

JPRC



FOURTH ANNUAL REPORT 2010

**JUSTICES OF THE PEACE
REVIEW COUNCIL**

ONTARIO

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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 30, 2012

The Honourable John Gerretsen
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 Fourth Annual Report of the Justices of the Peace Review Council concerning its operations throughout 2010, 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, 2010 to December 31, 2010.

Respectfully submitted,

A handwritten signature in cursive script, reading "Annemarie E. Bonkalo".

Annemarie E. Bonkalo
Chief Justice
Ontario Court of Justice

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INTRODUCTION

The period of time covered by this Annual Report is from January 1, 2010 to December 31, 2010. This report is the Fourth 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 other 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 that a citizen will encounter in his or her lifetime.

The Justices of the Peace Review Council is an independent body established by the Province of Ontario under the *Justices of the Peace Act* with a mandate to receive and investigate complaints about the conduct of 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 pursued through other legal remedies before the courts.

The *Act* provides for the Council to make an Annual Report to the Attorney General on its affairs, including case summaries about complaints. The report may not include information that identifies a justice of the peace, a complainant or a witness unless a public hearing has occurred.

This Fourth Annual Report of the Review Council provides information on its membership, its functions and the work of the Council during 2010. The Annual Report also includes information on the procedures used to address complaints. Information is also included on applications for approval to engage in extra-remunerative activities, although names of applicants are confidential.

The Review Council had jurisdiction over approximately 394 provincially-appointed justices of the peace, including full-time and part-time and *per diem*, during the period of time covered by this Annual Report. During 2010, the Council received 61 new complaints about justices of the peace, and carried over 36 from previous years. Information about the 60 complaint files that were completed and closed in 2010 is included in this Report.

We invite you to find out more about the Council by reading this Annual Report, and by visiting its website at www.ontariocourts.on.ca/jprc/en/. On the website, you will find the Council's current policies and procedures; updates about any public hearings that are in progress or that have been completed after this Report was prepared; the *Principles of Judicial Office of Justices of the Peace of the Ontario Court of Justice*; the Education Plan; and links to the governing legislation.

1. COMPOSITION AND TERMS OF APPOINTMENT

The Justices of the Peace Review Council is an independent body established under the *Justices of the Peace Act*. The Review Council has a number of functions which are described in this section, including the review and investigation of complaints about the conduct of justices of the peace.

The 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; and,
- ♦ 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.

When the Council was established in its current form in 2007, to provide for staggered terms among the members of the Council, initially the lawyer and one community person were appointed for a six-year term, one community person for a two-year term and the remaining two community members for four-year terms. After those members complete their terms, lawyer and community members who are appointed to the Council hold office for four-year terms and are eligible for reappointment. Judicial members on the Council are appointed by the Chief Justice of the Ontario Court of Justice.

2. MEMBERS

The membership of the Review Council in the year covered by this report (January 1, 2010 to December 31, 2010) was as follows:

Judicial Members:

CHIEF JUSTICE OF THE ONTARIO COURT OF JUSTICE

The Honourable Annemarie E. Bonkalo (Toronto)

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

The Honourable John A. Payne (Durham/Toronto)

THREE JUSTICES OF THE PEACE APPOINTED BY THE CHIEF JUSTICE OF THE ONTARIO COURT OF JUSTICE:

Senior Justice of the Peace Cornelia Mews (Newmarket/Toronto)

His Worship Warren Ralph (Toronto)
(Effective January 1, 2010 for a period of two years)

Her Worship Lorraine A. Watson (Kingston)

TWO JUDGES OF THE ONTARIO COURT OF JUSTICE APPOINTED BY THE CHIEF JUSTICE OF THE ONTARIO COURT OF JUSTICE:

The Honourable Justice Ralph E. W. Carr (Timmins)

The Honourable Justice Deborah K. Livingstone (London)

REGIONAL SENIOR JUSTICE OF THE PEACE APPOINTED BY THE CHIEF JUSTICE OF THE ONTARIO COURT OF JUSTICE:

Regional Senior Justice of the Peace Kathleen M. Bryant (Sault Ste. Marie)

Lawyer Member:

Ms. S. Margot Blight (Toronto)
Borden Ladner Gervais LLP

Community Members:

