that the allegation of misconduct was not substantiated or the conduct was not so serious as to constitute misconduct. Five complaints, of which 4 related to the same justice of the peace, were referred to the Associate Chief Justice Co-ordinator of Justices of the Peace or to the Regional Senior Justice for discussion with those justices of the peace.

The Review Council conducted private or *in camera* investigatory hearings under section 11 of the former *Justices of the Peace Act* regarding 4 complaints. No complaints were

reported to the Attorney General with a recommendation for a public inquiry under section 12 of the former *Justices of the Peace Act*.

Of the 15 complaints that were filed and addressed under the former legislation, 9 arose from events during provincial offences proceedings that were presided over by a justice of the peace, 2 arose from proceedings under the *Criminal Code* and 4 complaints were filed in relation to conduct of justices of the peace towards other justices of the peace, court staff or administrative staff.

Case summaries for each of the cases are included in the next section of this report.

10.2 Complaints Addressed Under Current Legislation

An investigation was conducted in all cases by a complaints committee of Council, which was composed of a provincial judge, a justice of the peace and either a lawyer or community member. In each case, the complaints committee reviewed the complainant's letter and, where necessary, reviewed the transcript and/or the audiotape of the proceedings that took place in court in order to make a fully informed decision about a complaint. In some instances, further investigation was conducted where warranted.

At the conclusion of its investigation, the complaints committee decided under section 11(15) to:

- ◆ dismiss the complaint if it was frivolous, an abuse of process or outside the jurisdiction of the complaints committee;
- ◆ invite the justice of the peace to attend before the complaints committee to receive advice concerning the issues raised in the complaint or send the justice of the peace a letter of advice concerning the issues raised in the complaint, or both;
- ◆ order that a formal hearing into the complaint be held by a hearing panel; or,
- ◆ refer the complaint to the Chief Justice of the Ontario Court of Justice.

The complaints committee reported its decision to the Review Council. Neither the complainant nor the justice of the peace who was the subject of the complaint were identified to the Review Council except where a formal hearing was ordered.

Of the 37 complaint files addressed under the new legislation and closed in 2007, 5 were dismissed by the Review Council under section 11(15)(a) on the basis that they were found to be outside the jurisdiction of the Council. These files typically involved a complainant who expressed dissatisfaction with the result of a trial or with a justice of the peace's decision, but who made no allegation of misconduct. While the decisions made by the justice of the peace in these cases could be appealed, the absence of any alleged misconduct meant that the complaints were outside the jurisdiction of the Review Council.

Twenty-eight complaint files were dismissed by the Review Council under section 11(15)(a) after they were investigated by a complaints committee and determined to be unsubstantiated or unfounded. These complaints included allegations of judicial misconduct such as improper behaviour (rudeness, belligerence, etc.), lack of impartiality, conflict of interest or some other form of bias.

In 4 cases, the Review Council provided advice to justice of the peace under section 11(15)(b). In 2 cases, justices of the peace were sent letters of advice concerning issues raised in the complaints, and in 2 cases the justices of the peace attended before the complaints committee to receive advice concerning the issues raised in the complaints. No complaints were referred to the

Chief Justice of the Ontario Court of Justice during 2007 and no public hearings were ordered.

Of the 37 complaints that were filed and addressed under the current legislation, 18 arose from events during provincial offences proceedings that were presided over by a justice of the peace, 11 arose from proceedings under the *Criminal Code*, 7 arose from matters in Intake Court, and 1 related to conduct of a justice of the peace outside of court.

Case summaries for each complaint follow in the next section of this Report.

11. Case Summaries

In all cases that were closed during the year, notice of the Justice of the Peace Review Council's decision, with brief reasons, was given to the complainant and to the particular justice of the peace.

Files are given a two-digit prefix indicating the complaint year, followed by a sequential file number and by two digits indicating the calendar year in which the file was opened (i.e., file no. 17-050/07 was the 50th file opened in the 17th complaint year and was opened in calendar year 2007).

Details of each complaint, with identifying information removed as required by the legislation, follow. No public hearings took place during the period covered by this report.

Summary of Complaints Closed in 2007

YEAR	2007
Cases continued into 2007	48
Complaint files opened or re-opened	43
Total files open during the year	91
Total files closed during the year	52
Dispositions under former legislation	15
Dismissed as out of jurisdiction	1
Dismissed as allegations not substantiated or did not amount to level of misconduct	5
Referral to Associate Chief Justice or Regional Senior Justice	5
Section 11 hearings	4
Dispositions under current legislation	37
Dismissed as out of jurisdiction or not substantiated or did not amount to level of misconduct	33
Letters of advice or in-person meeting to receive advice	4
Cases continued into 2008	39

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Case Summaries for Cases under the former Justices of the Peace Act

CASE NO. 15-035/04

The complainant appeared before the justice of the peace for a first attendance for a trial of a traffic offence. The complainant's common-law spouse was, with the permission of the prosecutor, also in the room. The complainant alleged that the justice of the peace had commented in an arrogant and sarcastic tone, "Did you have to bring your mother for protection?" The complainant felt that he was not treated in a professional manner, or with respect or common courtesy.

The Review Council requested and reviewed the transcript and the audiotape of the attendance. They also requested and reviewed a response to the concerns from the justice of the peace. After their review, the Review Council referred the matter to the Associate Chief Justice, who met with the justice of the peace to address the matter and to bring emphasis to the concerns with His Worship's conduct. The Associate Chief Justice reported to the Review Council the justice of the peace's understanding of the importance of refraining from making gratuitous comments and the danger of making faulty assumptions. The Review Council extended the apology from the justice of the peace to the complainant for the offensive remark. The Review Council determined that no further action was required.

CASE NO. 16-026/05; 16-035/05; 17-004/06; 17-017/06

The following four cases related to complaints from two separate complainants regarding the

conduct of one justice of the peace. Complainant A appeared as an agent for the accused before the justice of the peace in a trial of a speeding offence. The complainant indicated that he had stated in court that he was going to file a motion under section 11(b) of the *Charter of Rights and Freedoms* that his client's right to a speedy trial had been violated, and the justice of the peace commented on a prior time when the agent had appeared before him, noting that the agent had been charged under the *Law Society Act*. The complainant said that, in response, he had said in court to the justice of the peace that his client's case was prejudiced by His Worship raising that issue. The Charter motion was dismissed. The charge of speeding was dismissed because the police officer was not in attendance. The complainant alleged that the justice of the peace was not capable of rendering a fair judgment because the prejudice that he showed towards the agent hindered his clients from receiving a fair trial.

In the second matter, Complainant B, a paralegal/court agent, filed a complaint against the justice of the peace, alleging a lack of professional and impartial conduct during an appearance while the paralegal was assisting an acquaintance with a contempt of court charge. During the appearance, the paralegal had said that he was not receiving any money for his services and that he had advised the client that he would be referred to a lawyer in the event that he couldn't help. An agent associated with the complainant's office appeared with the client with the intention of requesting an adjournment so that a pre-trial could be held with a Crown Attorney. The complainant alleged that the justice of the peace then



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began to yell, saying that the complainant had no standing and no business accepting criminal clients.

The complainant indicated that due to His Worship's comments about him, his client lost confidence in him and would not likely retain his office for future matters. The complainant also stated that he knew His Worship on a personal level prior to his appointment and that he has "lost all faith and confidence that he can remain impartial in my cases". He alleged that His Worship routinely asked him for authorization when other agents were not asked for one.

In the third matter, Complainant B filed a complaint arising from a situation where a speeding charge had been resolved through a guilty plea to a lesser speed. Complainant B indicated that he had spoken to the prosecutor in negotiating the plea and had arranged for a co-op student from his agency to address the charges on his behalf, while he observed. Complainant B alleged that His Worship "began to engage the student in a much more rigorous examination than one could ever expect following which he told her (the student) to protect her reputation and to be careful of whom she associates with...". Complainant B alleged that he "was told to sit down or leave when (he) tried to assist". He stated that he apprehended a bias was concerned that his clients may be wrongly convicted simply because he represented them. Complainant B suggested that His Worship not hear any matter involving him as agent.

In the fourth matter, Complainant B was originally authorized to represent the accused on three charges under the *Highway Traffic Act*.

After a long history of the matter, the case came before His Worship with a negotiated resolution. Complainant B indicated that His Worship "refused to accept a guilty plea" from him in the absence of his client, as the authorization was no longer attached to the information on file. As a result, the matter was further adjourned to another date; however, Complainant B indicated that he was unable to obtain a new authorization for his client prior to her leaving for Hungary, and on the return date he sent his newly hired employee/agent to request an adjournment for a couple of weeks, as the client was scheduled to return from vacation by that time.

The complainant alleged that His Worship made remarks about him to the employee/agent who had attended, which gave the employee/agent "the impression that he [His Worship] was singling [Complainant B] out from others". Complainant B also alleged that on a subsequent date, His Worship made remarks that singled out the complainant "sufficient enough for me to retain counsel for an application in the Superior Court for prerogative remedies".

The complainant indicated that he believed that the comments and conduct of the justice of the peace had frustrated his position as an agent and were all beyond the scope of what is to be expected.

The Review Council requested and reviewed the transcripts and audiotapes of each of the four court proceedings. The Council also requested and reviewed responses from the justice of the peace to the concerns raised by each of the complainants.



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After reviewing the materials for all four complaints and the responses from the justice of the peace, the Review Council referred the matters to the Regional Senior Justice to meet with the justice of the peace for a discussion of the concerns raised.

The Regional Senior Justice reported back to the Council that the justice of the peace had understood how some of the comments that he had made could suggest an appearance of bias. The Regional Senior Justice reported to the Council that the Justice of the Peace understood the dangers of judicial officers making gratuitous or sarcastic comments. After reviewing the report from the Regional Senior Justice, the Council was satisfied that the concerns raised by the complainants were examined with sufficient emphasis that a clear understanding by the justice of the peace of the issues had been achieved, and that no further action was necessary. For those reasons, the Review Council dismissed the complaints.

CASE NO. 16-036/05; 16-052/06

The following two matters related to complaints from two complainants regarding the conduct of one justice of the peace. Complainant A attended on behalf of his wife before the justice of the peace in relation to a parking ticket dispute. The complainant indicated that court began at 7:00 p.m. and at 7:45 p.m., His Worship stood matters down for a short recess. He alleged that upon His Worship's return "several minutes later", His Worship "announced that all remaining 'not guilty' cases would be 'put over' to a

later date". According to the complainant, His Worship "claimed that the Court had 'run out of time". The case was adjourned.

The complainant felt that the circumstances warranted an explanation. "It seems unreasonable to me that such a minor matter would take over a year to receive a hearing. But, now that it has been postponed another 3 ½ months, the unreasonable has become outrageous and unconscionable!"

The Review Council requested and reviewed the transcript, the audiotape, and the court docket that listed the cases scheduled before His Worship on the evening in question. The Council also requested and reviewed a response to the concerns raised by Complainant A from His Worship.

In a second matter, Complainant B attended Provincial Offences Court in connection with two *Highway Traffic Act* infractions. He stated that he had appeared before the justice of the peace and had sought to have the matters put over to a date one month later to a date when the complainant already had a third matter scheduled. Instead, the justice of the peace said that he would adjourn the matters to a date approximately six months away, with the matters to be preemptory on the complainant to proceed. His Worship also stated that the only reason that he was granting the adjournment was for the complainant to obtain advice with respect to an argument under the *Charter of Rights and Freedoms* concerning pre-trial delay.

The prosecutor asked that the record be marked that the complainant had requested the adjournment. The justice of the peace indicated that



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he would adjourn the matter for the purpose of the complainant obtaining advice, but that if the complainant wanted to proceed “now”, he could do so. The complainant indicated that it would be best to adjourn the matter, and again indicated the date when he had a third matter already scheduled a month away. The justice of the peace advised the complainant that he didn’t have much of a choice with respect to a new date for his matters. The complainant asked whether he had any input at all with respect to the date, because he had another matter already scheduled. The justice of the peace told the complainant that he did not care about the date of the third matter.

The complainant alleged that he tried to explain his position and was repeatedly interrupted by the justice of the peace, and that His Worship asked him whether he spoke any language besides English. He alleged that through the exchange, he was prevented from fully explaining his position, and from fully addressing the court on the matters that he considered relevant to the adjournment of the matters. The return date for the two charges was set for approximately six months later.

The Review Council requested and reviewed the transcript and the audiotape of the court appearance. As well, Council requested and reviewed a response from His Worship to the concerns raised by Complainant B.

The Council conducted an investigative Hearing pursuant to section 11 of the *Justices of the Peace Act*, as it read prior to January 1, 2007, into the allegations contained in the complaints

by Complainant A and the complaints by Complainant B. New amendments to the *Justices of the Peace Act*, the Council’s governing legislation intervened prior to the commencement of the Hearing, and the new Review Council conducted the investigative Hearing.

At the Hearing, the justice of the peace, in his verbal comments to a panel of the Review Council, expressed regret for his comments and apologized for the manner in which he conducted himself with respect to both matters. At the conclusion of the Hearing, the members of the Review Council accepted the substance and sincerity of His Worship’s remarks before Council and his comments and apology. In all of the circumstances, the Review Council determined that no further action was required.

CASE NO. 17-005/06

The complainant, a court agent, filed a complaint against the justice of the peace, alleging that His Worship “made comments that disparaged and held up to ridicule myself, other members and associates of [our office], in the presence of the defendant”. The complainant indicated that these comments raised the issues of denial of justice, procedural unfairness and apprehension of bias among others concerns. He alleged that His Worship made comments that left “a permanent mark on the advocacy of myself and my associates before His Worship in any future proceedings”.

The Review Council reviewed the complaint and enclosed materials, which included the transcript of the proceedings. After review, the Council also



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requested and reviewed the audiotapes of the appearances and requested a response from the justice of the peace to the concerns raised by the complainant.

The Review Council was of the view that there was no misconduct on the part of the justice of the peace in the proceedings. Although Council members noted that His Worship's comments were unflattering and perhaps injudicious at times, Council did not find that His Worship's remarks or conduct to be prejudicial or biased towards the complainant or his associates. For those reasons, Council dismissed the complaint.

CASE NO. 17-006/06

The complainant, a justice of the peace, filed a complaint that, following discussions between justices of the peace regarding work-related matters, one justice of the peace demonstrated behaviour that she perceived as threatening, both verbally and in his demeanour. The complainant indicated to the Review Council that she interpreted the comments of the other justice of the peace as a threat of "shape up or [this location] is not where I will be sitting". The complainant indicated that she felt fearful of potential professional harm because of bias against her.

The Review Council requested two responses from the justice of the peace who was the subject of the complaint regarding the occurrence complained of, and regarding the background and context of the discussions that had occurred.

The Council was unable to corroborate the allegation that the other justice of the peace was threatening or verbally aggressive toward the complainant. The justice of the peace who was complained of vehemently denied acting in such a manner.

The Review Council was of the view that the foundation of the complaint was based upon an administrative issue and differences that the complainant may have had with the particular justice of the peace and other members of the judicial administration in the jurisdiction. Without evidence to substantiate the allegation of misconduct on the part of the subject of the complaint, the Review Council dismissed the complaint.

CASE NO. 17-009/06

The complainant, a court agent, attended before a justice of the peace along with a former co-op student, whom the complainant had hired as an associate and was in the process of training. The complainant indicated that he had informed the court that his associate was present to assist and observe the proceedings. The complainant alleged that His Worship asked the associate to leave the courtroom and commented "that the courts are not to be used to educate people". The complainant indicated that he requested that the associate be permitted to sit in the body of the court; however, His Worship asked the associate to wait outside.

The complainant advised that there was no publication ban and the courtroom was not sealed.



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He was of the view that His Worship exceeded his jurisdiction in not allowing the associate to observe the proceeding. The complainant indicated that the experience left the associate “offended and hurt”.

The Review Council reviewed the complaint and requested and reviewed the transcript and audiotape of the proceedings. After review, the Council requested and reviewed a response from the justice of the peace to the concerns.

The Review Council was of the view that the justice of the peace did not exceed his jurisdiction in requesting that the associate of the complainant leave the courtroom. In his response, the justice of the peace expressed concerns in relation to how the court proceedings were unfolding and he exercised his judicial discretion to request that the associate leave the courtroom. His Worship indicated that his decision was made in an effort to move the trial along and he acknowledged that the reasons that he had given were not as clear as they should have been. He clarified in his response that he supported courtrooms being used for educational purposes; however, he was concerned that the presence of the associate would potentially impact on the trial that was before him on that day. His Worship also specifically noted in his response to the Review Council that the associate had conducted himself appropriately and professionally at all times. For those reasons, the Council dismissed the complaint.

CASE NO. 17-012/06

The complainants, three court administrators, each wrote to the Review Council, indicating

that they had witnessed a justice of the peace yelling at a supervisor in an aggressive and angry manner. The complainants stated that it was upsetting for themselves and other court staff.

The allegations related to an email received by the justice of the peace from a court administrator regarding concerns of court administration with respect to the court schedule. The allegations indicated that after receiving the email, the justice of the peace went to the administrator’s office and confronted her in an open workplace area, in front of other city employees, speaking in an aggressive, angry, belligerent and demeaning manner.

The Review Council reviewed the allegations and retained external counsel to investigate the matter and interview the complainants. The Council requested and reviewed a response to the concerns from the justice of the peace. The Council conducted an investigative Hearing pursuant to section 11 of the *Justices of the Peace Act*, as it read prior to January 1, 2007.

At the Hearing, the four court staff were present. Following the Hearing, the Review Council stated that it did not condone the behaviour of the justice of the peace, and expressed the view that His Worship had exercised poor judgment in his dealings with the court supervisor. The Review Council accepted the apology that was made by the justice of the peace as sincere and noted that they understood that certain pressures were operating on the day in question that contributed to the conduct under review. In all of the circumstances, the Review Council determined that no further action was required.



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CASE NO. 17-015/06

The complainant, a justice of the peace, alleged that the administrative practices and personal practices of another justice of the peace resulted in a poisoned workplace that impacted on the health and welfare of the complainant and other justices of the peace. The complainant also alleged that the subject justice of the peace made racial comments and statements, and demonstrated vindictiveness towards other justices of the peace.

The Review Council reviewed the complainant's letters of complaint and retained external legal counsel to assist in investigating the concerns. The Review Council also received a further complaint from another justice of the peace regarding the same justice of the peace who was the subject of the existing complaint. The matters raised by the second complainant were considered similar in nature to the allegations raised by this complainant. The Review Council reviewed the concerns and the concerns of the second complainant justice of the peace concurrently in an effort to get a better understanding of the issues and the working environment in the particular jurisdiction.

The Council reviewed a report from the investigator that included numerous interviews from judicial colleagues and court staff. The Council also requested and reviewed a detailed response from the subject justice of the peace respecting the allegations made against him. After careful review and consideration, the Council was of the view that the majority of the allegations related to administrative practices and personal

differences rather than issues of conduct on the part of the subject of the complaint. The Council noted that matters of administration were more appropriately dealt with at the senior administrative level.

With respect to the allegations of racial comments and statements made by the subject of the complaint, the Council noted that the allegations were viewed very seriously; however, no objective corroboration of these allegations was uncovered during the investigation. With respect to the allegations of vindictiveness towards other justices of the peace, the Council was unable to attribute any misconduct in the absence of compelling evidence that such acts took place. Without such evidence and independent collaboration, the Council had to view the matters as hearsay or mere rumour.

The Review Council investigated and reviewed the complaint allegations with the utmost scrutiny, examining carefully Council's role in reviewing internal complaints filed by judicial colleagues against another judicial colleague. In considering the results of the investigation, the Council dismissed the complaints. The Council noted that in order for the administration of justice to function efficiently and effectively, judicial colleagues must work together cooperatively and constructively with each other and with Court administration. In an effort to have the administrative issues addressed, the Council referred the administrative matters to the Chief Justice and to the Associate Chief Justice.



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CASE NO. 17-019/06

The complainant appeared before the justice of the peace in relation to a speeding infraction trial and was convicted. The complainant indicated to the Review Council that His Worship's son was married to the complainant's sister-in-law. Given these circumstances, the complainant was "extremely disappointed that he [His Worship] did not have the ethics to remove himself from the case", without the complainant having to raise the concern.

The Review Council reviewed the complaint, and requested and reviewed the transcript and the audiotape of the proceeding. After consideration, and having regard to the fact that joint submissions from the accused and the prosecutor were made before the justice of the peace, the Council was of the view that there was no misconduct on the part of the justice of the peace in the conduct of the proceeding or in the exercise of his judicial discretion to register a conviction against the complainant. The Council noted that the complainant had spoken to the prosecutor and had reached a consensual resolution whereby the complainant entered a guilty plea to a lesser charge and waived his right to a trial. Considering the circumstances, the justice of the peace was not placed in a situation in which he had to hear and weigh evidence and ultimately render a decision as to guilt or innocence with respect to the charge before the court.

The Council further noted that the issue of a potential conflict of interest was never raised directly by the complainant with His Worship. The record did not reveal that any concerns were

expressed with the justice of the peace dealing with the matter. For these reasons, the complaint was dismissed.

CASE NO. 17-024/06

The complainant appeared before the justice of the peace regarding charges of harassment that the complainant had laid under the *Criminal Code* against other persons. The complainant alleged that the justice of the peace did not give him a full and fair opportunity to argue his case. The complainant alleged that the justice of the peace displayed anger in making some conclusions about the case.

Following the court proceeding, the justice of the peace reached the mandatory retirement age and retired from the justice of the peace bench. As a result, the Review Council lost jurisdiction to determine the validity of the complaint.

CASE NO. 17-034/06

The complainant was a judicial secretary. She filed a complaint against a justice of the peace, alleging unprofessional comments, personal advances and sexually harassing conduct toward her over an extended duration. The Review Council retained external counsel to investigate the matter and conduct interviews of witnesses who would have first-hand knowledge of His Worship's treatment of the complainant. The justice of the peace was also asked by the Review Council for a response to the allegations.

The Council conducted an investigative Hearing pursuant to section 11 of the *Justices of the Peace*



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Act, as it read prior to January 1, 2007. New amendments to the *Justices of the Peace Act*, the Council's governing legislation intervened prior to the commencement of the Hearing, and the new Review Council conducted the investigative Hearing. Following the Hearing, the Review Panel determined that, although they believed the evidence of the complainant, based on the evidence of what had occurred, the conduct itself, given its context, was not severe enough to warrant a public inquiry under section 12 of the *Justices of the Peace Act*, as it read prior to January 1, 2007.

Case Summaries for Cases under the New Legislation

CASE NO. 15-021/04

The complainant appeared before a justice of the peace as an agent in the trial of his client, who was charged with speeding. The complainant alleged that the justice of the peace commented, on the record, that he had had discussions with the Crown prosecutor during a break about conducting a hearing under section 50(3) of the *Provincial Offences Act*. This type of hearing is conducted when the competency of an agent or paralegal is in question. The complainant indicated that the justice of the peace had agreed to schedule a competency hearing, which the complainant found to be insulting and to "reek with the stench of corruption". The complainant also alleged that His Worship confiscated from the court reporter the transcript that the complainant had ordered of the proceedings that day.

The complaints committee reviewed the complaint letter and a copy of a transcript, provided by the complainant, of an unrelated case before the same justice of the peace on the day of the events complained of. The members of the complaints committee were of the view that the case provided by the complainant lent no support for the allegations before Council. The complaints committee requested and reviewed the transcripts and audiotapes of the trial of the complainant's client before His Worship, as well as the competency hearing with respect to the complainant.

Following this review, the complaints committee was of the view that there was no misconduct on the part of the justice of the peace in the conduct of the hearings before him or in making the decision to schedule a competency hearing in the first place. The committee noted that His Worship properly questioned the complainant's behaviour and comments during the trial, as it had left both the Crown and himself with doubts as to whether the defendant was receiving proper representation. The committee further noted that His Worship properly scheduled and conducted a competency hearing to allow the complainant time to reflect and make submissions as to his conduct and level of competency as it had unfolded during the trial. In addition, the members of the complaints committee were of the view that there was no evidence to support the allegation that His Worship had confiscated the transcript that the complainant had ordered and paid for.

For the above reasons, the complaints committee dismissed the complaint.



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CASE NO. 15-022/04

The complainant was an agent, who alleged that the justice of the peace had demonstrated bias, or at least had given rise to an apprehension of bias, against him. The complainant provided two transcripts to support his allegation. In one of the cases provided, the complainant was of the opinion that the decision by the justice of the peace was so severely adverse against him that it reflected personally on him and demonstrated a clear apprehension of bias. The second transcript provided was of a competency hearing conducted with respect to the complainant by the justice of the peace in which the complainant alleged the justice of the peace commented in open court that the complainant had, in the past, misled the court and misrepresented himself to both the courts and a particular client.

The complaints committee reviewed the complaint letter and the transcripts provided. The committee also requested and reviewed the transcript of the trial proceedings that were the basis for the competency hearing. Following a thorough review of these materials, the members of the complaints committee were of the view that there was no misconduct on the part of justice of the peace and that the allegation of bias was not supported by the transcript of record in either matter.

In reviewing the transcript in which the complainant felt the decision reflected a personal bias against him, the complaints committee was of the view that the complainant was unhappy with the decision of the justice of the peace to allow the Crown to intervene and withdraw the criminal charges that the complainant was pursuing against

another party through private prosecution. With respect to the transcripts of the trial in which the complainant was agent for the defendant and the resulting competency hearing, the members of the complaints committee were of the view that the justice of the peace appropriately dealt with the complainant, expressed her concerns respecting the complainant's previous conduct and clarified his representations to his client. The committee noted that the justice of the peace then afforded the complainant the opportunity to make his argument and submissions as to his ability to conduct himself appropriately before the court. The committee was of the opinion that Her Worship conducted herself well in what was viewed as difficult and confrontational circumstances.

For the above reasons, the complaints committee dismissed the complaint.

CASE NO. 15-023/04

The complainant was a paralegal who was charged with "entering premises when entry is prohibited" contrary to the *Trespass to Property Act*. The complaint was filed against the justice of the peace who presided over a motion by the Crown four days prior to the original trial date. The complainant was of the opinion that the conduct of the justice of the peace was an "outrageous, intolerable abuse of power" as well as "a flagrant case of obstruction of justice". According to the complainant, a conviction was registered against him on the motion date due to his lateness in attending court. The complainant claimed the conviction was an abuse of power and a demonstrated conspiracy by the justice of the peace and the Municipal prosecutor.



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In a separate incident, the complainant indicated that the same justice of the peace obstructed justice, and conspired to have the accused convicted by denying procedural due process, by denying the right to present a motion in relation to a trial matter on which he was acting as a defendant's agent. In a third incident, the complainant alleged that same justice of the peace violated the Geneva Convention by denying him access to water during an appearance before her.

With respect to the first allegation that the complainant was convicted four days prior to his original trial date, the transcript and audiotape of the motion appearance were requested and reviewed. In reviewing the record, it was noted that the prosecutor had filed a motion for an adjournment of the original trial date, and although the complainant had been notified, he failed to appear to speak to the motion. The prosecutor requested the matter to be deemed not to be disputed under section 9.1 of the *Provincial Offences Act*. The record did reveal that the complainant appeared later that morning and argued that the prosecutor had committed fraud in requesting the conviction under section 9.1, and asked that the conviction be struck and a new trial date set.

The complaints committee was of the view that if errors in law were committed by the justice of the peace in this instance (and the committee made no such finding), any such errors would be matters of appeal and, without evidence of judicial misconduct, outside of the jurisdiction of the Justices of the Peace Review Council.

With respect to the allegation that the justice of the peace obstructed justice by denying the

defendant's agent from presenting a motion, the complaints committee requested and reviewed the transcript of the trial. The complaints committee was of the view that there was no evidence of misconduct on the part of the presiding justice of the peace. If errors in law or procedure were committed by the justice of the peace, they would be matters of appeal and not, in and of themselves, the basis for a complaint of misconduct.

With respect to the allegation that Her Worship denied the complainant access to water during an appearance, there was no information from the complainant nor any evidence found during the investigation to support this allegation.

For the above reasons, the complaints committee dismissed the complaint.

CASE NO. 15-024/04

The complainant was an agent, who filed a complaint against the justice of the peace respecting three separate incidents. In the first case, the complainant was acting as agent for a woman who was pursuing criminal charges against the owner of a pawn shop. In this case, the justice of the peace presided over the intended examination of the pawn shop owner during the private prosecution. According to the complainant, "Her Worship and the Crown Counsel decided not to allow the hearing to go forward because they had formed an intention in common that no Arabic person or black person can complain against a white person" such as the accused. In a second and separate incident, the complainant indicated that he was appearing as agent for an accused who required an interpreter. Although



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the complainant had requested an interpreter, no-one appeared to assist at the trial. The complainant alleged that the justice of the peace decided to hold the trial without an interpreter. In the third and separate incident, the subject justice of the peace allegedly stopped in the middle of trial to conduct a section 50 hearing which resulted in the removal of the complainant as agent. The complainant was of the view that the justice of the peace is “a genetically coded racist”.

The complaints committee reviewed the complaint, as well as requests for further information from the complainant. The complaints committee requested transcripts and audiotapes based on the dates provided by the complainant; however, Court Services confirmed their records did not correspond with the information provided. The complainant was asked to clarify court appearance dates and particulars. No further information was received. Without such information, the complaints committee was unable to order the transcripts for the court appearances in question. The committee was left with no alternative but to close its file. The committee did, however, note that it would reconsider the allegations of the complainant should further information be provided.

CASE NO. 17-011/06

The complainant was the mother of a 16 year old boy who was charged with failing to stop at a stop sign and who disputed the charge in court. The complaint was filed against the justice of the peace who presided over the trial. The complainant supported her son’s decision to go

to court and was in attendance to witness the trial, in which her son represented himself. The complainant alleged that the presiding justice of the peace abused his powers by pointing out her son’s lack of knowledge of court procedures and by proceeding to “harangue” her son throughout the proceedings, “intimating that he was a liar” and questioning his “audacity for daring to challenge a policeman with 22 years of services”. The complainant was of the view that the entire proceeding was “a circus, with my son as fair game to be slaughtered”.

The complaints committee reviewed the complainant’s letter and requested and reviewed the audiotape and transcript of the trial proceedings. The complaints committee also requested and reviewed a letter of response from the justice of the peace to the allegations and concerns raised by the complainant. After careful consideration, the complaints committee was of the view that the justice of the peace appropriately followed the trial process for an unrepresented defendant and noted that, since the accused was youthful, the justice of the peace took extra care to ensure that the defendant understood the process.

In his response, the justice of the peace denied the allegations that he was verbally abusive or suggested the defendant was a liar, and acknowledged that he was concerned about the procedural aspects of the hearing, having consideration of the young, inexperienced and unrepresented defendant before him. His Worship further responded that his conduct and comments to the accused were meant to guide and explain the court process to ensure procedural fairness, without going so far as to become the defendant’s advocate or



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counsel. Although, the complaints committee did note that His Worship's tone of voice and demeanour did border on forceful at times, the committee was of the view that His Worship's efforts were not intended to demean the accused but rather to stress the importance of informing oneself of the court process and in properly preparing for a court proceeding.

For the above reasons, the complaints committee dismissed the complaint.

CASE NO. 17-013/06

The complainant was an alleged victim of rape and a witness for the Crown in the prosecution of the accused, who appeared before the justice of the peace at a bail hearing. The complainant outlined her concerns about the accused being released on bail by Her Worship into the John Howard Bail program. The complainant was of the view that the system had failed to protect her, and society in general, by releasing this individual into a program that might allow him to disappear and perhaps return to his home country. The complainant alleged that justice of the peace "neglected her duty in granting bail to [the accused] and in not implementing restricting bail terms and conditions". The complainant stated that, "As a result of the court's irresponsibility, this criminal is now at large and a risk not only to me, the victim, but to the rest of society".

The complaints committee reviewed the complainant's letter and requested and reviewed the transcript of the bail hearing for the accused. After careful consideration, the committee was

of the opinion that there was no basis for the allegation of neglect of duty by the presiding justice of the peace. The complaints committee noted that Her Worship conducted a thorough bail hearing, and considered evidence and submissions from both the Crown and counsel for the accused. They recognized that justices of the peace are independent judicial officers, and that the Justices of the Peace Review Council has no jurisdiction to intervene in judicial proceedings, or to direct any judicial officer in the exercise of his or her judicial discretion. If errors in law were committed by the justice of the peace (and the complaints committee made no such finding), such errors would be matters of appeal and, without evidence of judicial misconduct, outside of the jurisdiction of the Review Council.

The complaints committee dismissed the complaint for the above reasons.

CASE NO. 17-016/06

The complainant had been charged with speeding contrary to the *Highway Traffic Act*. She indicated that she had attended at the traffic court and had spoken with the prosecutor, and agreed to plead guilty to a lesser rate of speed. Prior to her case being called, the complainant witnessed others pleading guilty to a lesser charge. When her case was called, the complainant alleged that the justice of the peace dealt with her matter much differently than the others. The complainant alleged that the justice became animated and refused to allow her to plead guilty and forced her on to trial.

After reviewing the complaint, the complaints committee requested and reviewed the transcript



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and audiotape of the court proceeding in question. Following a careful review of the record, the complaints committee was of the view that there was no misconduct on the part of the justice of the peace in the conduct of the hearing before him, or in making the decision not to accept the complainant's guilty plea. The committee noted that the justice of the peace listened to the complainant and her explanation that she had never been to court before and wished to plead guilty to a lesser charge. The justice of the peace explained she had the right to a trial and asked if she was speeding on the date in question, to which the complainant replied "no". This reply, a statement of innocence, prevented him from accepting a guilty plea from the complainant at any rate of speed. In the committee's view, the record did not support the allegation that His Worship was very animated in refusing to accept the complainant's plea. The committee noted that if the complainant was unhappy with the result, the appropriate remedy was an appeal of the trial decision.

For the above reasons, the complaint committee dismissed the complaint and closed the file.

CASE NO. 17-025/06

The complainant attended at the Intake Court in order to be interviewed and be qualified to bail out her son. The complainant alleged that His Worship did not follow proper procedure of conducting the interview in a private room and having the interview recorded on audiotape. The complainant indicated that instead His Worship called her to the front counter, where he allegedly began questioning her in front of court

staff and members of the public who were in the waiting area. The complainant indicated that she felt embarrassed and that her *Charter* rights were violated. In addition, the complainant indicated that His Worship denied her request to act as a surety, and indicated that "I should have someone else come and bring five thousand dollars despite the Judge's release order stated no deposit".

The complaints committee reviewed the complaint and attempted to obtain information regarding the complainant's appearance before the justice of the peace. Court Services advised that no transcript was available, as the alleged incident happened at the front counter where no recording devices were present. Through a review of further information from Court Services, it was learned that someone had attended before His Worship in an attempt to post bail for the complainant's son, but there was no confirmation that it was the complainant herself. The committee requested and reviewed a written response from the justice of the peace to the allegations of the complainant.

In his response, His Worship indicated that he did not recall the complainant or the alleged incident. His Worship did, however, explain that he does engage individuals at the counter to ensure they have all of the required information and identification necessary, in an effort to expedite matters. His Worship agreed with the complainant that interviews of sureties are to be conducted formally in private and on the record. His Worship expressed his apology for any wrong impression created by the procedure of



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asking preliminary questions of the complainant at the public counter.

After reviewing his response, the committee accepted His Worship's explanation and apology but was of the opinion that His Worship's practice of asking preliminary questions of individuals at the public counter was not following proper procedures. In the committee's view, His Worship should have had conversations with potential sureties on the record and in the privacy of the Intake Court. As its final disposition of this matter, the complaints committee decided to send a letter of advice under subsection 11(15) (b) of the *Act* to the justice of the peace. The committee was of the view that His Worship benefited from responding to the complaint, and was satisfied that, after sending a letter of advice from the Council, no further action was required in order to address the concerns.

The complaints committee closed this file after providing the above advice to His Worship in writing.

CASE NO. 17-027/06

The complainant was charged with a minor traffic offence and elected to plead not guilty and proceed to trial. This complaint was filed against the justice of the peace who presided at the trial. According to the complainant, Her Worship "was not in keeping with the standards expected of the profession". In support of this view, the complainant alleged that Her Worship displayed bias against him by not ruling on his 11(b) *Charter of Rights* motion, by ignoring his arguments regarding lack of disclosure, by not

allowing him to ask certain questions of the officer, by making remarks that suggested she favoured the Crown, and by generally rushing the entire proceedings, which the complainant indicated had prevented him from making a full and fair defence.

After reviewing the complaint, the complaints committee requested and reviewed the transcript and audiotape of the court proceeding in question. From this review, the committee observed that the justice of the peace appeared to be impatient and somewhat sarcastic in her comments to the complainant. As a result, a response was requested from her.

In reviewing her response, the committee accepted Her Worship's explanation that the record did not convey the whole picture; namely, that the complainant had been present in the court for the earlier docket to observe the proceedings and had moved about the courtroom and asked questions of various individuals - behaviour that was disruptive to the justice of the peace and others who were conducting their business in the court.

The committee noted that the complainant's matter was reached near the end of a long day for the justice of the peace, and her patience with the complainant was already stretched thin by his previous behaviour in the court. To add to Her Worship's frustration, the complainant had requested an interpreter when it was clear to Her Worship and the complaint committee that he did not need one. This had been viewed as a waste of the time and resources of the interpreter.



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In her response, Her Worship acknowledged and accepted that she could have exhibited more composure. The committee was of the opinion that the complainant received a fair hearing and Her Worship's handling of the situation, although not ideal, did not constitute misconduct.

For the above reasons, the complaint was dismissed and the file closed.

CASE NO. 17-029/06

The complainant attended before the justice of the peace to have criminal assault charges laid against enforcement officers of the Toronto Transit Commission, who had detained and charged the complainant with fraudulent use of his transit pass. During the court appearance, the complainant alleged that Her Worship displayed cultural bias against him due to his East Indian background. The complainant was seeking compensation for Her Worship's conduct in not controlling herself in dealing with him.

The complaints committee reviewed the complainant's letter and requested and reviewed the audiotape and transcript of the court proceedings. After careful consideration, the complaints committee was of the view that there was no misconduct on the part of the justice of the peace in the conduct of the hearing before her, and no evidence of bias demonstrated by the justice of the peace. The committee noted that the justice of the peace had requested that the complainant calm down and lower his voice, as he had become excited in relating his allegations. It was also noted that it was the complainant who suggested that his excited behaviour was because of his ethnic background.

For the above reasons, the complaints committee dismissed the complaint.

CASE NO. 17-030/06

The complainant was charged with failure to sign his automobile permit in ink and with an unreasonable noise offence, contrary to the *Highway Traffic Act*. The complainant, who spoke English, requested and appeared in a designated French court allegedly because of delays with trial scheduling in English courts. The complainant indicated in his letter of complaint, as well as in court, that he was advised by courts administration to select a French court if he wanted an earlier trial date. In addition, the complainant wished to argue a section 11(b) *Charter of Rights* motion for unreasonable delay in getting the matter to trial at the outset of the hearing. This complaint was filed against the presiding justice of the peace in the French court.

According to the complainant, he attended before Her Worship and introduced himself in English and attempted to explain why his matter was scheduled in a French court. The complainant alleged that Her Worship "swore at me using the words 'bullshit'", when he indicated that court staff had suggested scheduling his matter into a French court. The complainant was of the view that Her Worship's conduct was "not only completely unprofessional and totally inappropriate but I was very offended".

After reviewing the complaint, the complaints committee requested and reviewed the transcript and audiotape of the court proceeding in question. Following a review of the record, the



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complaints committee requested and reviewed a written response from the justice of the peace to the concerns raised by the complainant. The transcript revealed that Her Worship did use profanity, but she explained in her response that this was used in an expression of frustration at the conduct of the complainant for scheduling his matter into a designated French court, and then in defending that action by suggesting court staff had told him to do that if he wanted an earlier trial date. The justice of the peace explained clearly in her response why such an abuse of procedure was so troubling.

Her Worship expressed that she understood that her choice of words was inappropriate and apologized for her indiscretion. The complaints committee agreed that Her Worship's conduct was inappropriate and unprofessional, and extended to the complainant Her Worship's apology and regrets for her poor choice of words. The committee was satisfied that the process of addressing this complaint had served as a reminder to Her Worship to take better care in selecting her verbal responses, especially in times of frustration. The committee dismissed the complaint after finding that no further action or other disposition was warranted.

CASE NO. 17-031/06

The complainant filed a complaint with Council outlining two different court cases. After being asked for further details regarding these court matters, the complainant responded and provided details for only one court appearance. Using this information, Council confirmed the identity of the justice of the peace through

Court Services Division, establishing jurisdiction to open a file and commence an investigation. The court matter related to a trial of "disobey stop sign – fail to stop", contrary to the *Highway Traffic Act*. The complainant was of the view that he was not treated fairly in court and that proper consideration was not given to the photographs he wished to present. The complainant also alleged that His Worship was racially prejudiced against him, and felt that he was discriminated against because he responded "no" when asked by His Worship whether or not he believed in the bible (when given to choice of swearing or affirming prior to giving his evidence).

After reviewing the complaint, the complaints committee requested and reviewed the transcript and audiotape of the court proceedings. After considering the record, the committee was of the view that His Worship allowed the complainant to question the officer, make submissions, present his photographs and call evidence. In addition, the record reflected that His Worship was mindful that the complainant was unrepresented and attempted to provide assistance and guidance to him in terms of court procedures and appropriate questioning during cross-examination. It was the complaints committee's view that the allegations were not supported by the record of the proceedings, including providing no evidence that His Worship was racially or religiously prejudiced against the complainant.

For the reasons above, the complaints committee dismissed the complaint and closed its file.



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CASE NO. 17-032/06

This was a complaint by an accused against a justice of the peace who presided at a trial for the charge of speeding, contrary to the *Highway Traffic Act*. According to the complainant, His Worship did not allow him to present all of his motions, specifically for delay of trial, non-disclosure and illegal search. The complainant also alleged that His Worship did not allow him to present all of his affidavit evidence, even when some were signed by a lawyer. According to the complainant, His Worship forced the trial to proceed after setting aside his motions and without questioning the prosecutor regarding the issue of lack of disclosure. In summary, the complainant indicated that “there was no justice for this defendant, it was a one-sided trial that resulted in a severe miscarriage of justice”.

After reviewing the complaint, the complaints committee requested and reviewed the transcript and audiotape of the court proceeding. Following a review of the record, the complaints committee was of the view that His Worship was patient and accommodating towards the complainant, who appeared ill-prepared for the court appearance and for the motions he wished to argue. The record reflected that His Worship allowed affidavit evidence from the complainant, and spent considerable time with the complainant’s concerns about disclosure and delay before making the decision to continue to trial as scheduled. The complaints committee was of the view that there was no misconduct on the part of the justice of the peace in the conduct of the hearing before him or in making the decisions he made in this case.

For the above reasons, the complaints committee dismissed the complaint.

CASE NO. 17-033/06

The complainant was a court agent who filed a complaint against the justice of the peace after being ordered to leave the courtroom due to his attire. The complainant, who was representing an accused before the court, alleged that His Worship refused to allow him to proceed to trial with his client’s case on the grounds that his dress was inconsistent with proper courtroom decorum. The complainant further alleged that His Worship refused to hear submissions regarding his attire, which in the complainant’s view resulted in a breach of his client’s rights to natural justice. In the complainant’s opinion, the justice of the peace “enforced an arbitrary and whimsical standard” with respect to appropriate courtroom attire. He also alleged that His Worship allowed a criminal act of assault to take place in his courtroom by not intervening when a court security officer attempted to physically escort the complainant out while he was preparing to leave the courtroom.

After reviewing the complaint, the complaints committee requested and reviewed the transcript and audiotape of the court proceeding. Following a review of the record, the complaints committee requested and reviewed a response from the justice of the peace to the concerns raised by the complainant and invited His Worship to review the record.

After reviewing His Worship’s response, the committee was of the opinion that His Worship was not justified in refusing to hear the complainant’s



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submissions regarding the appropriateness of his attire. In the committee's view, His Worship should have addressed the concerns raised by the Crown and allowed submissions before determining whether or not the complainant could remain in the courtroom. The committee appreciated how disruptive such confrontations could be during a busy court day, and from His Worship's response, were aware of the tight timelines that bore pressure on the court to keep matters moving forward in a productive manner. Nonetheless, the committee suggested exercising more patience in allowing submissions by the agent.

With respect to the allegation that His Worship allowed the court officer to "assault" the complainant while escorting him out of the courtroom, the committee was of the view that this allegation lacked substance. If a criminal assault took place, the complainant's appropriate remedy was to report the matter to police and pursue charges against the officer. The committee attributed no duty upon His Worship in relation to this alleged incident.

The complaints committee closed this file after providing the above advice to His Worship in writing.

CASE NO. 17-036/06

This was a complaint against the presiding justice of the peace in relation to a pre-enquete proceeding (a mini-hearing in which a justice must determine whether there are sufficient grounds to proceed with an application). The complainant indicated that he had two matters before the court scheduled for a 9:00 a.m. appearance and had

arrived at the courtroom at approximately 9:10 a.m. to find only the justice of the peace, the court clerk and one other person, who was assumed to be a representative of the Crown, inside the courtroom. Upon making inquiries as to the status of his matters, the complainant indicated that His Worship told him that his matters were treated as abandoned as he was not present when his cases were called. The complainant alleged that His Worship was unprofessional and should have been more understanding and articulate in dealing with him.

The complaints committee reviewed the complaint and ordered the transcript and audiotape of the complainant's appearance before the justice of the peace. After considering the record, the committee was of the view that there was no misconduct on the part of His Worship in dealing with the complainant in this matter. The committee noted from the record that the complainant's matters were abandoned along with another matter at 9:05 a.m. at the request of the Crown, as there was no response to these cases. While it may be advisable, in some circumstances, to wait longer than 5 minutes for the parties to appear, the committee had insufficient information about the dockets to make a precise determination of the appropriateness of abandoning these matters in that timeframe.