Professor Emir Crowne (Windsor)
Faculty of Law, University of Windsor

Ms. Cherie A. Daniel (Toronto)
Lawyer

Dr. Michael S. Phillips (Gormley)
Consultant, Mental Health and Justice

Mr. Steven G. Silver (Gananoque)
Chief Administrative Officer, United Counties of Leeds & Grenville

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, the following members were temporary members:

The Honourable Justice Guy F. DeMarco (Windsor)

His Worship Maurice Hudson (Brampton)

Her Worship Louise E. Rozon (Cornwall)

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 financial, human resources, and technology support staff, as needed, and computer systems without the need of acquiring a large staff.



Councils' offices are used for meetings of both Councils and their members, and as needed for meetings with judicial officers that may result as part of the disposition of complaints. Each Council has a phone and fax number and its own stationery. They share 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 an Administrative Secretary:

Ms. Marilyn E. King, LL.B. – *Registrar*

Mr. Thomas A. Glassford – *Assistant Registrar*

Ms. Ana M. Brigido – *Assistant Registrar*

Ms. Janice Cheong – *Administrative Secretary*

4. FUNCTIONS OF THE REVIEW COUNCIL

The *Justices of the Peace Act* provides that the functions of the Review Council are:

- ♦ to consider applications under section 5.2 for the accommodation of needs;
- ♦ to establish complaints committees from amongst its members to receive and investigate complaints about justices of the peace, and decide upon dispositions under section 11(15);
- ♦ to hold hearings under section 11.1 when hearings are ordered by complaints committees pursuant to 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. If a person believes that a justice of the peace made an error in assessing evidence or in making a decision on any of the issues, the proper way to proceed is through other legal remedies before the courts, such as an appeal.



Under section 10(1) of the *Justices of the Peace Act*, the Review Council may establish rules of procedure for complaints committees and for hearing panels and the Review Council must make the rules available to the public. The Review Council has established Procedures containing rules for the complaints process which are posted on its website at the link for “Policies and Procedures” at www.ontariocourts.on.ca/jprc/en/policy/procedure.

During 2010, the Council continued to refine and develop its Procedures and policies. Having considered the customer service standard requirements that came into effect under the *Accessibility for Ontarians with Disabilities Act* (AODA) on January 1, 2010, the Council established an Accessibility and Accommodations of Disabilities Policy – Access to Services. This Policy reflects the Council’s commitment to providing accommodation for persons who have needs related to disability to ensure access for them to the Council’s services, unless to do so would cause undue hardship to the person responsible for accommodating. The Policy sets out a process for persons to inform the Registrar about situations where accommodation is needed in order to access the complaints process. The policy is included in this Report at Appendix D and is also posted on the Council’s website under the link for “Policies and Procedure” at www.ontariocourts.on.ca/jprc/en/policy/accessibility. Staff in the Council’s office also completed training on customer service and accessibility.

To improve the process for hearings under section 11.1 of the *Justices of the Peace Act*, the Council amended its Procedures to add a requirement that Agreed Statements of Fact must generally be submitted at least ten days in advance of the hearing.

The Council also amended its Procedures to clarify aspects of the stage in the complaints process when a justice of the peace may be invited to respond to the complaint. In some cases, a complaints committee may determine that an appropriate step in an investigation is to invite the justice of the peace to provide a response to the complaint. The procedural amendments clarified that the justice of the peace who is invited to respond to a complaint is not required to respond. As well, the Council adopted wording in its correspondence to justices of the peace that includes the range of dispositions that may be determined under the *Act* and that explains to the justice of the peace how any response may be used in the complaints process. For example, the response will be considered by the complaints committee in making its decision on the appropriate disposition.

Recognizing the importance that the complaints process must be perceived to be fair and objective, the Council changed its practice to require that counsel who have been retained as investigating counsel on a file may not be retained as Presenting Counsel for any hearing ordered for that same complaint.

A copy of the Council’s current procedures for the complaints process that incorporates the amendments made during 2010 is posted on the Review Council’s website under the link “Policies and Procedures” at www.ontariocourts.on.ca/jprc/en/policy/procedure.