For these reasons, the complaints committee dismissed the complaint and closed its file.

CASE NO. 17-037/06

The complainant was an informant who was pursuing criminal charges against two males from



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the same Community Housing unit in which he resided. The complainant alleged that during a pre-enquête proceeding (a mini-hearing in which a justice must determine whether there are sufficient grounds to proceed with an application), he witnessed the presiding justice of the peace and the Crown working together to allow the crimes against him to go unpunished. In addition, the complainant alleged that Her Worship did not wish to see written complaints that he had filed against the two accused. The complainant indicated that he felt humiliated by the justice of the peace and Crown as a result of the manner in which they dealt with his concerns. The complainant expressed that he found it absurd that the justice of the peace asked him if he wanted an apology, when his purpose in court was to lay criminal charges.

The complaints committee reviewed the complaint and ordered the transcript and audiotape of the complainant's appearance. After considering the record, the committee was of the view that there was no misconduct on the part of Her Worship in her conduct of the hearing before her, or in making the decisions not to issue process in these matters. The committee noted from the record that Her Worship followed proper procedures in hearing the complainant's allegations against those whom he was accusing. The committee further noted that the justice of the peace and the Crown were entitled to ask questions of the informant and that since the Crown had the ultimate burden of proving criminal charges, he or she may make submissions as to their opinion of the reasonable prospect of a conviction. In this matter, after hearing the evidence of the complainant, the Crown advised

there was no reasonable prospect of a conviction in the matters, and in turn the justice of the peace decided not to issue process. The complaints committee was of the view that if the complainant was unhappy with the decisions in these matters, then the appropriate remedy would be an appeal. In the committee's opinion there was no basis for an allegation of misconduct against the presiding justice of the peace.

For those reasons, the complaints committee dismissed the complaint and closed its file.

CASE NO. 17-038/06; 17-039/06; 17-040/06; 17-041/06; 17-042/06

The complainant filed complaints against five justices of the peace and one judge (who has since retired from the bench) in relation to criminal charges against him. The criminal charges related to when the complainant rented a car for one day but did not return the car. The complainant was charged with "possession of stolen property over \$5,000" and "willfully obstructing a peace officer" contrary to the Criminal Code, approximately four weeks after the rental car was initially due to be returned. From the invoice and letter from the car rental agency, it appeared that the car was towed back to the rental lot rather than willingly returned by the complainant. A balance of nearly \$2,000.00 in rental fees was outstanding.

The complainant was of the view that he should not have been charged criminally for what he felt was a "rental car violation", and that the car rental agency should have sued him civilly for



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the outstanding rental fees. The complainant's concerns relating to the justices of the peace were that throughout the numerous court proceedings, none of the justices of the peace realized that the "*Criminal Code* 354 (1)(a) is for property obtained by crime", which the complainant felt was not applicable in his case. The complainant implied that anyone who had anything to do with the court case should have known it wasn't a criminal act, and intentionally applied the wrong law, and by choosing to do so, must have been part of a conspiracy to prosecute an innocent man.

The complaints committee reviewed the complainant's letter and was of the opinion that the allegations against the five named justices of the peace were without basis. The complaints committee was of the view that there was no evidence to support the allegations that the justices of the peace who presided over the complainant's pre-trial appearances intentional delayed the case or were involved in inappropriate communication with the parties and their counsel. In addition, the committee saw no information to support the complainant's claims that the justices of the peace attempted to frame and misrepresent the facts in an effort to convict him. The complaints committee noted that if errors or misinterpretations in law were committed by any of the justices of the peace (and the complaints committee made no such finding), such errors would be matters of appeal and, without evidence of judicial misconduct, outside of the jurisdiction of the Justices of the Peace Review Council.

The complaints committee dismissed the complaints for the above reasons.

CASE NO. 17-043/06

The complainant, after reading a newspaper article regarding a WASH (Weekends and Statutory Holidays) court on Christmas Day, filed a complaint against the presiding justice of the peace. According to the article, Her Worship denied bail for twenty-eight of the thirty accused who appeared before her on Christmas Day. The complainant alleged that Her Worship's decisions to deny bail for twenty-eight of thirty accused demonstrated she was unfit to adjudicate bail hearings as she "clearly works from the premise of a reverse onus and is seriously violating the *Charter* rights of the individuals who have the misfortune to be brought before her". The complainant wanted Her Worship "removed, re-educated or at least disciplined".

The complaints committee reviewed the complainant's letter and requested and reviewed the docket of the Christmas Day WASH court. The complaints committee was of the view that there was no misconduct on the part of Her Worship in the conduct of the hearings before her or in the exercise of her judicial discretion in making the decisions she made. The committee recognized that justices of the peace are independent judicial officers and the Justices of the Peace Review Council has no jurisdiction to intervene in judicial proceedings or to direct any judicial officer in the exercise of his or her judicial discretion. If errors in law were committed by the Justice of the Peace (and the complaints committee made no such finding), such errors may be remedied on appeal and are, without evidence of judicial misconduct, outside the jurisdiction of the Justices of the Peace Review Council.



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The complaints committee dismissed the complaint for the above reasons.

CASE NO. 17-044/07

The complainant was the neighbour of an accused, who was charged with the illegal use of an area, zoned as rural residential, by extracting water for commercial use contrary to a municipal by-law. The complainant alleged that the justice of the peace displayed an “attitude of indifference” in deciding this case and dismissing the charges against the accused. The complainant indicated that Her Worship’s decision stated that it was an issue of “quarrelling neighbours” and in dismissing the charges, Her Worship failed to uphold the municipal by-laws and re-enforce the law, as she was paid to do.

The complaints committee reviewed the complaint letter and requested and reviewed the transcripts of the trial, and of Her Worship’s oral decision which she delivered approximately six weeks following the conclusion of the hearing. After consideration, the complaints committee was of the view that there was no judicial misconduct on the part of the justice of the peace in the conduct of the hearing or in the exercise of her judicial discretion in making the decision she made in this case. Further, the complaints committee was of the view that the allegations were not supported by the transcripts of the proceedings. In the committee’s opinion, Her Worship conducted a fair and thorough trial of evidence, hearing submissions and testimony from witnesses for both the Crown and the defence. If errors in law were committed by Her Worship in the matter before her (and the

complaints committee made no such finding) such errors may be remedied on appeal and are, without evidence of judicial misconduct, outside the jurisdiction of the Justices of the Peace Review Council.

For the above reasons, the complaints committee dismissed the complaint.

CASE NO. 17-045/07

The complainant advised that an incident had been brought to his attention in which a justice of the peace was alleged to have been “yelling obscenities about black people and how he wanted to kill them” while attending his judicial duties at the courthouse. The complaints committee council retained the services of an external investigator to investigate this matter who conducted interviews of several court staff who had witnessed the event.

After completing its investigation, the committee found that while there was some evidence of inappropriate language, the evidence did not support the allegations that had been reported. The complaints committee invited the justice of the peace to meet with them to receive advice regarding the inappropriate language. They noted that the justice of the peace had already apologized to several of the witnesses, and that he had acknowledged the remarks that were said and that they were inappropriate. Further, the committee reported that he had demonstrated contrition and that, in their view, it was unlikely that the conduct would ever be repeated. For those reasons, the complaint was dismissed.



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CASE NO. 17-046/07

The complainant, who indicated he was riding his bicycle when stopped by the police, was charged with “disobey stop sign” contrary to the *Highway Traffic Act*. The complainant elected to dispute the ticket and proceed to trial. This complaint was filed against the justice of the peace who presided at the trial. According to the complainant, His Worship “seemed to me to be quite biased in his dealing with my case” and alleged that His Worship refused “to hear my troubles and encounters” with police officers from the local police division. In the end, His Worship registered a conviction which the complainant felt was “truly a miscarriage of Justice and abuse of power and authority”. The complainant also indicated that His Worship refused to provide his name which required him to seek assistance in identifying the justice of the peace.

The complaints committee reviewed the complaint and ordered the transcript and audiotape of the complainant’s appearance before the justice of the peace. After considering the record, the committee was of the view that there was no misconduct on the part of His Worship in the conduct of the hearing before him. With respect to the complainant’s allegation that His Worship refused to hear about the troubles and encounters with police, the committee noted that there is an out-of-court process to address concerns relating to the conduct of police officers. The committee was of the opinion that His Worship was correct in narrowing the evidence of the complainant to matters relevant to the particular charge before the court. The committee viewed His Worship’s demeanour as polite and considerate. It was noted

that after registering a conviction, His Worship suspended the sentence having regard to the complainant’s personal circumstances. Although His Worship did not provide his name when the complainant asked, the committee noted that his information would be readily available from court staff. The complaints committee was of the view that the record did not support the allegations made by the complainant.

For those reasons, the complaints committee dismissed the complaint and closed its file.

CASE NO. 17-047/07

The complainant attended with her sister at an Intake Court in order to complete a Form 2 under the *Mental Health Act* and have it issued. This document provides police with information and authority to assist in locating, detaining in custody and escorting to healthcare professionals an individual who is believed to have mental health issues when there is concern regarding the well-being of that individual or the public’s safety. According to the complainant, there was considerable concern regarding her nephew, whom she described as “on medication for severe anxiety and depression”.

While completing the paperwork at the justice of the peace’s office around 3:20 p.m. on the particular day, the complainant indicated that the presiding justice of the peace announced to them, “in an extremely defensive manner” that Form 2 applications take considerable time to review and stressed that there was insufficient time as Her Worship had a personal appointment which required her to leave promptly at 4:00 p.m..



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Despite this announcement, the complainant and her sister completed the paperwork and attended before Her Worship in an effort to have the Form 2 reviewed and issued that day. According to the complainant, Her Worship didn't bother to read the paperwork, asked questions that were answered in writing on the application, acted in a "very condescending and patronizing fashion", rushed the interview and left them with the impression "that we were imposing by seeking help". The complainant expressed concern about Her Worship's "obvious lack of concern/compassion expressed to citizens seeking assistance during a most distressing time in their lives". The complainant further was of the view that Her Worship was "very lacking in the interpersonal skills" required of the position of justice of the peace and that she should be reprimanded for her behaviour that day.

The complaints committee reviewed the complainant's letter and requested and reviewed the transcript and audiotape of the appearance. The complaints committee was of the view that the independent record of the appearance supported the complainant's allegations. The committee requested and received a written response from Her Worship. In her response, Her Worship agreed that her behaviour in this instance was impatient, and she stated that she wished to extend her sincerely apology to the complainant and her sister for her lack of empathy. Her Worship acknowledged the serious nature of their request and indicated that she understands the distress families in these situations must endure.

The complaints committee was of the opinion that the concerns raised in this complaint were

appropriately addressed by Her Worship in her response. The complaints committee noted that work pressures and personal situations can negatively affect how a judicial officer may act or conduct themselves from time to time; however, it was the committee's view that it does not excuse poor behaviour or poor service to the public.

After taking the above actions, the complaints committee dismissed the complaint and closed the file.

CASE NO. 17-048/07

The complainant, an agent, filed a complaint against the justice of the peace who was to preside over a trial of a charge against his client of speeding. The justice of the peace had previously banned this agent from appearing before her, after the agent's competency was questioned in matters that had been before her, as well as before other justices of the peace in the region. The complainant felt that Her Worship had a racial hatred towards him, and alleged that, after not allowing the complainant to speak to the matter, Her Worship fraudulently entered a "deemed not to dispute" conviction against his client, who was not in attendance.

The complaints committee reviewed the complaint, and requested and reviewed the transcript and audiotape of the trial appearance. The complaints committee was of the view that if Her Worship erred in law in entering a conviction against the accused (and the committee made no such finding), the proper remedy was to appeal the conviction. With respect to allegations of racism or prejudice against the complainant, the



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committee found no evidence to support those claims.

For the above reasons, the complaints committee dismissed the complaint.

CASE NO. 17-050/07

This was a complaint against a justice of the peace in relation to the issuance of a Form 2 in response to an application under section 16 of the *Mental Health Act*, which was executed by local police against the complainant. This form provides authority to police to take into custody and escort the named individual on the form to an appropriate health facility for the purpose of examination by a physician. The complainant, who described himself as a severely disabled 27 year-old who was under the care of medical specialist and required medication, indicated that the informant, his brother, had lied on the application. The complainant alleged that the execution of the Form 2 by the police resulted in mental and physical harm to him. The complainant requested an explanation by the justice of the peace for the approval of the application.

The complaints committee reviewed the complaint and ordered the transcript of the informant's appearance before the justice of the peace in order to assist in understanding the situation and responding to the complainant. After considering the record, the committee was of the view that there was no misconduct on the part of His Worship in swearing and issuing the Form 2 against the complainant. The committee was of the view that there was no basis for an allegation of misconduct and the complainant

was not entitled to an explanation from the justice of the peace in relation to his decision. The complaints committee was of the opinion that the complainant was unhappy with the decision, which was, without evidence of misconduct, outside the jurisdiction of the Review Council.

For those reasons, the complaints committee dismissed the complaint and closed its file.

CASE NO. 17-051/07

The complainant was charged with speeding and elected to dispute the ticket by going to trial. This complaint was filed against the presiding trial justice of the peace. The complainant initially wrote to the Regional Senior Justice of the Peace requesting that the decision be reviewed, and that the conviction and resulting fine and demerit points be reversed. In response, it was suggested that the complainant appeal the decision and that if he had concerns relating to the conduct of the justice of the peace, he could file a complaint with the Justices of the Peace Review Council. Following this, the complaint was filed.

According to the complainant, during his cross-examination of the police officer, he was "repeatedly interrupted and cut short by the justice of the peace", which the complainant perceived as indicating he was taking up too much court time. The complainant felt that His Worship was oblivious to the reasoning behind his request for dismissal of the charges, and that he had displayed a demeanour of impatience and contempt towards the complainant, while treating the police officer and other accused who



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appeared prior to his trial politely and respectfully. The complainant also indicated that after his submissions and request for a reduced fine, His Worship became “belligerent”.

The complaints committee reviewed the complainant’s letter and attachments, and requested and reviewed the audiotape and transcript of the court proceedings. After careful consideration, the complaints committee was of the view that there was no misconduct on the part of the justice of the peace in the conduct of the hearing before him or in making the decisions he made in this case. In reviewing the record of the trial, the committee did not find that the record supported the complainant’s allegations that he was repeatedly interrupted or that he was not allowed a full cross-examination of the police officer. The complaints committee noted that the justice of the peace provided instructions to the complainant to not repeat questions, and to not make statements during cross-examination of the officer. Although the committee was of the view that His Worship could have exercised more patience in dealing with the complainant when those instructions were not followed, the committee did not agree that His Worship’s conduct was belligerent or contemptuous, as alleged.

For the above reasons, the complaints committee dismissed the complaint.

CASE NO. 17-052/07

The complainant filed a complaint against a justice of the peace in relation to the settlement of a family estate matter, where both the complainant and the justice of the peace’s wife were

beneficiaries. According to the complainant, His Worship provided legal advice to his wife and the executrix of the estate, which, in the complainant’s view, negatively affected the settlement of the estate. The complainant also alleged that His Worship used judicial resources, namely his e-mail at work, to respond to inquiries and offer legal advice in this matter.

The complaints committee reviewed the complainant’s letter and e-mail attachments. The complaints committee was of the view that the documents provided by the complainant established that His Worship was not using his work e-mail address to correspond with family members involved in this estate matter. In the committee’s view, these documents also failed to demonstrate that the justice of the peace was providing any legal advice or acting as counsel to the executrix of the estate. The committee was of the view that any involvement His Worship may have had in the estate was a family matter and, without evidence of misconduct, was outside the jurisdiction of the Justices of the Peace Review Council.

For the above reasons, the complaints committee dismissed the complaint.

CASE NO. 17-053/07

The complainant indicated that he had retained an agent to appear on his behalf on a provincial matter. The agent had attended on previous occasions before the justice of the peace. The complainant also said that the justice of the peace had a conflict of interest in relation to the agent but had continued to allow the agent to appear on matters before him. When the complainant’s



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trial proceeded, he said that the justice of the peace suddenly disallowed the agent from continuing to appear and forced the complainant to continue to trial unrepresented. The complainant subsequently withdrew his complaint.

CASE NO. 17-054/07

The complainant filed a letter of complaint against a justice of the peace for issuing a summons against the complainant's wife. The complainant alleged that His Worship issued a summons for a person charged with a criminal offence even though the subject of the summons, his wife, was not charged with any criminal offence. Further, the complainant alleged that His Worship lacked jurisdiction to issue the summons and that such action to issue the summons was viewed as "an abuse of judicial process which brings the administration of justice into disrepute".

The complaints committee reviewed the complainant's letter and was of the view that the subject matter of this complaint was outside of the Council's jurisdiction. The complaints committee noted that if errors in law were made in issuing the summons (and the committee made no such finding), such errors are a matter for judicial review and not the basis for a complaint to the Review Council.

The complaints committee dismissed the complaint for the above reasons.

CASE NO. 17-055/07

The complainant was charged with the misuse of his Toronto Transit Commission (TTC) pass

when he used it to gain access for another person. The complainant filed a letter of complaint against a justice of the peace who presided over his trial. In his letter, the complainant expressed displeasure with how he was treated by the enforcement officers during his arrest and was seeking not only to have the charges dropped against him but also to receive compensation in the amount of one billion dollars for his mistreatment. The complainant also expressed frustration with the court system in having his case brought to trial. With respect to the trial justice of the peace, the complainant alleged that His Worship spoiled his case by favouring the evidence of the prosecution, and suggested that the Toronto Transit Commission must have conspired with the justice of the peace to convict him.

The complaints committee reviewed the complainant's letter and was of the view that the allegations against the justice of the peace were frivolous in nature and that there was no basis for a complaint of misconduct. The committee noted that if the complainant was unhappy with the decision or felt there was an error in law made, he could seek an appeal of his conviction and /or file a civil application against the Toronto Transit Commission for damages.

The complaints committee dismissed the complaint for the above reasons.

CASE NO. 17-057/07

The complainant filed a complaint against the justice of the peace in relation to an appearance to set a date for trial. The complainant indicated that he was appearing in an effort to arrange for



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a trial date several months away, as he did not reside in the area. The complainant indicated that he was appalled by the unprofessional and insulting treatment he received from the justice of the peace. The complainant alleged that His Worship aggressively commented that the complainant “should understand that this is a court and the court does not revolve around his (the complainant’s) social schedule”. The complainant further alleged that he was “rigorously led through a series of questions and arrangements that set the date for a trial”. The complainant indicated that he left the court feeling shocked and belittled.

The complaints committee reviewed the complaint letter and requested and reviewed the transcript and audiotape of the set date proceedings. Following this review, the committee was of the opinion that the record lent support to the complainant’s allegations and therefore requested a response from His Worship. In preparing his response, the justice of the peace attended the Council’s office and listened to the audio recording of the proceedings. In his response, His Worship indicated that, in his view, he did not raise his voice nor speak aggressively to the complainant. Although His Worship expressed he was sorry that the complainant left court feeling belittled, he was of the opinion that he was not the cause of that.

Following a review of His Worship’s response to the complaint and after reviewing the audio recording a second time, the committee disagreed with His Worship, and was of the view that His Worship’s tone and demeanour played a significant factor in the impression left with the

complainant. In accordance with the Council’s procedures, the complaints committee decided pursuant to subsection 11(15)(b) to have the justice of the peace attend in person to receive advice, as a suitable means of informing him that his conduct was not appropriate in the circumstances that led to the complaint. His Worship attended before the committee and received its advice to reconsider his conduct on this occasion and perhaps similar occasions with a view of improving his ability to conduct himself politely, professionally and with appropriate restraint. Having received the committee’s opinion of his conduct and their advice to him, His Worship volunteered to write a letter of apology to the complainant. Taking into account the nature of the circumstances giving rise to the complaint, the apology was received and retained by the committee.

Having provided its advice, the complaints committee had implemented its disposition and closed its review of the complaint.

CASE NO. 17-058/07

The complainant filed a complaint against the justice of the peace who issued a summons for him to appear for identification at the local police station. The complainant believed that the summons was based on false information from one of the officers. He alleged that His Worship inappropriately issued a warrant for his arrest when he failed to appear for identification, and suggested that His Worship should have been aware that he (the complainant) had been committed to a psychiatric ward. The complainant was of the view that the *Mental*



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Health Act application that resulted in his committal was filled with lies from the police and that His Worship didn't know the law regarding issuing arrest warrants. He indicated that as a result of His Worship's actions, the complainant was incarcerated over a weekend for his non-attendance for identification.

The complaints committee reviewed the complainant's letter and was of the view that the issuance of a summons and a warrant was not conduct-related, and therefore the Justices of the Peace Review Council had no jurisdiction to review these matters. In the committee's opinion, there was no support for the allegation that His Worship acted vindictively in making these decisions, nor any evidence that His Worship would have known of the complainant's committal.

The complaints committee dismissed the complaint for the above reasons.

CASE NO. 17-059/07

The complainant and his son alleged that they were victims, and sought to have criminal assault, theft under \$5,000 and mischief charges proceed against two individuals. The complainant had sworn a private information relating to each accused and attended with his son at a pre-enquete hearing (a mini-hearing in which a justice must determine whether there are sufficient grounds to proceed with an application) to determine if the accused would be summonsed to court. The complainant indicated that the presiding justice of the peace declared a conflict with one of his witnesses, who was a member of city Council, as Her Worship's ex-husband

had been on the Council in the past. The complainant was upset that Her Worship did not hear submissions from him or the Crown as to whether there was any objection to her hearing the matter. According to the complainant, Her Worship would not proceed and would not traverse the matter to another court, despite his objections to having the matter adjourned.

The complainant indicated that, as a victim, he was shocked and outraged by how he and his son were treated by the Crown and by the justice of the peace. The complainant also alleged that Her Worship was verbally abusive towards his son, when she questioned him directly as to his availability and refused to allow the complainant to assist his son, telling him to "be quiet". In addition, according to the complainant, Her Worship was uncooperative by not having the matter heard that day by transferring it to another court, despite having transferred two other cases, and in not allowing the pre-enquete to go ahead without the complainant's problem witness. The complainant indicated that, after patiently waiting four hours to ensure there was no possibility of being heard, the experience ended with Her Worship allegedly yelling, "I am not going to hear anything you have to say" and ordering them out of the courtroom.

The complaints committee reviewed the complainant's letter and requested and reviewed the transcript and audiotape of the complainant's appearance before Her Worship. After consideration, the complaints committee was of the view that the allegations of misconduct were not supported by the record. In the opinion of the



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committee, Her Worship's conduct was polite and fair in stating her reasons for not being able to accommodate the complainant in having his matter heard that day. The allegation were viewed as without merit and were dismissed accordingly.

CASE NO. 17-061/07

The complainant was a court interpreter who filed a complaint against a justice of the peace in relation to an appearance where she was providing interpretation services for an accused. The complainant indicated that she has been a court interpreter with over 15 years of experience working in a variety of courts and who was very familiar with the Rules of Procedure and with the professional conduct expected of her by the courts. The complainant indicated that she appeared in Her Worship's court to assist an accused and politely greeted Her Worship, but was not acknowledged in return. The complainant went on to describe the arraignment of the accused and indicated that instead of answering guilty or not guilty, the accused began to explain his case. The complainant attempted to assist by stopping the accused and refocusing him on his plea. It was at this point that the complainant

alleged that Her Worship "raised her voice and shouted at me in a condescending manner, saying 'you have to interpret verbatim what is said'". The complainant indicated she was offended by Her Worship's tone of voice, disrespect and arrogance. The complainant was of the view that Her Worship's reaction was unnecessary and hurtful, and she requested an apology for the treatment she received that day.

After reviewing the complaint, the complaints committee requested and reviewed the transcript and audiotape of the court proceeding in question. Following a review of the record, the committee was of the view that there was no misconduct on the part of the justice of the peace in the conduct of the hearing before her or in making the request that the complainant interpret verbatim what was said by the accused. Although the complaints committee was of the opinion that Her Worship was somewhat terse in her interaction with the complainant, Her Worship's impatience was not viewed as condescending or arrogant and in the committee's view did not amount to misconduct.

For the above reasons, the complaints committee dismissed the complaint.

APPENDIX-A

ONTARIO COURT OF JUSTICE

JUSTICES OF THE PEACE
CONTINUING EDUCATION PLAN
NOVEMBER 2007

JUSTICE OF THE PEACE EDUCATION PLAN

The Education Plan for the justices of the peace of the Ontario Court of Justice encompasses both initial orientation and training of newly appointed justices of the peace as well as ongoing continuing education programmes for all justices of the peace.

The goals of the initial orientation and training programme are:

- ◆ to develop and maintain a sense of judicial independence and impartiality;
- ◆ to develop the skills necessary to exercise judicial responsibilities in an independent and impartial manner; and
- ◆ to develop an understanding of the legal issues and substantive law in areas in which a justice of the peace will be required to exercise jurisdiction.

The goals of the ongoing continuing education programmes are:

- ◆ to develop and maintain professional competence; and
- ◆ to develop and maintain social awareness.

The Education Plan is premised on the fact that the justice of the peace bench is a lay bench, and that justices of the peace on appointment usually do not have legal training. The Plan provides each justice of the peace on appointment with seven weeks of intensive workshops covering all aspects of the duties they will perform as a justice of the peace. These workshops are interspersed with a mentoring programme of up to six months duration, the mentoring being provided by experienced justices of the peace.

Continuing education programmes give each justice of the peace an opportunity of having a minimum of six days of continuing education per calendar year dealing with a wide variety of topics, including substantive law, evidence, *Charter of Rights*, skills training and social context. While the programmes are developed and presented by judges and justices of the peace of the Court, frequent use is made of outside resources in the planning and presentation of programmes. Lawyers, judges, government and law enforcement officials, academics, and other professionals have been used extensively in most education programmes.

ADVISORY COMMITTEE ON EDUCATION

The coordination of the planning and presentation of education programmes is assured by the Advisory Committee on Education. The Committee includes the Associate Chief Justice - Coordinator of Justices of the Peace as Chair (*ex officio*) and justices of the peace nominated by the Associate Chief Justice and the Association of Justices of the Peace of Ontario. The Committee meets approximately four times per year to discuss matters pertaining to education and reports to the Associate Chief Justice.

The Senior Advisory Justice of the Peace chairs meetings of the Committee. The Senior Justice of the Peace/Administrator of the Ontario Native Justice of the Peace Program is also a member of the Committee. He is responsible for developing and co-ordinating special training and apprenticeship programmes for Native Justices of the Peace. Two bilingual justices of the peace who have been responsible for developing training programmes for bilingual justices of the peace are also members. The

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Ontario Court of Justice's counsel serves as a consultant.

The Advisory Committee provides administrative and logistical support for the education programmes presented within the Ontario Court of Justice. In addition, all education programmes are reviewed by the Advisory Committee, which makes recommendations to the Associate Chief Justice on changes and additions to existing programmes. The Committee also makes recommendations on the content and format of new programmes as they are being developed.

The Justice of the Peace Education Plan has been developed based on the following principles:

1. The Associate Chief Justice - Coordinator of Justices of the Peace is responsible for establishing a plan for the continuing education of justices of the peace and implementing the plan once it has been approved by the Review Council: s. 14(1) *Justices of the Peace Act*. In turn, the Associate Chief Justice has delegated responsibility for coordinating the development and implementation of education programmes to the Senior Advisory Justice of the Peace.
2. Justices of the peace as professionals are responsible for acquiring and maintaining a knowledge of the legislation and case law which affects their jurisdiction, as well as other relevant information of significance to the performance of their duties, and for developing and maintaining the skills necessary to perform these duties effectively.
3. Justices of the peace are judicial officers, and all education and training programmes should be based on that fact.
4. The education and training of a judicial officer involves exposure to the views and

practices of different judicial officers who perform judicial functions in different ways. Often, particularly in grey areas of the law, there are no pre-defined responses to deal with a matter. This is one of the most important realizations for a new justice of the peace.

5. Education and training encompasses a broad variety of areas, including education on legal and jurisdictional issues, an understanding of the role of a judicial officer, the development of specific skills necessary to perform the functions of a justice of the peace, and the development of an awareness of social and cultural context in which social problems and conflicts may arise and manifest themselves in judicial proceedings.
6. Training and education is an essential and integral component of the work of a judicial officer. It is essential that time be made available for it as a part of the judicial officer's regularly scheduled responsibilities.
7. Education is an on-going process. Upon completion of initial training, ongoing continuing education programmes are required to maintain the standards which have been developed, to strengthen pre-existing skills and knowledge, and to update justices of the peace regarding legislative amendments and case law which affect the jurisdiction of a justice of the peace.
8. Technology will be an increasingly significant factor in the delivery of judicial services and education programmes.

The current education plan for justices of the peace of the Ontario Court of Justice is divided into two parts;

1. Initial Orientation and Training
2. Continuing Education

In addition, other educational resources are provided by the Ontario Court of Justice to the justices of the peace on an ongoing basis.

- ◆ *The Dictionary of Canadian Law*
Carswell 2005
- ◆ *Regulatory & Corporate Liability*,
Archibald, Jull, Roach Canada Law 2007

In addition, bilingual justices of the peace are provided with the following:

- ◆ *Vocabulaire des véhicules de transport routier*

In addition, native justices of the peace are provided with the following:

- ◆ *Annotated Indian Act*, Carswell

I. INITIAL ORIENTATION AND TRAINING

1. Materials Provided

On appointment, each justice of the peace is provided with a copy of the following legal resources and materials:

- ◆ *Justice of the Peace Materials*, 2007
- ◆ *Provincial Offence Act Materials*, 2007
- ◆ *CD Electronic Benchbook for Justice of the Peace* includes *Contravention Act* and *Conduct of a Trial* by Allen C. Edgar
- ◆ *Commentaries on Judicial Conduct*, by the Canadian Judicial Council
- ◆ *Ethical Principles for Judges*, by the Canadian Judicial Council
- ◆ *Writing Reasons: A Handbook for Judges*, by Edward Berry
- ◆ *The Law of Traffic Offences*, by S. Hutchison, D. Rose and P. Downes
- ◆ *Stewart on Provincial Offences Procedure in Ontario*, by Sheilagh Stewart
- ◆ *The Portable Guide to Evidence 2nd Edition*, by Michael P. Doherty
- ◆ *Ontario Litigator's Pocket guide to Evidence*, by James C. Morton
- ◆ *The Law of Bail in Canada*, by Gary Trotter
- ◆ *Hutchison's Canadian Search Warrant Manual*, 2005, by Scott Hutchison

2. Workshops

Seven intensive week-long workshops are provided to all justices of the peace within the first few months following their appointment, including workshops on Orientation; Search and Seizure; Judicial Interim Release; and *Provincial Offence Act Trials*.

Resource people at the various workshops include judges, experienced justices of the peace, law professors, counsel with the Crown Law Office – Criminal of the Ministry of the Attorney General and the Department of Justice, Crown attorneys, counsel in private practice, and counsel from the Centre for Judicial Research and Education of the Ontario Court of Justice.

a) Orientation Workshops

The Orientation Workshops are the first programmes offered to newly appointed justices of the peace, as soon as possible after their appointment. The workshops are designed on the presumption that newly appointed justices of the peace

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come into the system with limited knowledge of the judicial system or the role of a judicial officer. It is usually offered in small groups, the size dependent on the number of new appointments. The format includes lectures, discussion, and demonstrations. Resource people include experienced justices of the peace, as well as law professors and lawyers in private practice with expertise in specific areas of the law.

Topics covered include the structure of the courts and *stare decisis*; the adversarial system; onus and standard of proof; judicial independence and impartiality; administering oaths and affirmations; receiving an information and considering process; private prosecutions; subpoenas; an introduction to search warrants; peace bonds; weapons disposition and prohibition hearings; *Criminal Code* orders for assessment; *Mental Health Act* orders of examination; *Child & Family Services Act* warrants of apprehension; and *ex parte Provincial Offences Act* proceedings.

b) Search and Seizure Workshop

This workshop is an intensive programme in all aspects of search warrants which may be issued by a justice of the peace. It reviews the legislation and case law under s. 487 of the *Criminal Code*, s. 11 of the *Controlled Drugs and Substances Act*, and other federal and provincial statutes as well as s. 8 of the *Charter of Rights and Freedoms*.

Arrangements are made for justices of the peace to spend a number of days in the Telewarrant Centre. They attend in small groups, reviewing examples of informations to obtain a search warrant and search warrants and considering whether

the warrant should issue and, if not, identifying the deficiencies in the material presented.

Specific topics covered include a review of the appropriate information required for a search warrant and information to obtain a search warrant; balancing reasonable expectations of privacy against the public interest in investigating and prosecuting offences; conditions to consider when issuing a warrant; specific rules applicable to warrants for material in the possession of lawyers, the media, and psychiatric facilities; the “four corners” rule; procedure for considering a warrant; giving reasons for refusing a warrant; sealing warrant material; and detention orders.

c) Judicial Interim Release Workshops

The Judicial Interim Release Workshops provide an in-depth review of all aspects of the bail process. Part of the time in these workshops is spent reviewing transcripts of bail hearings and discussing whether the accused person should be detained and, if released, the type and conditions of release. The remainder of the time is spent in lectures, discussions, and demonstrations of the various proceedings relating to judicial interim release.

Specific topics covered include remands; Crown and reverse-onus bail hearings; the three grounds for detention; bans on publication; evidence; risk assessment; procedure; types of release; conditions of release; conditions of detention; releasing an accused following a bail hearing; revocation of bail; variation of bail; surety relief; and bail involving young persons.

d) Workshops on Provincial Offences Act Trials

These are intensive workshops on the trial of an offence under the *Provincial Offences Act*. The focus is on relatively straightforward trials that comprise the majority of the trials over which justices of the peace preside. Such trials are completed in a single day, with an oral judgment delivered at the end of the trial, and with an unrepresented defendant or a defendant who is represented by an agent. Lectures, discussion groups and demonstrations are used to present the topics in this workshop.

Specific topics covered include the role of the prosecutor, defendant and justice of the peace; the presumption of innocence; proof beyond a reasonable doubt; elements of the offence; guilty pleas to the offence charged or another offence; *mens rea*, strict liability and absolute liability offences; defences to regulatory charges, including due diligence, reasonable mistake of fact and officially induced error; trial procedure; presentation of evidence; rules of evidence; dealing with an incompetent agent; requests for a bilingual trial; reasonable doubt and findings of credibility; reasons for judgment; sentencing; and trials of young persons.

3. Mentoring

In addition to the workshops described above, the core element of training for newly appointed justices of the peace remains mentoring. This involves the new justice of the peace working, usually on a one-on-one basis, with a more experienced justice of the peace who has been designated as a mentor

by the Associate Chief Justice - Coordinator of Justices of the Peace. It allows the justice of the peace to learn on a practical basis how to carry out his or her judicial responsibilities.

Separate mentoring programmes are offered on the various duties justices of the peace perform, including intake courts, bail courts, assignment courts and *Provincial Offences Act* trial courts. Different justices of the peace are often involved as mentors at different stages of the programme. The period of time a new justice of the peace spends in a mentoring programme varies with the individual justice, but it can last up to six months and sometimes longer.

In order to strengthen the mentoring programme, the Ontario Court of Justice has also offered a number of workshops for mentors. These workshops focus on a discussion of issues faced by mentors in order to encourage consistency in training in the various parts of the province. They also include discussions of the mentoring process itself, and various mentoring and adult education techniques which may be of assistance in facilitating the learning process for new justices of the peace.

4. Internal Judicial Progression

From time to time, justices of the peace with a non-presiding designation are re-appointed as presiding justices of the peace through internal judicial progression. As presiding justices of the peace, they acquire the authority to preside at the trial of an offence under the *Provincial Offences Act* and also consider walk-in guilty pleas.

In order to enable them to discharge these additional duties, these justices of the peace

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are also offered an opportunity to attend the workshops on the trial of an offence under the *Provincial Offences Act*. They also participate in the separate mentoring programme offered on *Provincial Offences Act* trial courts.

II. CONTINUING EDUCATION

Continuing Education supports the on-going professional development of the justice of the peace bench. Various materials and programmes are provided on an ongoing basis to facilitate this process.

1. Materials Provided

In addition to the materials provided on appointment, each justice of the peace is provided, on an annual basis, with a copy of the following:

- ◆ *Criminal Code*
- ◆ *Annotated Provincial Offences Act*, Carswell
- ◆ *Annotated Highway Traffic Act*, Carswell
- ◆ *Ontario Provincial Offences, Justice of the Peace Edition*, Carswell

On an annual basis, bilingual justices of the peace are also provided with a *Code Criminel*

2. Annual Spring and Fall Conferences

The cornerstone of the continuing education programmes for justices of the peace are the annual spring and fall conferences. The annual fall conferences have been offered to justices of the peace for many years; the annual spring conferences were added in

1993. Every justice of the peace is invited to attend one of these conferences in both the spring and the fall of each year. Each of these conferences is three days in length. The conferences use a combination of lectures, panel discussions, demonstrations and small group discussions.

Resource people at these conferences have included judges of all levels of courts, including the Ontario Court of Appeal and the Supreme Court of Canada; experienced justices of the peace; counsel from the Crown Law Office – Criminal and local Crown Attorneys; counsel from the Ministries of the Environment, Labour and Natural Resources; counsel from the federal Department of Justice; defence counsel in private practice; law professors; academics from other fields; and professionals from a wide variety of backgrounds.

The topics covered at these conferences are wide ranging and vary from year to year. Specific topics which have been covered in recent conferences include delivering oral judgments; risk assessment and indicators of lethality at bail hearings; the *Youth Criminal Justice Act*; eye witness identification; workplace harassment; specific issues at trials of regulatory offences; accident reconstruction; search warrant issues; mistrials and bias; the *Domestic Violence Protection Act*; orders for examination under the *Mental Health Act*; child apprehension warrants under the *Child and Family Services Act*; evidence; stress management; and pre-retirement planning.

3. Native Workshop

The Native Workshop is a workshop to which all native justices of the peace are invited. It is sponsored jointly by the Office

of the Chief Justice and the Ontario Native Justice of the Peace Program. These workshops focus on a mix of substantive legal issues and other non-legal issues relevant to native justices of the peace. It is three days in length, and held in northern Ontario. Approximately 20 – 25 native justices of the peace attend each year.

Resource people have included judges, experienced justices of the peace, counsel from the Crown Law Office – Criminal and the Crown Law Office – Civil as well as other lawyers in the Ministry of the Attorney General, lawyers in private practice, and representatives of various Aboriginal organizations.

Specific topics covered at recent native workshops include search and seizure, bail, private prosecutions, avoiding conflicts in small communities, Aboriginal rights of Métis, and community justice development projects of the Ontario Native Justice of the Peace Program.

4. French Workshop

A three day intensive workshop is offered to bilingual justices of the peace once a year. The workshop is usually held in Ottawa. Approximately 20 – 25 bilingual justices of the peace attend. The workshop is conducted entirely in French, allowing the participants to converse in the French language.

All resource people are fluent in the French language. They have included judges, experienced justices of the peace, law professors, legal translators, and counsel from the Ministry of the Attorney General and the Department of Justice.

A core part of each workshop is the enhancement of the use of French legal terminology. Recent topics have included discussions of anglicisms in French, the legal obligations of the court to provide French or bilingual services, accident reconstructions, delivering oral judgments in French and visits to the Supreme Court of Canada.

5. Computer Training

Since 1999, all justices of the peace have been provided with a laptop computer. Basic training was provided to most justices of the peace in Windows, Microsoft Word, and Microsoft Outlook. In addition, a number of justices of the peace have received training in Quicklaw.

Computer skills and literacy vary greatly among justices of the peace. The ability to function effectively in an electronic environment will become increasingly important in the upcoming months and years. The use of hyperlinks in a bi-weekly publication prepared by the Centre for Judicial Research and Education entitled, *Items of Interest* is designed to facilitate electronic research of case law and legislation. Computer training continues to be provided on an as-needed basis.

6. External Conference Policy

For some years, the Office of the Chief Justice has re-imbursed justices of the peace for the expenses incurred in taking workshops or conferences offered by outside sources, at the request of the justice of the peace. This funding was made available for workshops or conferences which assisted the justice of the peace in performing his or her

APPENDIX - A

ONTARIO COURT OF JUSTICE, JUSTICES OF THE PEACE – EDUCATION PLAN

assigned duties. There is now a budget in place for attendance at these conferences.

7. Specialized Workshops

In addition to the above regularly scheduled workshops, the Court also offers specialized workshops from time to time on a variety of topics, including trials of offences under the *Occupational Health and Safety Act* and the *Environmental Protection Act*, and advanced bail workshops.

III. OTHER EDUCATIONAL RESOURCES

Centre for Judicial Research and Education

Justices of the peace of the Ontario Court of Justice have access to the Ontario Court of Justice Centre for Judicial Research and Education located at Old City Hall in Toronto. The Centre for Judicial Research and Education, a law library and computer research facility, is staffed by four counsel together with administrative staff and is accessible in person, by telephone, e-mail or fax. The Centre for Judicial Research and Education responds to specific requests from judges and justices of the peace for information and research.

In addition, the Centre provides updates with respect to legislation and relevant case law through its regular publication *Items of Interest*, which is distributed to every judge and justice of the peace electronically on a bi-weekly basis. It also contains hyperlinks to relevant legislation and web sites of interest, including those with decisions of the Supreme Court of Canada and the Ontario Court of Appeal.

1. Recent Developments

The Honourable Mr. Justice Ian MacDonnell also provides to justices of the peace of the Ontario Court of Justice his summary and comments on current criminal law decisions of the Ontario Court of Appeal and of the Supreme Court of Canada in a publication entitled *Recent Developments*.

2. Regional Meetings

The Ontario Court of Justice is divided into seven regions for the purposes of judicial administration. All regions hold annual regional meetings. While the meetings principally provide an opportunity to deal with regional administrative and management issues, they also have an educational component.

APPENDIX-B

PRINCIPLES OF JUDICIAL OFFICE
OF JUSTICES OF THE PEACE
OF THE ONTARIO COURT OF JUSTICE

APPENDIX - B

ONTARIO COURT OF JUSTICE, JUSTICES OF THE PEACE – PRINCIPLES OF JUDICIAL OFFICE

PRINCIPLES OF JUDICIAL OFFICE OF JUSTICES OF THE PEACE OF THE ONTARIO COURT OF JUSTICE

“Respect for the Judiciary is acquired through the pursuit of excellence in administering justice.”

Preamble

A strong and independent judiciary is indispensable to the proper administration of justice in our society. Justices of the peace must be free to perform their judicial duties without fear of reprisal or influence from any person, group, institution or level of government. In turn, society has a right to expect those appointed as justices of the peace to be honourable and worthy of its trust and confidence.

The justices of the peace of the Ontario Court of Justice recognize their duty to establish, maintain, encourage and uphold high standards of personal conduct and professionalism so as to preserve the independence and integrity of their judicial office and to preserve the faith and trust that society places in the men and women who have agreed to accept the responsibilities of judicial office.

The following principles of judicial office are established by the justices of the peace of the Ontario Court of Justice and set out standards of excellence and integrity to which all justices of the peace subscribe. These principles are not exhaustive. They are designed to be advisory in nature and are not directly related to any specific disciplinary process. Intended to assist justices of the peace in addressing ethical and professional dilemmas, they may also serve in assisting the public to understand the reasonable expectations which the public may have of justices of the peace in the performance of judicial duties and in the conduct of their personal lives.

1. THE JUSTICE OF THE PEACE IN COURT

- 1.1 Justices of the peace must be impartial and objective in the discharge of their judicial duties.

Commentaries:

Justices of the peace should not be influenced by partisan interests, public pressure or fear of criticism.

Justices of the peace should maintain their objectivity and shall not, by words or

conduct, manifest favour, bias or prejudice towards any party or interest.

- 1.2 Justices of the peace have a duty to follow the law.

Commentaries:

Justices of the peace have a duty to apply the relevant law to the facts and circumstances of the cases before the court and to render justice within the framework of the law.

- 1.3 Justices of the peace will endeavour to maintain order and decorum in court.

Commentaries:

Justices of the peace must strive to be patient, dignified and courteous in performing the

APPENDIX - B

ONTARIO COURT OF JUSTICE, JUSTICES OF THE PEACE – PRINCIPLES OF JUDICIAL OFFICE

duties of judicial office and shall carry out their role with integrity, appropriate firmness and honour.

educational conferences, writing and working on committees for the advancement of judicial interests and concerns, provided such activities do not interfere with their primary duty to the court.

B

2. THE JUSTICE OF THE PEACE AND THE COURT

- 2.1 Justices of the peace should approach their judicial duties in a spirit of collegiality, cooperation and mutual assistance.
- 2.2 Justices of the peace should conduct court business with due diligence and dispose of all matters before them promptly and efficiently having regard, at all times, to the interests of justice and the rights of the parties before the court.
- 2.3 Reasons for judgment should be delivered in a timely manner.
- 2.4 Justices of the peace have a duty to maintain their professional competence in the law.

Commentaries:

Justices of the peace should attend and participate in continuing legal and general education programs.

- 2.5 The primary responsibility of justices of the peace is the discharge of their judicial duties.

Commentaries:

Subject to applicable legislation, justices of the peace may participate in law related activities such as teaching, participating in

3. THE JUSTICE OF THE PEACE IN THE COMMUNITY

- 3.1 Justices of the peace should maintain their personal conduct at a level which will ensure the public's trust and confidence.
- 3.2 Justices of the peace must avoid any conflict of interest, or the appearance of any conflict of interest, in the performance of their judicial duties.

Commentaries:

Justices of the peace must not participate in any partisan political activity.

Justices of the peace must not contribute financially to any political party.

- 3.3 Justices of the peace must not abuse the power of their judicial office or use it inappropriately.
- 3.4 Justices of the peace are encouraged to be involved in community activities provided such involvement is not incompatible with their judicial office.

Commentaries:

Justices of the peace should not lend the prestige of their office to fund-raising activities.

APPENDIX-C

OTHER REMUNERATIVE WORK POLICY
AND
APPLICATIONS APPROVED

APPENDIX - C

OTHER REMUNERATIVE WORK POLICY AND APPLICATIONS APPROVED

POLICY OF THE JUSTICES OF THE PEACE REVIEW COUNCIL RE: EXTRA-REMUNERATIVE WORK

Criteria & Procedure for Approval

1. All Justices of the Peace, whether presiding or non-presiding, are required to seek the written authorization of the Justices of the Peace Review Council before accepting or engaging in any extra-remunerative work, in accordance with section 19 of the *Justices of the Peace Act*, as revised January 1, 2007.

Procedure:

An application for such authorization will be made by the Justice of the Peace to the Justices of the Peace Review Council, in writing, and will set out a detailed explanation of the activity for which approval is sought and an estimate of the time commitment required. This application will be accompanied by a letter from the relevant Regional Senior Justice of the Peace providing his or her opinion with respect to the suitability of such employment based on the applicant's current assignment of duties and time commitments.

2. All such applications to the Justices of the Peace Review Council will be considered by Council at the earliest possible opportunity and the Justice of the Peace will be advised of its decision, in writing. If Council decides not to grant the request to engage in extra-remunerative work, written reasons will be given for such decision.
3. The following are some of the criteria which will be considered by the Council in assessing whether or not approval will be granted: -
 - a) whether there is an actual, or perceived, conflict of interest between the duties as assigned and the extra-remunerative activity for which approval is sought; or

(examples of potential conflict of interest include: employment by government in any capacity related to the administration of justice, the courts or corrections, engagement in the practice of law, employment in a legal clinic or a law firm, etc.)

- b) whether the nature of the activity for which the Justice of the Peace seeks approval will present an intrusive demand on the time, availability or energy of the Justice of the Peace and his or her ability to properly perform the judicial duties assigned;
- c) whether the activity for which the Justice of the Peace seeks approval is a seemingly or appropriate activity in which a judicial officer should engage, having regard to the public perceptions of judicial demeanour, independence and impartiality.

This policy regarding extra-remunerative work is retro-active to January 1, 2007.

DATED at Toronto, this 23rd day of November, 2007.

JUSTICES OF THE PEACE REVIEW COUNCIL

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Adelaide St. Postal Stn.
31 Adelaide Street East
Toronto, Ontario M5C 2K3

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APPENDIX - C

OTHER REMUNERATIVE WORK POLICY AND APPLICATIONS APPROVED

APPLICATIONS FOR APPROVAL OF EXTRA-REMUNERATIVE WORK IN 2007

Application One:

In one case, the Justices of the Peace Review Council approved the justice of the peace's request that he be permitted to continue to receive extra remuneration from the occasional sale of his artwork, and the Council determined that it would not be perceived as a conflict of interest with his assigned duties as a justice of the peace.

Council's approval was subject to the following conditions. His Worship must be sensitive as to whom his artwork is sold, with the view of avoiding any real or perceived conflict of interest or bias. Of particular concern to Council were any sales made to municipalities or to members of the justice community such as agents, paralegals, lawyers, or others who may have the opportunity to appear before the justice of the peace in his decision-making capacity. In addition, His Worship must maintain distance as an artist from his role and responsibilities as a judicial officer, particularly in relation to avoiding any reference to his judicial position in advertising or informational materials related to his artwork.

As well, Council approved the occasional sale of artwork for appraisal and collector valuation purposes. However, should the sales increase beyond occasional or should there be any other change in circumstance, the justice of the peace must advise the Council in writing.

Council also cautioned His Worship respecting the donation of any artwork for fundraising purposes. Council's concerns centred around the public's sensitivity in regards to a justice of the peace participating in fundraising activities having regard to the public perceptions of judicial demeanour, independence and impartiality. While Council recognized this is not an issue of extra remuneration, they noted that

it could be an issue for Council to address should a complaint regarding the ethics of such involvement arise. The Council reserved the right to revisit the request and its decision should any relevant circumstances change.

Application Two:

The members of the Justices of the Peace Review Council approved a request by a justice of the peace to teach a course at a college during the Fall, 2007 term. The Council determined that this activity would not be perceived as a conflict of interest with His Worship's assigned duties as a justice of the peace.

The approval of Council was subject to the following conditions. His Worship's availability to instruct had to be subject to his primary responsibilities as a justice of the peace and as such had to be undertaken at times when he was not otherwise assigned to judicial duties and where he had requested either vacation or compensating time off. Council was of the view that non-presiding days should not be used for should such purposes. As well, the Council stated that while His Worship could accept remuneration for these services, but such remuneration must be the same as that paid to other instructors and be without regard to the position held as a justice of the peace.

Council confirmed with the Local Administrative Justice that Council's approval of the request would present no difficulties in fulfilling judicial assignments during the teaching term.

Council also express its view and preference that educational teachings by justices of the peace be engaged in during the evenings rather than during weekdays, so as not to present any impact on judicial

APPENDIX - C

OTHER REMUNERATIVE WORK POLICY AND APPLICATIONS APPROVED

responsibilities or pose issues relating to fulfilling scheduling obligations at the base court location.

Application Three:

Council determined that teaching a course at a college during the Winter, 2008 term would not be perceived as a conflict of interest with His Worship's assigned duties as a justice of the peace.

The approval of Council was subject to two conditions: the availability of the justice of the peace to instruct had to be subject to his primary responsibilities as a justice of the peace and as such had to be undertaken at times when he was not otherwise assigned to judicial duties and when he had requested either vacation or compensating time off;

and, he could accept remuneration for these services, but such remuneration must be the same as that paid to other instructors and be without regard to the position as a justice of the peace.

Council confirmed with the Regional Senior Justice that the Council's approval of the request would present no difficulties in fulfilling judicial assignments during the teaching term.

Council also expressed its view and preference that educational teachings by justices of the peace be engaged in during the evenings rather than during weekdays, so as not to present any impact on judicial responsibilities or pose issues relating to fulfilling scheduling obligations at the base court location, and requested that this consideration be taken into account for any future requests.

APPENDIX-D

EXCERPTS FROM COMPLAINTS PROCEDURES
ESTABLISHED UNDER THE FORMER
JUSTICES OF THE PEACE ACT

(BEFORE THE AMENDMENTS RESULTING
FROM THE *ACCESS TO JUSTICE ACT*, 2006)

APPENDIX - D

PROCEDURES SECTIONS 11 AND 12

SECTION 11 INQUIRY

It is sometimes necessary to conduct a more formal investigation into serious complaints of misconduct and in those instances, after reviewing the preliminary investigative materials, the members of the JPRC may determine to conduct a section 11 inquiry.

In those instances, the A/Registrar will engage outside legal counsel to prepare a “Notice of Hearing” which outlines the particulars of the complaint to be addressed by Council. The Notice is personally served on the justice of the peace.

The section 11 inquiry is held *in camera* and on the record. The justice of the peace is entitled to appear in person and to be represented by counsel. The Review Council has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act.

At the conclusion of the inquiry, the members of the JPRC will determine whether or not to recommend to the Attorney General that a public inquiry, under section 12 of the *Justices of the Peace Act*, be held. A copy of their report to the Attorney General is given to the justice of the peace. The person who made the complaint is informed of the disposition of the complaint, but is not given a copy of Council’s report. The Attorney General may make all or part of the report public, if he or she is of the opinion that it is in the public interest to do so, but this is rarely done. The report to the Attorney General may also include a recommendation by the JPRC that the justice of the peace be compensated for all or part of his or her costs in connection with the investigation of the complaint.

SECTION 12 PUBLIC INQUIRY

The Lieutenant Governor in Council may appoint a Judge of the Ontario Court of Justice to inquire into the question of whether there has been misconduct

by a Justice of the Peace, on the recommendation of the JPRC, following the conclusion of its investigation under section 11 of the *Justices of the Peace Act*.

The *Public Inquiries Act* applies to “section 12 inquiries”.

REPORT OF THE SECTION 12 INQUIRY

The report of the inquiry that is held pursuant to section 12 (the “public inquiry”) **may** recommend that the Lieutenant Governor in Council remove the justice of the peace from office in accordance with Section 8 of the *Justices of the Peace Act* **or** it may recommend that the Justices of the Peace Review Council implement a disposition under subsection (3.3) of section 12 of the Act. The judge who conducts the public inquiry may also determine that the justice of the peace did not misconduct him or herself and, in effect, “dismiss” the complaint at the conclusion of the inquiry.

The report of the public inquiry may also recommend that the justice of the peace be compensated for all or part of the cost of legal services incurred in connection with the inquiry. The amount of compensation recommended shall be based on a rate for legal services that does not exceed the maximum rate normally paid by the Government of Ontario for similar services.

The report of the public inquiry shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days after the commencement of the next session.

REMOVAL FROM OFFICE

A justice of the peace can only be removed from office if the judge conducting the section 12 public inquiry concludes that the justice of the peace has become incapacitated or disabled from the due execution

APPENDIX - D

PROCEDURES SECTIONS 11 AND 12

of his or her office by reason of infirmity, conduct that is incompatible with the execution of the duties of his or her office, or having failed to perform the duties of his or her office as assigned.

DISPOSITION BY REVIEW COUNCIL

If, at the end of the section 12 public inquiry, the public inquiry judge recommends that the Review Council implement a disposition under subsection (3.3) of section 12, it will be necessary for the members of the Review Council to reconvene and determine what disposition they think is appropriate in the circumstances.

In order to make this determination, the Review Council will conduct a meeting, which will be public, and will provide the justice of the peace with an opportunity to make submissions as to the appropriate disposition under subsection (3.3).

If the JPRC is to implement a disposition under subsection (3.3) of section 12, the Review Council may: -

- (a) warn the justice of the peace;
- (b) reprimand the justice of the peace;
- (c) order the justice of the peace to apologize to the complainant or to any other person;
- (d) order the justice of the peace to take specified measures, such as receiving education or treatment, as a condition of continuing to sit as a justice of the peace;
- (e) suspend the justice of the peace with pay, for any period; or
- (f) suspend the justice of the peace without pay, but with benefits, for a period of up to 30 days.

D

APPENDIX–E

COMPLAINTS PROCEDURES ESTABLISHED UNDER THE *JUSTICES OF THE PEACE ACT*, R.S.O. 1990, CHAPTER J.4, AS AMENDED

NOTE: This version of the procedures reflects decisions of the Review Council up to December, 2007. For current procedures that reflect decisions of the Review Council since that time, please see the Review Council's website at <http://www.ontariocourts.on.ca/jprc/en/policy/>

APPENDIX - E

PROCEDURES UNDER JUSTICES OF THE PEACE ACT, AS AMENDED

Please Note: All statutory references in this document, unless otherwise specifically noted are to the Justices of the Peace Act, R.S.O. 1990, CHAPTER J.4, as amended.

THE JUSTICES OF THE PEACE REVIEW COUNCIL

Generally

NAME AND COMPOSITION

The council known in English as the Justices of the Peace Review Council and in French as Conseil d'évaluation des juges de paix is continued and shall be composed of,

- (a) the Chief Justice of the Ontario Court of Justice, or another judge of the Ontario Court of Justice designated by the Chief Justice;
- (b) the Associate Chief Justice Co-ordinator of Justices of the Peace;
- (c) three justices of the peace appointed by the Chief Justice of the Ontario Court of Justice;
- (d) two judges of the Ontario Court of Justice appointed by the Chief Justice of the Ontario Court of Justice;
- (e) one regional senior justice of the peace appointed by the Chief Justice of the Ontario Court of Justice;
- (f) a lawyer appointed by the Attorney General from a list of three names submitted to the Attorney General by the Law Society of Upper Canada;
- (g) four persons appointed by the Lieutenant Governor in Council on the recommendation of the Attorney General.

subs. 8 (1) and (3)

QUORUM

Six members of the Review Council, including the chair, constitute a quorum for the purposes of general meetings of the Review Council (i.e., meetings other than complaints committee meetings and hearing panels, which have their own quorum requirements, outlined below). At least half the members present must be judges or justices of the peace.

subs. 8 (11)

TEMPORARY MEMBERS

The Chief Justice of the Ontario Court of Justice may appoint a judge or a justice of the peace who is not a member of the Review Council to be a temporary member of a complaints committee or a hearing panel in order to deal fully with the matter.

subs. 8 (10)

MEETINGS

The Review Council may hold its meetings in person or through electronic means, including telephone conferencing and video conferencing.

subs. 8 (24)

ASSISTANCE TO REVIEW COUNCIL

Whatever staff are considered necessary for the Review Council may be appointed under the *Public Service Act*. The Review Council may also engage persons, including legal counsel, to assist it and its complaints committees and hearing panels.

subs. 8 (14) and (15)

Functions

The functions of the Review Council are,

- (a) to consider applications for the accommodation of needs made necessary by disability;

APPENDIX - E

PROCEDURES UNDER JUSTICES OF THE PEACE ACT, AS AMENDED

- (b) to establish complaints committees from among its members to review and investigate complaints;
- (c) to review and approve standards of conduct which may be established for justices of the peace;
- (d) to deal with continuing education plans for justices of the peace;
- (e) to decide whether a justice of the peace may engage in other remunerative work.

subs. 8 (2)

ACCOMMODATION OF NEEDS

A justice of the peace who believes that he or she is unable, because of a disability, to perform the essential duties of the office unless his or her needs are accommodated may apply to the Review Council for an order.

s. 5.2

REVIEW AND INVESTIGATION OF COMPLAINTS

As soon as possible after receiving a complaint about the conduct of a justice of the peace, the Review Council shall establish a complaints committee and the complaints committee shall investigate the complaint and dispose of the matter.

s. 11

STANDARDS OF CONDUCT

The Associate Chief Justice Co-ordinator of Justices of the Peace may establish standards of conduct for justices of the peace, including a plan for bringing the standards into effect, and shall implement the standards and plan when they have been reviewed and approved by the Review Council.

subs. 13 (1)

APPROVAL OF CONTINUING EDUCATION PLANS

The Associate Chief Justice Co-ordinator of Justices of the Peace shall establish a plan for the continuing education of justices of the peace, and shall

implement the plan when it has been reviewed and approved by the Review Council.

subs. 14 (1)

OTHER REMUNERATIVE WORK

The Review Council shall establish and distribute a procedural document with respect to the review of other remunerative work in which justices of the peace may engage and shall process applications received from justices of the peace in accordance with its procedures.

Information provided to the public

INFORMATION ABOUT THE REVIEW COUNCIL

The Review Council shall provide information about itself and about its role in the justice system, in courthouses and elsewhere, including information about how members of the public may obtain assistance in making complaints and, where necessary, the Review Council shall assist members of the public in the preparation of documents for making complaints. The Review Council shall also provide province-wide free telephone access to information about itself and its role in the justice system, including telephone access for the deaf. The information, and the rules of procedure established by the Review Council, shall be provided to the public in both English and French.

subs. 9 (1), (3) and (4)

INFORMATION ON RULES OF PROCEDURE

The Review Council's rules of procedure that are established for complaints committees and hearing panels shall be made available to the public.

subs. 10. (1)

USE OF OFFICIAL LANGUAGES OF THE COURTS

The information, and the rules of procedure established by the Review Council, shall be provided to the public in both English and French.

subs. 10.1 (1)

APPENDIX - E

PROCEDURES UNDER JUSTICES OF THE PEACE ACT, AS AMENDED

ANNUAL REPORT

The Review Council shall make an annual report, in English and in French, to the Attorney General at the end of each year of its operation. A year for the purposes of reporting will follow the standard calendar year, beginning on January 1st and ending on December 31st. The Annual Report shall provide a report on all complaints received or dealt with during the year, a summary of the complaint, the findings and a statement of the disposition. The Report will not include information that might identify any justice of the peace, any complainant or any witness unless the complaint matter was the subject of a public hearing. The Attorney General shall submit the report to the Lieutenant Governor in Council and it shall then be tabled in the Legislative Assembly after which time it can be released to the public.

subs. 9 (7) and (8)

COMPLAINTS

GENERALLY

Any person may make a complaint to the Review Council about the conduct of a justice of the peace.

subs. 10.2 (1)

Complaints to the Review Council must be made in writing.

subs. 10.2 (2)

If an allegation of misconduct is made to any other justice of the peace, or to a judge, or to the Attorney General, the recipient of the complaint shall provide the complainant with information about the Review Council and how a complaint may be made and shall refer the person to the Review Council.

subs. 10.2 (3)

RULES OF PROCEDURE

The Review Council may establish rules of procedure for complaints committees and for hearing panels and the Review Council shall make the rules available to the public.

subs. 10 (1)

MEETINGS

The Review Council may hold its meetings in person or through electronic means, including telephone conferencing and video conferencing.

subs. 8 (24)

COMPLAINTS COMMITTEES

TIMELY REPORTING

As soon as possible after receiving a complaint about the conduct of a justice of the peace, the Review Council shall acknowledge receipt of the complaint and establish a complaints committee to investigate the complaint. The complaints committee shall report to the complainant in a timely manner on its disposition of the complaint.

sub. 11 (1) and (3)

COMPOSITION OF COMPLAINTS COMMITTEES

Eligible members of the Review Council shall serve on complaints committees on a rotating basis. A complaints committee shall be composed of a judge who shall act as chair, a justice of the peace and either a lay member or the lawyer member appointed under s. 8(3)(f). All the members of a complaints committee constitute a quorum. The chair of a complaints committee is entitled to vote.

subs. 8 (12), 11 (2), (5) and (6)

MULTIPLE COMPLAINTS

The Registrar may assign any new complaints of a similar nature against a justice of the peace who already has an open complaint file, or files, to the same complaints committee that is/are investigating the outstanding file(s). This will ensure that the complaints committee members who are investigating a complaint against a particular justice of the peace are aware of the fact that there is a similar complaint, whether from the same complainant or another individual, against the same justice of the peace.

When a justice of the peace is the subject of three complaints within a period of three years, the Registrar may bring that fact to the attention of the complaints

APPENDIX - E

PROCEDURES UNDER JUSTICES OF THE PEACE ACT, AS AMENDED

committee for their assessment of whether or not the current complaint(s) should be the subject of advice to the justice of the peace by the Review Council.

TEMPORARY MEMBERS

The Chief Justice of the Ontario Court of Justice may appoint a judge or a justice of the peace who is not a member of the Review Council to be a temporary member of a complaints committee to deal fully with the matter.

subs. 8 (10)

COMPLAINT AGAINST MEMBER OF REVIEW COUNCIL

A justice of the peace or regional senior justice of the peace who is a member of the Review Council and who is the subject of a complaint shall not be a member of any complaint committee or hearing panel until the final disposition of the complaint.

subs. 11 (14)

ADMINISTRATIVE PROCEDURES

Detailed information on administrative procedures to be followed by members of complaints committees can be found at pages 6 to 10 of this document.

Investigation

RULES OF PROCEDURE

The Review Council may establish rules of procedure for complaints committees and for hearing panels and the Review Council shall make the rules available to the public.

subs. 10 (1)

COMPLIANCE WITH RULES OF PROCEDURE

A complaints committee shall follow the Review Council's rules of procedures in conducting investigations, making recommendations regarding temporary non-assignment and/or reassignment and in making decisions about the disposition of a complaint after their investigation is complete. The Review Council has established the following guidelines and rules of procedure under subsection 10 (1) with respect to

the investigation of complaints by complaints committees.

subs. 11 (10)

DISMISSAL OF FRIVOLOUS COMPLAINT

A complaints committee may dismiss a complaint at any time if it is of the opinion that the complaint is frivolous, an abuse of process or outside the jurisdiction of the complaints committee.

subs. 11 (19)

CONDUCTING INVESTIGATION

The complaints committee shall conduct such investigation as it considers appropriate, including inviting a response from the subject justice of the peace. The Review Council may engage persons, including counsel, to assist it in its investigation. The investigation shall be conducted in private.

subs. 8 (15), 11 (7) and (8)

RESPONSE TO COMPLAINT

When a complaints committee requires a response from the justice of the peace, the complaints committee will direct the Registrar to invite the justice of the peace to respond to a specific issue or issues raised in the complaint. A copy of the complaint, the transcript and audiotape (if any) and all of the relevant materials on file, as directed by the complaints committee, will be provided to the justice of the peace with the letter requesting the response. A justice of the peace will be given thirty calendar days from the date of the letter asking for a response, to respond to the complaint. If a response is not received within that time, the complaints committee members are advised and a reminder letter will be sent to the justice of the peace by registered mail. If no response is received within ten calendar days from the date of the registered letter, and the complaints committee is satisfied that the justice of the peace is aware of the complaint and has full particulars of the complaint, they will proceed in the absence of a response. Any response made to the complaint by the subject justice of the peace may be considered for any purpose in connection with sections 11.(15) or 11.1 of the *Justices of the Peace Act*. The response may

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be referred to in the case summary that will appear in the Review Council's Annual Report.

PREVIOUS COMPLAINTS

A complaint subcommittee confines its investigation to the complaint before it. The issue of what weight, if any, should be given to previous complaints made against a justice of the peace who is the subject of another complaint before the Justices of the Peace Review Council may be considered by the members of the complaints committee where the Registrar, with the assistance of legal counsel (if deemed necessary by the Registrar), first determines that the prior complaint or complaints are strikingly similar in the sense of similar fact evidence and would assist them in determining whether or not the current incident could be substantiated.

IN CAMERA "PRELIMINARY" HEARING

Section 4.2, subsections 12 (1) to (3.1) and sections 13, 14, 15 and 22 of the *Statutory Powers Procedure Act* apply to the activities of a complaints committee. These sections give the complaints committee the power to summons witnesses and documentary evidence and administer oaths in complaint file investigations where the complaints committee decides it is warranted.

Section 4.2 of the *S.P.P.A.* provides a complaint committee with some flexibility regarding quorum on a procedural or interlocutory matter. Such matters may be heard and determined by a panel consisting of one or more members of the complaints committee, assigned by the chair of the committee, rather than requiring the attendance of all three members.

Subsections 12 (1) to (3.1) of the *S.P.P.A.* gives the complaints committee the power to summons witnesses to give evidence under oath or affirmation and to require the production of documents that may be relevant to the subject-matter of the proceeding.

Section 13 of the *S.P.P.A.* allows the complaints committee to institute contempt proceedings for persons who, without lawful excuse, default in their attendance or who refuse to take an oath or make an affirmation legally required by the committee to be made.

Section 14 of the *S.P.P.A.* provides protection against self-incrimination for witnesses who are called before the complaints committee during this stage of the investigation. Section 15 of the *S.P.P.A.* provides guidance as to the admissibility of evidence and section 22 of the *S.P.P.A.* gives the complaints committee the power to administer oaths and affirmations.

As noted above, the investigation conducted by the complaints committee shall be conducted in private.

subs. 11 (8) and (9)

ADVICE AND ASSISTANCE

A complaints committee may direct the Registrar or Assistant Registrar to retain or engage persons, including counsel, to assist it in its investigation of a complaint.

subs. 8 (15)

INTERIM RECOMMENDATION TO NOT ASSIGN OR REASSIGN

The complaints committee may recommend to the Regional Senior Judge for the region to which the justice of the peace is assigned, that the justice of the peace who is the subject of a complaint not be assigned work; or be reassigned to another location until the final disposition of a complaint.

Upon receiving the recommendation, the Regional Senior Judge may decide to not assign work to the justice of the peace until the final disposition of the complaint but he or she shall continue to be paid; or the Regional Senior Judge may, with the consent of the justice of the peace, reassign him or her to another location until the final disposition of the complaint.

subs. 11 (11) and (12)

EXCEPTION: CERTAIN COMPLAINTS

If the complaint is against a justice of the peace or regional senior justice of the peace who is a member of the Review Council, any recommendation to not assign or reassign on an interim basis shall be made to the Chief Justice of the Ontario Court of Justice who may decide to not assign work to the justice of the peace or regional senior justice of the peace until the final disposition of the complaint but he or she shall

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continue to be paid; or the Chief Justice may, with the consent of the justice of the peace, reassign him or her to another location until the final disposition of a complaint.

subs. 11 (13)

INFORMATION RE: INTERIM RECOMMENDATION

Where a complaints committee recommends temporarily not assigning or re-assigning a justice of the peace pending the resolution of a complaint, particulars of the factors upon which the complaints committee's recommendations are based shall be provided contemporaneously to the Regional Senior Judge and the subject justice of the peace to assist the Regional Senior Judge in making his or her decision and to provide the subject justice of the peace with notice of the complaint and the complaints committee's recommendation.

Where a complaints committee proposes to recommend temporarily not assigning or re-assigning a justice of the peace, it may give the justice of the peace an opportunity to be heard on that issue in writing by notifying the justice of the peace by personal service, if possible, or an alternate to personal service, of the reasons therefor, and of the right of the justice of the peace to tender a response. If no response from the justice of the peace is received after 10 calendar days from the date of mailing, the recommendation of an interim order not to assign or reassign may proceed.

Complaints committee's decision

When its investigation is complete, the complaints committee shall,

- (a) dismiss the complaint if it is frivolous, an abuse of process or outside the jurisdiction of the complaints committee;
- (b) invite the justice of the peace to attend before the complaints committee to receive advice concerning the issues raised in the complaint or send the justice of the peace a letter of advice concerning the issues raised in the complaint, or both;

(c) order that a formal hearing into the complaint be held by a hearing panel; or

(d) refer the complaint to the Chief Justice of the Ontario Court of Justice.

subs. 11 (15)

Criteria for decisions by complaints committees

A) TO DISMISS THE COMPLAINT

A complaints committee will dismiss a complaint after reviewing the complaint if, in the complaints committee's opinion, it is frivolous or an abuse of process or it falls outside the Review Council's jurisdiction because it is a complaint about the exercise of judicial discretion and does not include an allegation of judicial misconduct or, if it does include an allegation of judicial misconduct, the allegation is unproven or the misconduct does not rise to the level of misconduct that requires further action on the part of the Review Council. The complaints committee may also recommend that a complaint be dismissed if, after their investigation, they conclude that the complaint is unfounded.

B) TO PROVIDE ADVICE TO THE JUSTICE OF THE PEACE

A complaints committee will provide advice to a justice of the peace, in person or by letter, or both, in circumstances where the misconduct complained of does not warrant.

another disposition, there is some merit to the complaint and the disposition is, in the opinion of the complaints committee, a suitable means of informing the justice of the peace that his/her course of conduct was not appropriate in the circumstances that led to the complaint.

C) TO ORDER A HEARING

A complaints committee will order a hearing into a complaint where there has been an allegation of judicial misconduct that the complaints committee believes has a basis in fact and which, if believed by the finder of fact, could result in a finding of judicial misconduct.

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D) TO REFER COMPLAINT TO THE CHIEF JUSTICE OF THE ONTARIO COURT OF JUSTICE

A complaints committee will refer a complaint to the Chief Justice of the Ontario Court of Justice in circumstances where the misconduct complained of does not warrant another disposition, there is some merit to the complaint and the disposition is, in the opinion of the complaints committee, a suitable means of informing the justice of the peace that his/her course of conduct was not appropriate in the circumstances that led to the complaint. A complaints committee may impose conditions on their referral to the Chief Justice of the Ontario Court of Justice if, in their opinion, there is some course of action or remedial training of which the subject justice of the peace could take advantage.

Compensation

The complaints committee may recommend that the justice of the peace be compensated for all or part of the costs of legal services, if any, incurred in connection with the investigation. The amount of compensation recommended shall be based on a rate for legal services that does not exceed the maximum rate normally paid by the Government of Ontario for similar services.

subs. 11 (16) and (17)

Notice of Decision

DECISION COMMUNICATED

The Review Council shall communicate the decision of the complaints committee to both the complainant and the subject justice of the peace, if the justice of the peace has been asked to respond. If the Review Council decides to dismiss the complaint or dispose of the complaint by providing advice to the justice of the peace or if the complaint is referred to the Chief Justice, it will provide brief reasons.

REPORT TO REVIEW COUNCIL

The complaints committee shall report to the Review Council on its decision and, except where it orders

a formal hearing, shall not identify the complainant or the justice of the peace who is the subject of the complaint in its report.

subs. 11 (18)

HEARING PANELS

HEARING PANELS

When a hearing is ordered, the Chair of the Review Council shall establish a hearing panel from among the members of the Review Council to hold a hearing.

subs. 11.1 (1)

COMPOSITION

The hearing panel established for the purpose of holding a hearing shall be composed of:

- 1) a judge who shall chair the panel;
- 2) a justice of the peace; and
- 3) a member who is a judge, a lawyer or a member of the public.

TEMPORARY MEMBERS

The Chief Justice of the Ontario Court of Justice may appoint a judge or a justice of the peace who is not a member of the Review Council to be a temporary member of a hearing panel in order to deal fully with the matter.

subs. 8 (10)

DISQUALIFICATION

The members of a complaints committee who investigated the complaint shall not participate as members of the hearing panel who deal with the complaint.

subs. 11 (4)

QUORUM

All the members of the hearing panel constitute a quorum and the chair of a hearing panel is entitled to vote.

subs. 8 (12) and 11.1 (3)

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COMMUNICATION BY MEMBERS

The members of the hearing panel participating in the hearing shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any party, counsel, agent or other person, unless all the parties and their counsel or agents receive notice and have an opportunity to participate. This prohibition on communication does not preclude the Review Council from engaging legal counsel to assist the hearing panel.

subs. 11.1 (6) and (7)

HEARINGS

RULES OF PROCEDURE

The Review Council's rules of procedure established under subsection 10 (1) apply to a hearing held by the Review Council.

subs. 11.1 (5)

APPLICATION OF S.P.P.A.

The *Statutory Powers Procedure Act* applies to any hearing held by the Review Council with the exception of sections 4 and 28 of that Act. Because of these exceptions, no procedural requirements may be waived, even with the consent of the parties and/or the hearing panel and strict compliance is required with respect to the content of forms, notices and/or documents.

subs. 11.1 (4)

PARTIES TO THE HEARING

The hearing panel shall determine who are the parties to the hearing.

subs. 11.1 (8)

MEETINGS

The Review Council may hold its meetings in person or through electronic means, including telephone conferencing and video conferencing.

subs. 8 (24)

CERTAIN ALLEGATIONS – NON-IDENTIFICATION OF WITNESS

If a complaint involves allegations of sexual misconduct or sexual harassment, the hearing panel shall, at

the request of the complainant or of a witness who testifies to having been the victim of such conduct by the justice of the peace, prohibit the publication of information that might identify the complainant or the witness, as the case may be.

subs. 11.1 (9)

OPEN AND CLOSED HEARINGS AND MEETINGS

Meetings of the Review Council and of its complaints committees shall be held in private but hearings shall be open to the public unless the hearing panel determines, in accordance with criteria established by the Review Council, that exceptional circumstances exist and the desirability of holding an open hearing is outweighed by the desirability of maintaining confidentiality in which case it may hold all or part of a hearing in private.

subs. 9 (6) and 11.1 (4)

OPEN OR CLOSED HEARINGS - CRITERIA

The members of the Review Council will consider the following criteria to determine what exceptional circumstances must exist before a decision is made to maintain confidentiality and hold all, or part, of a hearing in private:

- a) where matters involving public or personal security may be disclosed, or
- b) where intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that the hearing be open to the public.

NEW COMPLAINT

If, during the course of the hearing, additional facts are disclosed which, if communicated to a member of the Review Council, would constitute an allegation of misconduct against a justice of the peace outside of the ambit of the complaint which is the subject

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of the hearing, the complaint will be assigned to a complaints committee of the Review Council to be investigated as an original complaint. The complaints committee shall be composed of members of the Review Council other than those who compose the panel hearing the complaint.

PROCEDURAL CODE FOR HEARINGS

PREAMBLE

These Rules of Procedure apply to all hearings of the Review Council convened pursuant to subsection 11 (10) of the *Justices of the Peace Act* and are established and made public pursuant to subsection 10(1) of the *Justices of the Peace Act*.

These Rules of Procedure shall be liberally construed so as to ensure the just determination of every hearing on its merits. Where matters are not provided for in these Rules, the practice shall be determined by analogy to them.

INTERPRETATION

1. The words in this code shall, unless the context otherwise indicates, bear the meanings ascribed to them by the *Justices of the Peace Act*.

(1) In this code,

- (a) "Act" shall mean the *Justices of the Peace Act*, as amended.
- (b) "panel" means the panel conducting a hearing and established pursuant to subsection 11.1 (1) of the *Act*.
- (c) "respondent" shall mean a justice of the peace in respect of whom an order for a hearing is made.
- (d) "presenting counsel" means counsel engaged on behalf of the Review Council to prepare and present the case against a respondent.

PRESENTATION OF COMPLAINTS

2. The Review Council shall, on the making of an order for a hearing in respect of a complaint against a justice of the peace, engage legal counsel for the purposes of
3. preparing and presenting the case against the respondent.
4. Legal counsel engaged by the Review Council shall operate independently of the Review Council.
5. The duty of legal counsel engaged under this Part shall not be to seek a particular order against a respondent, but to see that the complaint against the justice of the peace is evaluated fairly and dispassionately to the end of achieving a just result.
6. For greater certainty, presenting counsel are not to advise the Review Council on any matters coming before it. All communications between presenting counsel and the Review Council shall, where communications are personal, be made in the presence of the respondent and/or counsel for the respondent, and in the case of written communications, such communications shall be copied to the respondents.

NOTICE OF HEARING

7. A hearing shall be commenced by a Notice of Hearing in accordance with this Part.
8. Presenting counsel shall prepare the Notice of Hearing.
 - (1) The Notice of Hearing shall contain,
 - (a) particulars of the allegations against the respondent;
 - (b) a reference to the statutory authority under which the hearing will be held;
 - (c) a statement of the time and place of the commencement of the hearing;

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- (d) a statement of the purpose of the hearing;
 - (e) a statement that if the respondent does not attend at the hearing, the panel may proceed in the respondent's absence and the respondent will not be entitled to any further notice of the proceeding; and,
9. Presenting counsel shall cause the Notice of Hearing to be served upon the respondent by personal service or, upon motion to the panel hearing the complaint, an alternative to personal service and shall file proof of service with the Review Council.

RESPONSE

10. The respondent may serve on presenting counsel and file with the Review Council a response to the allegations in the Notice Hearing.
- (1) The response may contain full particulars of the facts on which the respondent relies.
 - (2) A respondent may at any time before or during the hearing serve on presenting counsel and file with the Review Council an amended Response.
 - (3) Failure to file a response shall not be deemed to be an admission of any allegations against the respondent.

DISCLOSURE

11. Presenting counsel shall, before the hearing, forward to the respondent or to counsel for the respondent names and addresses of all witnesses known to have knowledge of the relevant facts and any statements taken from the witness and summaries of any interviews with the witness before the hearing.
12. Presenting counsel shall also provide, prior to the hearing, all non-privileged documents in its possession relevant to the allegations in the Notice of Hearing.

13. The hearing panel may preclude presenting counsel from calling a witness at the hearing if presenting counsel has not provided the respondent with the witness's name and address, if available, and any statements taken from the witness and summaries of any interviews with the witness before the hearing.
14. Part V applies, mutatis mutandis, to any information which comes to presenting counsel's attention after disclosure has been made pursuant to that Part.

PRE-HEARING CONFERENCE

15. The panel may order that a pre-hearing conference take place before a judge or justice of the peace who is a member of the Review Council but who is not a member of the panel to hear the allegations against the respondent, for the purposes of narrowing the issues and promoting settlement.

THE HEARING

16. For greater certainty, the respondent has the right to be represented by counsel, or to act on his or her own behalf in any hearing under this procedure.
17. The panel, on application at any time by presenting counsel or by the respondent, may require any person, including a party, by summons, to give evidence on oath or affirmation at the hearing and to produce in evidence at the hearing any documents or things specified by the panel which are relevant to the subject matter of the hearing and admissible at the hearing.
- (1) A summons issued under this section shall be in the form prescribed by subsection 12(2) of the *Statutory Powers Procedure Act*.
18. The hearing shall be conducted by a panel of members of the Review Council composed of members who have not participated in a complaints committee investigating the complaint.

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- (1) The following guidelines apply to the conduct of the hearing, unless the panel, on motion by a party, or on consent requires otherwise.
- (a) All testimony shall be under oath or affirmation.
 - (b) Presenting counsel shall commence the hearing by an opening statement, and shall proceed to present evidence in support of the allegations in the Notice of Hearing by direct examination of witnesses.
 - (c) Counsel for the respondent may make an opening statement, either immediately following presenting counsel's opening statement, or immediately following the conclusion of the evidence presented on behalf of presenting counsel. After presenting counsel has called its evidence, and after the respondent has made an opening statement, the respondent may present evidence.
 - (d) All witnesses may be cross-examined by the other party/parties to the hearing and re-examined as required.
 - (e) The hearing shall be recorded verbatim and transcribed where requested. Where counsel for the respondent requests, he or she may be provided with a transcript of the hearing within a reasonable time and at no cost.
 - (f) Both presenting counsel and the respondent may submit to the panel proposed findings, conclusions, recommendations or draft orders for the consideration of the hearing panel.
 - (g) presenting counsel and counsel for the respondent may, at the close of the evidence, make statements summarizing the evidence and any points of law arising out of the evidence, with the order to be determined by the hearing panel.
19. Either party to the hearing may, by motion, not later than 10 calendar days before the date set for commencement of the hearing, bring any procedural or other matters to the hearing panel as are required to be determined prior to the hearing of the complaint.
- (1) Without limiting the generality of the foregoing, a motion may be made for any of the following purposes:
- (a) objecting to the jurisdiction of the Review Council to hear the complaint;
 - (b) resolving any issues with respect to any reasonable apprehension of bias or institutional bias on the part of the panel;
 - (c) objecting to the sufficiency of disclosure by presenting counsel;
 - (d) determining any point of law for the purposes of expediting the hearing; or
 - (e) determining any claim of privilege in respect of the evidence to be presented at the hearing; or
 - (f) any matters relating to scheduling.
- (2) A motion seeking any of the relief enumerated in this section may not be brought during the hearing, without leave of the hearing panel, unless it is based upon the manner in which the hearing has been conducted.
- (3) The hearing panel, may, on such grounds as it deems appropriate, abridge the time for bringing any motion provided for by the pre-hearing rules.
20. The Review Council shall, as soon as is reasonably possible, appoint a time and a place for the hearing of submissions by both sides on any

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motion brought pursuant to subsection 18(1), and shall, as soon as is reasonably possible, render a decision thereon.

POST-HEARINGS

Disposition at Hearing

DISPOSITION

After completing the hearing, the hearing panel may dismiss the complaint, with or without a finding that it is unfounded or, if it upholds the complaint, it may: -

- a) warn the justice of the peace;
- b) reprimand the justice of the peace;
- c) order the justice of the peace to apologize to the complainant or to any other person;
- d) order the justice of the peace to take specified measures such as receiving education or treatment, as a condition of continuing to sit as a justice of the peace;
- e) suspend the justice of the peace with pay, for any period;
- f) suspend the justice of the peace without pay, but with benefits, for a period up to thirty days; or
- g) recommend to the Attorney General that the justice of the peace be removed from office in accordance with section 11.2

subs. 11.1 (10)

COMBINATION OF SANCTIONS

The hearing panel may adopt any combination of the foregoing sanctions except that the recommendation to the Attorney General that the justice of the peace be removed from office will not be combined with any other sanction.

subs. 11.1 (11)

Compensation

AFTER COMPLAINT DISPOSED OF

The hearing panel may recommend that the justice of the peace be compensated for all or part of the cost of legal services incurred in connection with the hearing.

subs. 11.1 (17)

AMOUNT AND PAYMENT

The amount of compensation recommended to be paid shall be based on a rate for legal services that does not exceed the maximum rate normally paid by the Government of Ontario for similar services.

subs. 11.1 (18)

Report to Attorney General

REPORT

The hearing panel may make a report to the Attorney General about the complaint, investigation, hearing and disposition (subject to any orders made about confidentiality of documents by the Review Council) and the Attorney General may make the report public if he/she is of the opinion that this would be in the public interest.

subs. 11.1 (19)

IDENTITY WITHHELD

If a complainant or witness asked that their identity be withheld during the hearing and an order was made under subsection 11.1 (9), the report to the Attorney General will not identify them.

subs. 11.1 (20)

JUSTICE OF THE PEACE NOT TO BE IDENTIFIED

If an order was made under subsection 11.1 (9) and the hearing, or part thereof, was held in private, and the hearing panel dismisses the complaint with a finding that it was unfounded, the justice of the peace shall not be identified in the report to the Attorney General without his or her consent and the hearing panel shall order that information that relates to the complaint

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and might identify the justice of the peace shall never be made public without his or her consent.

subs. 11.1 (21)

Order to accommodate arising out of a hearing

If the effect of a disability on the justice of the peace's performance of the essential duties of judicial office is a factor in a complaint, which is either dismissed or disposed of in any manner short of recommending to the Attorney General that the justice of the peace be removed, and the justice of the peace would be able to perform the essential duties of judicial office if his or her needs were accommodated, the Review Council shall order that the justice of the peace's needs be accommodated to the extent necessary to enable him or her to perform those duties.

Such an order to accommodate will not be made if the Review Council is satisfied that making the order would impose undue hardship on the person responsible for accommodating the justice of the peace's needs, considering the cost, outside sources of funding, if any, and health and safety requirements, if any.

The Review Council shall not make an order to accommodate against a person without ensuring that the person has had an opportunity to participate and make submissions.

An order made by the Review Council to accommodate the needs of a justice of the peace binds the Crown.

subs. 11.1(12), (13), (14), (15) and (16)

Removal from Office

ORDER REMOVING JUSTICE OF THE PEACE

A justice of the peace may be removed from office only by order of the Lieutenant Governor in Council.

subs. 11.2 (1)

REMOVAL FOR CAUSE

The order removing a justice of the peace from office may be made only if,

a) a complaint about the justice of the peace has been made to the Review Council; and

b) a hearing panel, after a hearing under section 11.1, recommends to the Attorney General that the justice of the peace be removed on the ground that he or she has become incapacitated or disabled from the due execution of his or her office by reason of,

(i) inability, because of a disability, to perform the essential duties of his or her office (if an order to accommodate the justice of the peace's needs would not remedy the inability, or could not be made because it would impose undue hardship on the person responsible for meeting those needs, or was made but did not remedy the inability),

(ii) conduct that is incompatible with the due execution of his or her office, or

(iii) failure to perform the duties of his or her office.

subs. 11.2 (2)

ORDER TO BE TABLED

The order to remove a justice of the peace from office shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen (15) days after the commencement of its next session.

subs. 11.2 (3)

CONFIDENTIALITY AND PROTECTION OF PRIVACY

Information to Public

CONFIRMATION OR DENIAL OF RECEIPT OF COMPLAINT

At any person's request, the Review Council may confirm or deny that a particular complaint has been made to it.

subs. 10.2 (4)

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POLICY OF REVIEW COUNCIL REGARDING CONFIRMATION OR DENIAL

The complaints committee's investigation into a complaint shall be conducted in private in accordance with subsection 11 (8). It is the policy of the Review Council that it will not confirm or deny that a particular complaint has been made to it, as permitted by subsection 10.2 (4), unless the Review Council has determined that there will be a public hearing into the complaint since great damage can be done to the reputation of a justice of the peace and his or her ability to function if information about what could turn out to be an unfounded complaint is released prior to the determination that there is, indeed, some conduct that needs to be dealt with by the Review Council by way of a public hearing.

ANNUAL REPORT

After the end of each year, the Review Council shall make an annual report to the Attorney General on its affairs with respect to all complaints received or dealt with during the year, a summary of the complaint, the findings and a statement of the disposition, but the report shall not include information that might identify the justice of the peace, the complainant or a witness.

subs. 9 (7)

Investigations and Hearings

COMPLAINTS COMMITTEE INVESTIGATION PRIVATE

The investigation into a complaint by a complaints committee shall be conducted in private.

subs. 11 (8)

ORDER RE: CONFIDENTIALITY OF INFORMATION AND DOCUMENTS

The Review Council, a complaints committee or a hearing panel may order that any information or documents relating to a meeting, investigation or hearing that was not held in public, is/are confidential and shall not be disclosed or made public. Such an order may be made whether the information or documents are in the possession of the Review Council, a

complaints committee, a hearing panel, the Attorney General or any other person,

subs. 8 (18) and (19)

EXCEPTION

The foregoing does not apply to information and documents that the *Justices of the Peace Act* requires the Review Council to disclose or that have not been treated as confidential and were not prepared exclusively for the purposes of a Review Council meeting or for an investigation of a complaint or for a hearing.

subs. 8 (20)

MEETINGS PRIVATE – HEARINGS OPEN

Meetings of the Review Council and of its complaints committees shall be held in private but hearings shall be open to the public unless the hearing panel determines, in accordance with criteria established by the Review Council, that exceptional circumstances exist and the desirability of holding an open hearing is outweighed by the desirability of maintaining confidentiality in which case it may hold all or part of a hearing in private.

subs. 9 (6) and 11.1 (4)

CRITERIA TO BE CONSIDERED TO CLOSE HEARING

The members of the Review Council will consider the following criteria to determine what exceptional circumstances must exist before a decision is made to maintain confidentiality and hold all, or part, of a hearing in private:

- a) where matters involving public security may be disclosed, or
- b) where intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that the hearing be open to the public.

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CERTAIN ALLEGATIONS – NON-IDENTIFICATION OF WITNESS

If a complaint involves allegations of sexual misconduct or sexual harassment, the hearing panel shall, at the request of the complainant or of a witness who testifies to having been the victim of such conduct by the justice of the peace, prohibit the publication of information that might identify the complainant or the witness, as the case may be.

subs. 11.1 (9)

Reports

REPORT TO REVIEW COUNCIL

A complaints committee shall report to the Review Council on its decision regarding any complaint in which its investigation has concluded, and except where it orders a formal hearing, it shall not identify the complainant or the justice of the peace who is the subject of the complaint in the report to the Review Council.

subs. 11 (18)

REPORT TO ATTORNEY GENERAL

After a hearing has concluded, the hearing panel may make a report to the Attorney General about the complaint, investigation, hearing and disposition (subject to any orders made about confidentiality of documents by the Review Council) and the Attorney General may make the report public if he/she is of the opinion that this would be in the public interest.

subs. 11.1 (19)

IDENTITY WITHHELD IN REPORT

If a complainant or witness asked that their identity be withheld during the hearing and an order was made under subsection 11.1 (9), the report to the Attorney General will not identify them.

subs. 11.1 (20)

JUSTICE OF THE PEACE NOT TO BE IDENTIFIED

If an order was made under subsection 11.1 (9) and the hearing, or part thereof, was held in private,

and the hearing panel dismisses the complaint with a finding that it was unfounded, the justice of the peace shall not be identified in the report to the Attorney General without his or her consent and the hearing panel shall order that information that relates to the complaint and might identify the justice of the peace shall never be made public without his or her consent.

subs. 11.1 (21)

ACCOMMODATION OF NEEDS

APPLICATION FOR ORDER

A justice of the peace who believes that he or she is unable, because of a disability, to perform the essential duties of the office unless his or her needs are accommodated may apply to the Review Council for an order that such needs be accommodated.

subs. 5.2 (1)

DUTY OF REVIEW COUNCIL

If the Review Council finds that a justice of the peace is unable, because of a disability, to perform the essential duties of office unless his or her needs are accommodated, it shall order that the needs of the justice of the peace be accommodated to the extent necessary to enable him or her to perform those duties.

subs. 5.2 (2)

UNDUE HARDSHIP

Subsection 5.2(2) does not apply if the Review Council is satisfied that making an order would impose undue hardship on the person responsible for accommodating the needs of the justice of the peace, considering the cost, outside sources of funding, if any, and health and safety requirements, if any.

subs. 5.2 (3)

OPPORTUNITY TO PARTICIPATE

The Review Council shall not make an order to accommodate against a person under subsection 5.2(2) without ensuring that the person has had an opportunity to participate and make submissions.

subs. 5.2 (4)

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PROCEDURES UNDER JUSTICES OF THE PEACE ACT, AS AMENDED

ORDER BINDS THE CROWN

The order made by the Review Council to accommodate the needs of a justice of the peace binds the Crown.

subs. 5.2 (5)

RULES OF PROCEDURE AND GUIDELINES

The following are the rules of procedure and guidelines established by the Justices of the Peace Review Council for the purpose of the accommodation of needs.

APPLICATION IN WRITING

An application for accommodation of needs by a justice of the peace shall be in writing and shall include the following information:

- ◆ a description of the needs to be accommodated;
- ◆ a description of the essential duties of the justice of the peace's office for which accommodation is required;
- ◆ a description of the item and/or service required to accommodate the justice of the peace's needs;
- ◆ a detailed medical report from a qualified doctor or other medical specialist (e.g., chiropractor, physiotherapist, etc.) supporting the justice of the peace's application for accommodation;
- ◆ the application and supporting materials are inadmissible, without the consent of the applicant, in any investigation or hearing, other than the hearing to consider the question of accommodation;
- ◆ disclosure of the application and supporting materials by the Justices of the Peace Review Council to the public is prohibited without the consent of the applicant.

ACCOMMODATION SUBCOMMITTEE

On receipt of an application, the Review Council will convene an "accommodation subcommittee" of the Review Council composed of one justice of the peace and one lay member. At its earliest convenience the accommodation subcommittee shall meet with the applicant and with any person against whom the accommodation subcommittee believes an order to accommodate may be required, and retain such experts and advice as may be required, to formulate and report an opinion to the Review Council in relation to the following matters:

- ◆ the period of time that the item and/or service would be required to accommodate the justice of the peace's needs;
- ◆ the approximate cost of the item and/or service required to accommodate the justice of the peace's needs for the length of time the item and/or service is estimated to be required (i.e., daily, weekly, monthly, yearly).

REPORT OF ACCOMMODATION SUBCOMMITTEE

The report to the Review Council shall consist of all of the evidence considered by the accommodation subcommittee in formulating its view as to the costs of accommodating the applicant.

If, after meeting with the applicant, the accommodation subcommittee is of the view that the applicant does not suffer from a disability, it shall communicate this fact to the Review Council in its report.

INITIAL CONSIDERATION OF APPLICATION AND REPORT

The Review Council shall meet, at its earliest convenience, to consider the application and the report of the accommodation subcommittee in order to determine whether or not the application for accommodation gives rise to an obligation under the statute to accommodate the applicant short of undue hardship.

APPENDIX - E

PROCEDURES UNDER JUSTICES OF THE PEACE ACT, AS AMENDED

THRESHOLD TEST FOR QUALIFICATION AS DISABILITY

The Review Council will be guided generally by Human Rights jurisprudence relating to the definition of “disability” for the purposes of determining whether an order to accommodate is warranted.

The Review Council will consider a condition to amount to a disability where it may interfere with the Justice of the peace’s ability to perform the essential functions of a justice of the peace’s office.

NOTIFICATION OF MINISTER

If the Review Council is satisfied that the condition meets the threshold test for qualification as a disability and if the Review Council is considering making an order to accommodate same, then the Review Council shall provide a copy of the application for accommodation of needs together with the report of the accommodation subcommittee to the Attorney General, at its earliest convenience. The report of the accommodation subcommittee shall include all of the evidence considered by the accommodation subcommittee in formulating its view as to the costs of accommodating the applicant.

SUBMISSIONS ON UNDUE HARDSHIP

The Review Council will invite the Minister to make submissions, in writing, as to whether or not any order that the Review Council is considering making to accommodate a justice of the peace’s needs will cause “undue hardship” to the Ministry of the Attorney General or any other person affected by the said order to accommodate. The Review Council will view the Minister, or any other person against whom an order to accommodate may be made, as having the onus of showing that accommodating the applicant will cause undue hardship.

In considering whether accommodation of the applicant will cause undue hardship, the Review Council will generally be guided by Human Rights jurisprudence relating to the question whether undue hardship will be caused, considering the cost, outside sources of funding, if any, and health and safety requirements, if any.

TIME FRAME FOR RESPONSE

The Review Council shall request that the Minister respond to its notice of the justice of the peace’s application for accommodation within thirty (30) calendar days of the date of receipt of notification from the Review Council. The Minister will, within that time frame, advise the Review Council whether or not the Minister intends to make any response to the application for accommodation. If the Minister does intend to respond, such response shall be made within sixty (60) days of the Minister’s acknowledgement of the notice and advice that the Minister intends to respond. The Review Council will stipulate in its notice to the Minister that an order to accommodate will be made in accordance with the justice of the peace’s application and the Review Council’s initial determination in the absence of any submission or acknowledgement from the Minister.

MEETING TO DETERMINE ORDER TO ACCOMMODATE

After receipt of the Minister’s submissions with respect to “undue hardship” or the expiration of the time period specified in its notice to the Minister, whichever comes first, the Justices of the Peace Review Council shall meet, at its earliest convenience, to determine the order it shall make to accommodate the justice of the peace’s needs. The Review Council will consider the justice of the peace’s application and supporting material and submissions made, if any, regarding the question of “undue hardship”, before making its determination.

CHAIR AND QUORUM

The usual rules for composition and quorum apply to meetings for the purposes of considering applications for accommodation. The Chief Justice of the Ontario Court of Justice, or in his or her absence, the Associate Chief Justice Co-ordinator of Justices of the Peace, shall chair meetings held for the purposes of ordering accommodation. Six members of the Review Council, including the chair, constitute a quorum for the purposes of dealing with an application for accommodation of needs. At least half the members present must be judges or justice of the

APPENDIX - E

PROCEDURES UNDER JUSTICES OF THE PEACE ACT, AS AMENDED

peaces. The chair is entitled to vote, and may cast a second deciding vote if there is a tie.

subs. 8.(7), (8) and (11)

MEETINGS

The Review Council may hold its meetings in person or through electronic means, including telephone conferencing and video conferencing.

subs. 8.(24)

EXPERT ASSISTANCE

The Review Council may engage persons, including counsel, to assist it.

subs. 8.(15)

COPY OF ORDER

A copy of the order made by the Review Council to accommodate a justice of the peace's needs shall be provided to the justice of the peace and to any other person affected by the said order within ten (10) calendar days of the date of the decision being made.

CONFIDENTIAL RECORDS

The Review Council may order that any information or documents relating to a Review Council meeting that was not held in public are confidential and shall not be disclosed or made public. An order of non-disclosure may be made whether the information or documents are in the possession of the Review Council, the Attorney General or any other person. An order of non-disclosure cannot be made with respect to information and/or documents that the *Justices of the Peace Act* requires the Review Council to disclose or that have not been treated as confidential and were not prepared exclusively for the purposes of a Review Council meeting.

subs. 8.(18),(19) & (20)

SPECIAL CONSIDERATIONS

French-speaking complainants/ justices of the peace

Complaints against justices of the peace may be made in English or French.

subs. 10.1 (2)

A hearing into a complaint by the Review Council shall be conducted in English, but a complainant or witness who speaks French or a justice of the peace who is the subject of a complaint and who speaks French is entitled, on request, to be given, before the hearing, French translations of documents that are written in English and are to be considered at the hearing; to be provided with the assistance of an interpreter at the hearing; and to be provided with simultaneous interpretation into French of the English portions of the hearing.

subs. 10.1 (3)

The Review Council may direct that a hearing of a complaint where a complainant or witness speaks French, or the complained-of justice of the peace speaks French, be conducted bilingually, if the Review Council is of the opinion that it can be properly conducted in that manner.

subs. 10.1 (4)

A directive under subsection 10.1(4) may apply to a part of the hearing and, in that case, subsections (6) and (7) below apply with necessary modifications.

subs. 10.1 (5)

In a bilingual hearing,

- a) oral evidence and submissions may be given or made in English or French, and shall be recorded in the language in which they are given or made;
- b) documents may be filed in either language;
- c) the reasons for a decision may be written in either language.

subs. 10.1 (6)

In a bilingual hearing, if the complainant or the justice of the peace who is the subject of the complaint does not speak both languages, he or she is entitled, on request, to have simultaneous interpretation of any evidence, submissions or discussions spoken in the other language and translation of any document filed or reasons or report written in the other language.

subs. 10.1 (7)

APPENDIX–F

EXCERPTS FROM THE FORMER
JUSTICES OF THE PEACE ACT
R.S.O. 1990, CHAPTER J.4

(PRIOR TO AMENDMENTS RESULTING FROM
THE *ACCESS TO JUSTICE ACT*, 2006)

APPENDIX - F

EXCERPTS FROM THE FORMER JUSTICES OF THE PEACE ACT – PRIOR TO AMENDMENTS

JUSTICES OF THE PEACE ACT R.S.O. 1990, CHAPTER J.4

Definitions

1. In this Act,

“non-presiding justice of the peace” means a person designated as a non-presiding justice of the peace under section 4; (“juge de paix non-président”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“presiding justice of the peace” means a person designated as a presiding justice of the peace under section 4; (“juge de paix président”)

“regulations” means the regulations made under this Act; (“règlements”)

“Review Council” means the Justices of the Peace Review Council continued by section 9. (“Conseil d’évaluation”) R.S.O. 1990, c. J.4, s. 1; 1994, c. 12, s. 50.

Appointment of justices

2. (1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint full-time and part-time justices of the peace. R.S.O. 1990, c. J.4, s. 2 (1).

Reappointment as part-time

(2) The Lieutenant Governor in Council shall not appoint a full-time justice of the peace to be a part-time justice of the peace unless the Review Council recommends the reappointment. R.S.O. 1990, c. J.4, s. 2 (2).

Other work

(3) After a day to be named by proclamation of the Lieutenant Governor, a justice of the

peace shall not engage in any other remunerative work without the approval of the Review Council. R.S.O. 1990, c. J.4, s. 2 (3).

Removal from office

8. (1) A justice of the peace may be removed from office only by order of the Lieutenant Governor in Council. R.S.O. 1990, c. J.4, s. 8 (1).

Grounds for removal

(2) The order may be made only if,

(a) a complaint regarding the justice of the peace has been made to the Review Council; and

(b) the removal is recommended, following an inquiry held under section 12, on the ground that the justice of the peace has become incapacitated or disabled from the due execution of his or her office by reason of,

(i) infirmity,

(ii) conduct that is incompatible with the execution of the duties of his or her office, or

(iii) having failed to perform the duties of his or her office as assigned. R.S.O. 1990, c. J.4, s. 8 (2).

Order to be tabled

(3) The order shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days after the commencement of the next session. R.S.O. 1990, c. J.4, s. 8 (3).

Review Council

9. (1) The council known in English as the Justices of the Peace Review Council and in

APPENDIX - F

EXCERPTS FROM THE FORMER JUSTICES OF THE PEACE ACT – PRIOR TO AMENDMENTS

French as Conseil d'évaluation des juges de paix is continued and shall be composed of,

- (a) the Chief Justice of the Ontario Court of Justice who shall preside over the Review Council;
- (b) the Associate Chief Justice Co-ordinator of Justices of the Peace;
- (c) the regional senior judge of the Ontario Court of Justice in the region in which the matter being considered by the Council arises;
- (d) a justice of the peace appointed by the Lieutenant Governor in Council; and
- (e) not more than two other persons appointed by the Lieutenant Governor in Council. R.S.O. 1990, c. J.4, s. 9 (1); 1994, c. 12, s. 51; 2002, c. 18, Sched. A, s. 11 (2, 3, 12).

Quorum

- (2) A majority of members of the Review Council constitutes a quorum and is sufficient for the exercise of all the jurisdiction and powers of the Review Council. R.S.O. 1990, c. J.4, s. 9 (2).

Staff

- (3) Such officers and employees of the Review Council as are considered necessary may be appointed under the *Public Service Act*. R.S.O. 1990, c. J.4, s. 9 (3).

Expert assistance

- (4) The Review Council may engage persons, including counsel, to assist it in its investigations. R.S.O. 1990, c. J.4, s. 9 (4).

Functions

10. (1) The functions of the Review Council are,
- (a) to consider all proposed appointments and designations of justices of the peace and make reports concerning them to the Attorney General;
 - (b) to receive and investigate complaints against justices of the peace; and
 - (c) dealing with continuing education plans in accordance with subsection 14 (1). R.S.O. 1990, c. J.4, s. 10 (1); 2002, c. 18, Sched. A, s. 11 (4).

Liability for damages

- (2) No action or other proceeding for damages shall be instituted against the Review Council or its members or officers or any person acting under its authority for any act done in good faith in the execution or intended execution of its or his or her duty. R.S.O. 1990, c. J.4, s. 10 (2).

Investigation of complaints

11. (1) When the Review Council receives a complaint against a justice of the peace, it shall take such action to investigate the complaint, including a review of it with the justice of the peace, as it considers advisable. R.S.O. 1990, c. J.4, s. 11 (1).

Referral to Associate Chief Justice Co-ordinator of Justices of the Peace

- (2) The Review Council may, if it considers it appropriate to do so, transmit complaints to the Associate Chief Justice Co-ordinator of Justices of the Peace. R.S.O. 1990, c. J.4, s. 11 (2); 1994, c. 12, s. 52; 2002, c. 18, Sched. A, s. 11 (12).

APPENDIX - F

EXCERPTS FROM THE FORMER JUSTICES OF THE PEACE ACT – PRIOR TO AMENDMENTS

Proceedings not public

- (3) The proceedings of the Review Council shall not be public, but it may inform the Attorney General that it has undertaken an investigation and the Attorney General may make that fact public. R.S.O. 1990, c. J.4, s. 11 (3).

Prohibiting publication

- (4) The Review Council may order that information or documents relating to its investigation not be published or disclosed except as required by law. R.S.O. 1990, c. J.4, s. 11 (4).

Powers

- (5) The Review Council has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act. R.S.O. 1990, c. J.4, s. 11 (5).

Notice of disposition

- (6) When the Review Council has dealt with a complaint regarding a justice of the peace, it shall inform,
 - (a) the person who made the complaint; and
 - (b) the justice of the peace, if the complaint was brought to his or her attention, of its disposition of the complaint. R.S.O. 1990, c. J.4, s. 11 (6).

Report and recommendations

- (7) The Review Council may report its opinion regarding the complaint to the Attorney General and may recommend,
 - (a) that an inquiry be held under section 12;

- (b) that the justice of the peace be compensated for all or part of his or her costs in connection with the investigation. R.S.O. 1990, c. J.4, s. 11 (7).

Copy to justice

- (8) A copy of the report shall be given to the justice of the peace. R.S.O. 1990, c. J.4, s. 11 (8).

Right to be heard

- (9) The Review Council shall not make a report unless the justice of the peace was notified of the investigation and given an opportunity to be heard and to produce evidence. R.S.O. 1990, c. J.4, s. 11 (9).

Publication of report

- (10) The Attorney General may make all or part of the report public, if he or she is of the opinion that it is in the public interest to do so. R.S.O. 1990, c. J.4, s. 11 (10).

Inquiry

- 12. (1) The Lieutenant Governor in Council may appoint a provincial judge to inquire into the question whether there has been misconduct by a justice of the peace. 1994, c. 12, s. 53.

Powers

- (2) *The Public Inquiries Act* applies to the inquiry. R.S.O. 1990, c. J.4, s. 12 (2).

Report

- (3) The report of the inquiry may recommend that the Lieutenant Governor in Council remove the justice of the peace from office in accordance with section 8, or that the Review Council implement a disposition under subsection (3.3). 1994, c. 12, s. 53.

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EXCERPTS FROM THE FORMER JUSTICES OF THE PEACE ACT – PRIOR TO AMENDMENTS

Same

(3.1) The report may recommend that the justice of the peace be compensated for all or part of the cost of legal services incurred in connection with the inquiry. 1994, c. 12, s. 53.

- (e) suspend the justice of the peace with pay, for any period; or
- (f) suspend the justice of the peace without pay, but with benefits, for a period up to 30 days. 1994, c. 12, s. 53.

Maximum

(3.2) The amount of compensation recommended under subsection (3.1) shall be based on a rate for legal services that does not exceed the maximum rate normally paid by the Government of Ontario for similar services. 1994, c. 12, s. 53.

Tabling of report

- (4) The report shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days after the commencement of the next session. R.S.O. 1990, c. J.4, s. 12 (4).

Dispositions by Review Council

(3.3) If the report recommends that the Review Council implement a disposition under this subsection, the Council may,

- (a) warn the justice of the peace;
- (b) reprimand the justice of the peace;
- (c) order the justice of the peace to apologize to the complainant or to any other person;
- (d) order the justice of the peace to take specified measures, such as receiving education or treatment, as a condition of continuing to sit as a justice of the peace;

Continuing education

14. (1) The Associate Chief Justice Co-ordinator of Justices of the Peace shall establish a plan for the continuing education of justices of the peace, and shall implement the plan when it has been reviewed and approved by the Review Council. 2002, c. 18, Sched. A, s. 11 (6).

Consultation

- (2) In establishing the plan for continuing education, the Associate Chief Justice Co-ordinator of Justices of the Peace shall consult with justices of the peace and with such other persons as he or she considers appropriate. 2002, c. 18, Sched. A, s. 11 (6).

APPENDIX-G

EXCERPTS FROM THE
JUSTICES OF THE PEACE ACT
R.S.O. 1990, CHAPTER J.4, AS AMENDED

APPENDIX - G

EXCERPTS FROM THE JUSTICES OF THE PEACE ACT – AS AMENDED

JUSTICES OF THE PEACE ACT R.S.O. 1990, CHAPTER J.4

Definitions

1. In this Act,

“prescribed” means prescribed by the regulations;
 (“prescrit”)

“regulations” means the regulations made under this
 Act; (“règlements”)

“Review Council” means the Justices of the Peace
 Review Council continued by section 8. (“Conseil
 d’évaluation”) R.S.O. 1990, c. J.4, s. 1; 1994, c. 12,
 s. 50; 2006, c. 21, Sched. B, s. 1.

SECTION 5.2 – Accommodation of Needs

5.2 (1) A justice of the peace who believes that he
 or she is unable, because of a disability, to
 perform the essential duties of the office
 unless his or her needs are accommodated
 may apply to the Review Council for an
 order under subsection (2). 2006, c. 21,
 Sched. B, s. 6.

Duty of Review Council

(2) If the Review Council finds that the justice
 of the peace is unable, because of a disabili-
 ty, to perform the essential duties of the
 office unless his or her needs are accom-
 modated, it shall order that the needs of
 the justice of the peace be accommodated
 to the extent necessary to enable him or
 her to perform those duties. 2006, c. 21,
 Sched. B, s. 6.

Undue hardship

(3) Subsection (2) does not apply if the Review
 Council is satisfied that making an order

would impose undue hardship on the
 person responsible for accommodating the
 needs of the justice of the peace, consider-
 ing the cost, outside sources of funding, if
 any, and health and safety requirements, if
 any. 2006, c. 21, Sched. B, s. 6.

Opportunity to participate

(4) The Review Council shall not make an
 order under subsection (2) against a person
 without ensuring that the person has had
 an opportunity to participate and make
 submissions. 2006, c. 21, Sched. B, s. 6.

Crown bound

(5) The order binds the Crown. 2006, c. 21,
 Sched. B, s. 6.

Review Council

8. (1) The council known in English as the
 Justices of the Peace Review Council and
 in French as Conseil d’évaluation des juges
 de paix is continued. 2006, c. 21, Sched.
 B, s. 7.

Functions

(2) The functions of the Review Council are,

- (a) to consider applications under section
 5.2 for the accommodation of needs;
- (b) to establish complaints committees
 from among its members to review
 and investigate complaints under
 section 11;
- (c) to review and approve standards of
 conduct under section 13;
- (d) to deal with continuing education
 plans under section 14; and

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EXCERPTS FROM THE JUSTICES OF THE PEACE ACT – AS AMENDED

- (e) to decide whether a justice of the peace may engage in other remunerative work. 2006, c. 21, Sched. B, s. 7.

Composition

- (3) The Review Council is composed of,
 - (a) the Chief Justice of the Ontario Court of Justice, or another judge of the Ontario Court of Justice designated by the Chief Justice;
 - (b) the Associate Chief Justice Co-ordinator of Justices of the Peace;
 - (c) three justices of the peace appointed by the Chief Justice of the Ontario Court of Justice;
 - (d) two judges of the Ontario Court of Justice appointed by the Chief Justice of the Ontario Court of Justice;
 - (e) one regional senior justice of the peace appointed by the Chief Justice of the Ontario Court of Justice;
 - (f) a lawyer appointed by the Attorney General from a list of three names submitted to the Attorney General by the Law Society of Upper Canada;
 - (g) four persons appointed by the Lieutenant Governor in Council on the recommendation of the Attorney General. 2006, c. 21, Sched. B, s. 7.

Criteria

- (4) In the appointment of members under clause (3) (g), the importance of reflecting, in the composition of the Review Council as a whole, Ontario's linguistic duality and the diversity of its population and

ensuring overall gender balance shall be recognized. 2006, c. 21, Sched. B, s. 7.

Term of office

- (5) The members who are appointed under clauses (3) (f) and (g) hold office for four-year terms and are eligible for reappointment. 2006, c. 21, Sched. B, s. 7.

Staggered terms

- (6) Despite subsection (5), the following applies to the first appointments to the Review Council:
 - 1. The lawyer appointed under clause (3) (f) holds office for a six-year term.
 - 2. One of the persons appointed under clause (3) (g) holds office for a six-year term and one holds office for a two-year term. 2006, c. 21, Sched. B, s. 7.

Chair

- (7) The Chief Justice of the Ontario Court of Justice or, in his or her absence, the Associate Chief Justice Co-ordinator of Justices of the Peace, shall chair all meetings of the Review Council. 2006, c. 21, Sched. B, s. 7.

Same

- (8) The chair is entitled to vote and may cast a second deciding vote if there is a tie. 2006, c. 21, Sched. B, s. 7.

Vacancies

- (9) If a vacancy occurs among the members appointed under clause (3) (f) or (g), a new member may be appointed under the applicable provision for the remainder of the term. 2006, c. 21, Sched. B, s. 7.

APPENDIX - G

EXCERPTS FROM THE JUSTICES OF THE PEACE ACT – AS AMENDED

Temporary members

- (10) The Chief Justice of the Ontario Court of Justice may appoint a judge or a justice of the peace who is not a member of the Review Council to be a temporary member of a complaints committee or hearing panel in order to deal fully with the matter. 2006, c. 21, Sched. B, s. 7.

Quorum

- (11) The following quorum rules apply:
1. Six members, including the chair, constitute a quorum.
 2. At least half the members present must be judges or justices of the peace. 2006, c. 21, Sched. B, s. 7.

Voting by chair

- (12) The chair of a complaints committee established under subsection 11 (1) or a hearing panel established under subsection 11.1 (1) is entitled to vote. 2006, c. 21, Sched. B, s. 7.

Disqualification

- (13) The members of the Review Council who were members of a complaints committee dealing with a complaint shall not participate in a hearing of the complaint under section 11.1. 2006, c. 21, Sched. B, s. 7.

Employees

- (14) Such employees as are considered necessary for the proper conduct of the affairs of the Review Council may be appointed under Part III of the *Public Service of Ontario Act*, 2006. 2006, c. 35, Sched. C, s. 56 (3).

Expert assistance

- (15) The Review Council may engage persons, including counsel, to assist it and its complaints committees and hearing panels. 2006, c. 21, Sched. B, s. 7.

Support services

- (16) The Review Council shall provide support services, including initial orientation and continuing education, to enable its members to participate effectively, devoting particular attention to the needs of the members who are neither judges nor lawyers and administering a part of its budget for support services separately for that purpose. 2006, c. 21, Sched. B, s. 7.

Same

- (17) The Review Council shall administer a part of its budget for support services separately for the purpose of accommodating the needs of any members who have disabilities. 2006, c. 21, Sched. B, s. 7.

Confidential records

- (18) The Review Council, a complaints committee or a hearing panel may order that any information or documents relating to a meeting, investigation or hearing that was not held in public are confidential and shall not be disclosed or made public. 2006, c. 21, Sched. B, s. 7.

Same

- (19) Subsection (18) applies whether the information or documents are in the possession of the Review Council, a complaints committee, a hearing panel, the Attorney General or any other person. 2006, c. 21, Sched. B, s. 7.

APPENDIX - G

EXCERPTS FROM THE JUSTICES OF THE PEACE ACT – AS AMENDED

Exceptions

- (20) Subsection (18) does not apply to information and documents,
- (a) that this Act requires the Review Council to disclose; or
 - (b) that have not been treated as confidential and were not prepared exclusively for the purposes of a Review Council meeting or for an investigation of a complaint or for a hearing. 2006, c. 21, Sched. B, s. 7.

Personal liability

- (21) No action or other proceeding for damages shall be instituted against the Review Council or any of its members or employees or any person acting under the authority of the Review Council, a complaints committee or hearing panel for any act done in good faith in the execution or intended execution of any power or duty of the Review Council, a complaints committee or a hearing panel or for any neglect or default in the exercise or performance in good faith of such power or duty. 2006, c. 21, Sched. B, s. 7.

Testimonial immunity

- (22) No member or employee of the Review Council and no person acting under its authority may be compelled to give evidence in any administrative or civil proceeding in relation to anything done or omitted to be done in carrying out the purposes of this Act. 2006, c. 21, Sched. B, s. 7.

Remuneration

- (23) The members who are appointed under clauses (3) (f) and (g) are entitled to receive

the daily remuneration that is fixed by the Lieutenant Governor in Council. 2006, c. 21, Sched. B, s. 7.

Meetings

- (24) The Review Council may hold its meetings in person or through electronic means, including telephone conferencing and video conferencing. 2006, c. 21, Sched. B, s. 7.

OTHER DUTIES OF REVIEW COUNCIL

Provision of information to public

9. (1) The Review Council shall provide, in courthouses and elsewhere, information about itself and about its role in the justice system, including information about how members of the public may obtain assistance in making complaints. 2006, c. 21, Sched. B, s. 7.

Same

- (2) In providing information, the Review Council shall emphasize the elimination of cultural and linguistic barriers and the accommodation of the needs of persons with disabilities. 2006, c. 21, Sched. B, s. 7.

Assistance to public

- (3) Where necessary, the Review Council shall arrange for the provision of assistance to members of the public in the preparation of documents for making complaints. 2006, c. 21, Sched. B, s. 7.

Telephone access

- (4) The Review Council shall provide province-wide free telephone access, including

APPENDIX - G

EXCERPTS FROM THE JUSTICES OF THE PEACE ACT – AS AMENDED

telephone access for the deaf, to information about itself and its role in the justice system. 2006, c. 21, Sched. B, s. 7.

Persons with disabilities

- (5) To enable persons with disabilities to participate effectively in the complaints process, the Review Council shall ensure that their needs are accommodated, at the Council's expense, unless it would impose undue hardship on the Council to do so, considering the cost, outside sources of funding, if any, and health and safety requirements, if any. 2006, c. 21, Sched. B, s. 7.

Open and closed hearings and meetings

- (6) Meetings of the Review Council and of its complaints committees shall be held in private but, subject to subsection 11.1 (4), hearings under section 11.1 shall be open to the public. 2006, c. 21, Sched. B, s. 7.

Annual report

- (7) After the end of each year, the Review Council shall make an annual report to the Attorney General on its affairs, in English and French, including, with respect to all complaints received or dealt with during the year, a summary of the complaint, the findings and a statement of the disposition, but the report shall not include information that might identify the justice of the peace, the complainant or a witness. 2006, c. 21, Sched. B, s. 7.

Tabling

- (8) The Attorney General shall submit the annual report to the Lieutenant Governor in Council and shall then table the report in the Assembly. 2006, c. 21, Sched. B, s. 7.

Rules

10. (1) The Review Council may establish rules of procedure for complaints committees and for hearing panels and the Review Council shall make the rules available to the public. 2006, c. 21, Sched. B, s. 8.

Legislation Act, 2006

- (2) Part III (Regulations) of the *Legislation Act*, 2006 does not apply to rules established by the Review Council. 2006, c. 21, Sched. B, s. 9.

SPPA, s. 28

- (3) Section 28 of the *Statutory Powers Procedure Act* does not apply to the Review Council. 2006, c. 21, Sched. B, s. 8.

Use of official languages of courts

- 10.1 (1) The information provided under subsections 9 (1), (3) and (4) and any rules established under subsection 10 (1) shall be made available in English and French. 2006, c. 21, Sched. B, s. 8.

Same

- (2) Complaints against justices of the peace may be made in English or French. 2006, c. 21, Sched. B, s. 8.

Same

- (3) A hearing under section 11.1 shall be conducted in English, but a complainant or witness who speaks French or a justice of the peace who is the subject of a complaint and who speaks French is entitled, on request,
 - (a) to be given, before the hearing, French translations of documents that are written in English and are to be considered at the hearing;

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- (b) to be provided with the assistance of an interpreter at the hearing; and
- (c) to be provided with simultaneous interpretation into French of the English portions of the hearing. 2006, c. 21, Sched. B, s. 8.

Bilingual hearing

- (4) The Review Council may direct that a hearing to which subsection (3) applies be conducted bilingually, if it is of the opinion that it can be properly conducted in that manner. 2006, c. 21, Sched. B, s. 8.

Part of hearing

- (5) A direction under subsection (4) may apply to a part of the hearing and, in that case, subsections (6) and (7) apply with necessary modifications. 2006, c. 21, Sched. B, s. 8.

Same

- (6) In a bilingual hearing,
 - (a) oral evidence and submissions may be given or made in English or French, and shall be recorded in the language in which they are given or made;
 - (b) documents may be filed in either language; and
 - (c) the reasons for a decision may be written in either language. 2006, c. 21, Sched. B, s. 8.

Same

- (7) In a bilingual hearing, if the complainant or the justice of the peace who is the subject of the complaint does not speak both languages, he or she is entitled, on request, to have simultaneous interpretation of any

evidence, submissions or discussions spoken in the other language and translation of any document filed or reasons written in the other language. 2006, c. 21, Sched. B, s. 8.

Complaint re justice of the peace

- 10.2 (1) Any person may make a complaint to the Review Council about the conduct of a justice of the peace. 2006, c. 21, Sched. B, s. 8.

Same

- (2) A complaint to the Review Council must be made in writing. 2006, c. 21, Sched. B, s. 8.

Same

- (3) If a complaint about the conduct of a justice of the peace is made to any other justice of the peace or to a judge or the Attorney General, the other justice of the peace or the judge or the Attorney General, as the case may be, shall provide the person making the complaint with information about the Review Council's role in the justice system and about how a complaint may be made, and shall refer the person to the Review Council. 2006, c. 21, Sched. B, s. 8.

Information re complaint

- (4) At any person's request, the Review Council may confirm or deny that a particular complaint has been made to it. 2006, c. 21, Sched. B, s. 8.

INVESTIGATIONS

Complaints committees

- 11. (1) As soon as possible after receiving a complaint about the conduct of a justice of the peace, the Review Council shall establish a complaints committee and the complaints

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committee shall investigate the complaint and dispose of the matter as provided in subsection (15). 2006, c. 21, Sched. B, s. 10.

Composition

- (2) A complaints committee shall be composed of,
 - (a) a judge who shall chair the complaints committee;
 - (b) a justice of the peace; and
 - (c) a member who is neither a judge nor a justice of the peace. 2006, c. 21, Sched. B, s. 10.

Timely reporting to complainant

- (3) The complaints committee shall report in a timely manner to the complainant that it has received the complaint and it shall report in a timely manner to the complainant on its disposition of the matter. 2006, c. 21, Sched. B, s. 10.

Disqualification

- (4) The members of a complaints committee who investigate a complaint shall not participate in a hearing in respect of the complaint. 2006, c. 21, Sched. B, s. 10.

Rotation of members

- (5) The eligible members of the Review Council shall all serve on complaints committees on a rotating basis. 2006, c. 21, Sched. B, s. 10.

Quorum

- (6) All the members of a complaints committee constitute a quorum. 2006, c. 21, Sched. B, s. 10.

Investigation

- (7) The complaints committee shall conduct such investigation as it considers appropriate. 2006, c. 21, Sched. B, s. 10.

Investigation private

- (8) The investigation shall be conducted in private. 2006, c. 21, Sched. B, s. 10.

Powers of complaints committee

- (9) Section 4.2, subsections 12 (1) to (3.1) and sections 13, 14, 15 and 22 of the *Statutory Powers Procedure Act* apply to the activities of a complaints committee. 2006, c. 21, Sched. B, s. 10.

Rules of procedure

- (10) The rules of procedure established under subsection 10 (1) apply to the activities of a complaints committee. 2006, c. 21, Sched. B, s. 10.

Interim recommendations

- (11) The complaints committee may recommend to a regional senior judge that, until the final disposition of a complaint,
 - (a) the justice of the peace who is the subject of a complaint not be assigned work; or
 - (b) the justice of the peace who is the subject of a complaint be reassigned to another location. 2006, c. 21, Sched. B, s. 10.

Same

- (12) The recommendation shall be made to the regional senior judge appointed for the region to which the justice of the peace is assigned and the regional senior judge may,

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- (a) decide to not assign work to the justice of the peace until the final disposition of the complaint but he or she shall continue to be paid; or
- (b) with the consent of the justice of the peace, reassign him or her to another location until the final disposition of the complaint. 2006, c. 21, Sched. B, s. 10.

Exception: certain complaints

- (13) If the complaint is against a justice of the peace or regional senior justice of the peace who is a member of the Review Council, any recommendation under subsection (11) in connection with the complaint shall be made to the Chief Justice of the Ontario Court of Justice, who may,
- (a) decide to not assign work to the justice of the peace or regional senior justice of the peace until the final disposition of the complaint but he or she shall continue to be paid; or
 - (b) with the consent of the justice of the peace or regional senior justice of the peace, reassign him or her to another location until the final disposition of the complaint. 2006, c. 21, Sched. B, s. 10.

Same

- (14) A justice of the peace or regional senior justice of the peace who is a member of the Review Council and who is the subject of a complaint shall not be a member of any complaints committee or hearing panel until the final disposition of the complaint. 2006, c. 21, Sched. B, s. 10.

Complaints committee's decision

- (15) When its investigation is complete, the complaints committee shall,
- (a) dismiss the complaint if it is frivolous, an abuse of process or outside the jurisdiction of the complaints committee;
 - (b) invite the justice of the peace to attend before the complaints committee to receive advice concerning the issues raised in the complaint or send the justice of the peace a letter of advice concerning the issues raised in the complaint, or both;
 - (c) order that a formal hearing into the complaint be held by a hearing panel; or
 - (d) refer the complaint to the Chief Justice of the Ontario Court of Justice. 2006, c. 21, Sched. B, s. 10.

Compensation

- (16) The complaints committee may recommend that the justice of the peace be compensated for all or part of the cost of legal services incurred in connection with the investigation. 2006, c. 21, Sched. B, s. 10.

Maximum

- (17) The amount of compensation recommended under subsection (16) shall be based on a rate for legal services that does not exceed the maximum rate normally paid by the Government of Ontario for similar services. 2006, c. 21, Sched. B, s. 10.

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Report

- (18) The complaints committee shall report to the Review Council on its decision and, except where it orders a formal hearing, it shall not identify the complainant or the justice of the peace who is the subject of the complaint in the report. 2006, c. 21, Sched. B, s. 10.

Frivolous complaints, etc.

- (19) Without restricting the powers of a complaints committee under clause (15) (a), a complaints committee may dismiss a complaint at any time if it is of the opinion that the complaint is frivolous, an abuse of process or outside the jurisdiction of the complaints committee. 2006, c. 21, Sched. B, s. 10.

HEARINGS

Hearing panels

- 11.1 (1) When a hearing is ordered under subsection 11 (15), the chair of the Review Council shall establish a hearing panel from among the members of the Review Council to hold a hearing in accordance with this section. 2006, c. 21, Sched. B, s. 10.

Composition

- (2) A hearing panel shall be composed of,
- (a) a judge who shall chair the panel;
 - (b) a justice of the peace; and
 - (c) a member who is a judge, a lawyer or a member of the public. 2006, c. 21, Sched. B, s. 10.

Quorum

- (3) All the members of the panel constitute a quorum. 2006, c. 21, Sched. B, s. 10.

Application of SPPA

- (4) The *Statutory Powers Procedure Act*, except sections 4 and 28, applies to the hearing. 2006, c. 21, Sched. B, s. 10.

Rules of procedure

- (5) The rules of procedure established under subsection 10 (1) apply to the hearing. 2006, c. 21, Sched. B, s. 10.

Communication re subject-matter of hearing

- (6) The members of the panel participating in the hearing shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any party, counsel, agent or other person, unless all the parties and their counsel or agents receive notice and have an opportunity to participate. 2006, c. 21, Sched. B, s. 10.

Exception

- (7) Subsection (6) does not preclude the Review Council from engaging counsel to assist the panel in accordance with subsection 8 (15). 2006, c. 21, Sched. B, s. 10.

Parties

- (8) The panel shall determine who are the parties to the hearing. 2006, c. 21, Sched. B, s. 10.

Orders prohibiting publication

- (9) If the complaint involves allegations of sexual misconduct or sexual harassment, the panel shall, at the request of a complainant

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or of a witness who testifies to having been the victim of such conduct by the justice of the peace, prohibit the publication of information that might identify the complainant or witness, as the case may be. 2006, c. 21, Sched. B, s. 10.

Dispositions

(10) After completing the hearing, the panel may dismiss the complaint, with or without a finding that it is unfounded or, if it upholds the complaint, it may,

- (a) warn the justice of the peace;
- (b) reprimand the justice of the peace;
- (c) order the justice of the peace to apologize to the complainant or to any other person;
- (d) order that the justice of the peace take specified measures, such as receiving education or treatment, as a condition of continuing to sit as a justice of the peace;
- (e) suspend the justice of the peace with pay, for any period;
- (f) suspend the justice of the peace without pay, but with benefits, for a period up to 30 days; or
- (g) recommend to the Attorney General that the justice of the peace be removed from office in accordance with section 11.2. 2006, c. 21, Sched. B, s. 10.

Same

(11) The panel may adopt any combination of the dispositions set out in clauses (10) (a) to (f). 2006, c. 21, Sched. B, s. 10.

Disability

(12) If the panel finds that the justice of the peace is unable, because of a disability, to perform the essential duties of the office, but would be able to perform them if his or her needs were accommodated, it shall order that the justice of the peace's needs be accommodated to the extent necessary to enable him or her to perform those duties. 2006, c. 21, Sched. B, s. 10.

Application of subs. (12)

(13) Subsection (12) applies if,

- (a) the effect of the disability on the justice of the peace's performance of the essential duties of the office was a factor in the complaint; and
- (b) the panel dismisses the complaint or makes a disposition under clauses (10) (a) to (f). 2006, c. 21, Sched. B, s. 10.

Undue hardship

(14) Subsection (12) does not apply if the panel is satisfied that making an order would impose undue hardship on the person responsible for accommodating the justice of the peace's needs, considering the cost, outside sources of funding, if any, and health and safety requirements, if any. 2006, c. 21, Sched. B, s. 10.

Opportunity to participate

(15) The panel shall not make an order under subsection (12) against a person without ensuring that the person has had an opportunity to participate and make submissions. 2006, c. 21, Sched. B, s. 10.

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Crown bound

- (16) An order made under subsection (12) binds the Crown. 2006, c. 21, Sched. B, s. 10.

Compensation

- (17) The panel may recommend that the justice of the peace be compensated for all or part of the cost of legal services incurred in connection with the hearing. 2006, c. 21, Sched. B, s. 10.

Maximum

- (18) The amount of compensation recommended under subsection (17) shall be based on a rate for legal services that does not exceed the maximum rate normally paid by the Government of Ontario for similar services. 2006, c. 21, Sched. B, s. 10.

Report to Attorney General

- (19) The panel may make a report to the Attorney General about the complaint, investigation, hearing and disposition, subject to any order made under subsection 8 (18), and the Attorney General may make the report public if of the opinion that this would be in the public interest. 2006, c. 21, Sched. B, s. 10.

Non-identification of persons

- (20) A complainant or witness at whose request an order was made under subsection (9) shall not be identified in the report. 2006, c. 21, Sched. B, s. 10.

Continuing publication ban

- (21) If an order was made under subsection (9) and the panel dismisses the complaint with a finding that it was unfounded, the

justice of the peace shall not be identified in the report without his or her consent and the panel shall order that information that relates to the complaint and might identify the justice of the peace shall never be made public without his or her consent. 2006, c. 21, Sched. B, s. 10.

Transitional

- (22) A complaint against a justice of the peace that is made to the Review Council before the day this section comes into force, and considered at a meeting of the Review Council before that day, shall be dealt with in accordance with sections 11 and 12 of this *Act*, as they read immediately before that day. 2006, c. 21, Sched. B, s. 10.

Removal from office

- 11.2 (1) A justice of the peace may be removed from office only by order of the Lieutenant Governor in Council. 2006, c. 21, Sched. B, s. 10.

Removal for cause

- (2) The order may be made only if,
- (a) a complaint about the justice of the peace has been made to the Review Council; and
- (b) a hearing panel, after a hearing under section 11.1, recommends to the Attorney General that the justice of the peace be removed on the ground that he or she has become incapacitated or disabled from the due execution of his or her office by reason of,
- (i) inability, because of a disability, to perform the essential duties of his or her office, if an order to

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accommodate the justice of the peace's needs would not remedy the inability, or could not be made because it would impose undue hardship on the person responsible for meeting those needs, or was made but did not remedy the inability,

- (ii) conduct that is incompatible with the due execution of his or her office, or
- (iii) failure to perform the duties of his or her office. 2006, c. 21, Sched. B, s. 10.

Order to be tabled

- (3) The order shall be laid before the Legislative Assembly if it is in session or, if not, within 15 days after the commencement of the next session. 2006, c. 21, Sched. B, s. 10.

SECTION 13 – Standards of conduct

- 13. (1) The Associate Chief Justice Co-ordinator of Justices of the Peace may establish standards of conduct for justices of the peace, including a plan for bringing the standards into effect, and shall implement the standards and plan when they have been reviewed and approved by the Review Council. 2006, c. 21, Sched. B, s. 12.

Duty of Associate Chief Justice Co-ordinator of Justices of the Peace

- (2) The Associate Chief Justice Co-ordinator of Justices of the Peace shall ensure that any standards of conduct are made available to the public, in English and French,

when they have been approved by the Review Council. 2006, c. 21, Sched. B, s. 12.

Goals

- (3) The following are among the goals that the Associate Chief Justice Co-ordinator of Justices of the Peace may seek to achieve by establishing standards of conduct for justices of the peace:
 - 1. Recognizing the independence of justices of the peace.
 - 2. Maintaining the high quality of the justice system and ensuring the efficient administration of justice.
 - 3. Enhancing equality and a sense of inclusiveness in the justice system.
 - 4. Ensuring that conduct of justices of the peace is consistent with the respect accorded to them.
 - 5. Emphasizing the need to ensure the on-going development of justices of the peace and the growth of their social awareness through continuing education. 2006, c. 21, Sched. B, s. 12.

SECTION 14 – Continuing education

- 14. (1) The Associate Chief Justice Co-ordinator of Justices of the Peace shall establish a plan for the continuing education of justices of the peace, and shall implement the plan when it has been reviewed and approved by the Review Council. 2002, c. 18, Sched. A, s. 11 (6).

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Consultation

- (2) In establishing the plan for continuing education, the Associate Chief Justice Co-ordinator of Justices of the Peace shall consult with justices of the peace and with such other persons as he or she considers appropriate. 2002, c. 18, Sched. A, s. 11 (6).

available to the public, in English and French, when it has been approved by the Review Council. 2002, c. 18, Sched. A, s. 11 (6).

Plan to be made public

- (3) The Associate Chief Justice Co-ordinator of Justices of the Peace shall ensure that the plan for continuing education is made

SECTION 19 – Other remunerative work

19. A justice of the peace shall not engage in any other remunerative work without the approval of the Review Council. 2006, c. 21, Sched. B, s. 17.