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 establish, 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. In 2007, 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 Co-ordinator of Justices of the Peace as Chair (*ex officio*) and justices of the peace nominated by the Associate Chief Justice Co-ordinator of Justices of the Peace and by the Association of Justices of the Peace of Ontario. The continuing education plan was revised and approved by the Justices of the Peace Review Council on November 28, 2008. A copy of the continuing education plan can be found on the Council's website under the link "Education Plan" at www.ontariocourts.on.ca/jprc/en/.

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 a plan for bringing the standards into effect and must implement the standards and plan when they have been reviewed and approved by the Review Council.

The *Principles of Judicial Office for Justices of the Peace of the Ontario Court of Justice* were approved by the Justices of the Peace Review Council on December 7, 2007. The *Principles* set out standards of excellence and integrity to which justices of the peace subscribe. These principles are not exhaustive. 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 their conduct generally. The principles are designed to be advisory in nature and are not directly related to any specific disciplinary process.

A copy of the *Principles of Judicial Office for Justices of the Peace of the Ontario Court of Justice* is included as Appendix C in this Annual Report and can be found on the Council's website under the link for "Principles of Judicial Office" at: www.ontariocourts.on.ca/jprc/en/.

7. EXTRA-REMUNERATIVE WORK

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. In 1997, the former Justices of the Peace Review Council approved a policy regarding extra-remunerative work in which justices of the peace may engage. On November 23, 2007, the newly constituted Review Council approved the policy regarding other remunerative work.

Applications received from justices of the peace to engage in other remunerative work are considered in accordance with the Council's policy. The policy applies to all justices of the peace, full-time and part-time and *per diem*. The policy sets out criteria that are used in assessing applications including:

- ◆ 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.

In 2010, the Council determined that in considering applications to engage in extra-remunerative work, it would look at two aspects in relation to remuneration associated with the work. Firstly, the Council considers whether the work gives rise to any remuneration to the applicant justice of the peace. Secondly, the Council considers that a justice of the peace is engaged in extra-remunerative work when that justice of the peace is a party to someone else's remunerative work. Once the Council has established whether there is any remuneration, the policy and criteria set out in the Council's extra-remunerative policy are considered. *The Policy of the Justices of the Peace Review Council Re Extra-Remunerative Work* was amended to reflect the Council's decision.

As noted above, the *Policy Re Extra-Remunerative Work* states that one criterion to be considered by the Council in considering applications is 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 (paragraph 6(c) of the *Policy Re Extra-Remunerative Work*). In 2010, the Council considered how that criterion should be applied and determined that



it must be understood in the context of the public policy encapsulated in the legislative framework set out in the *Justices of the Peace Act* R.S.O. 1990, c. J.4, as amended and, in particular, in view of the amendments that resulted from the *Access to Justice Act*, 2006, S.O. 2006, c. 21. The Council noted that the legislative amendments brought about a comprehensive reform intended to strengthen public confidence in a professional bench and in the justice system.

Having carefully considered the public policy underlying the current legislative framework, the objectives of the amendments underlying the *Access to Justice Act*, 2006, and the *Principles of Judicial Office of Justices of the Peace of the Ontario Court of Justice*, the Review Council determined that it would in general be unseemly for full-time presiding justices of the peace to be engaged in commercial extra-remunerative work. The *Policy Re Extra-Remunerative Work* was amended to reflect the Council's decision.

The Review Council has approved some applications to extra-remunerative work by full-time presiding justices of the peace on an exceptional basis in limited circumstances where the activity was primarily non-commercial and had other intrinsic value from an educational, patriotic, religious or creative standpoint. In accordance with the Council's policy and procedure, an applicant who seeks approval to engage in commercial activity must address the issue of why the application for extra-remunerative work should be approved as an exception to the general policy that full-time presiding justices of the peace should not engage in extra-remunerative work that is commercial in nature.

The *Policy on Extra-Remunerative Work* that reflects the decisions of the Council during 2010 is included as Appendix B in this Annual Report. The most recent version is posted on the Review Council's website under the link "Policies and Procedures" at: www.ontariocourts.on.ca/jprc/en/policy/remunerative.

Summary of Extra-Remunerative Files Closed in 2010

During 2010, the Review Council completed its consideration of eight applications that were carried over from 2009. In addition, in 2010 the Review Council received six new applications for approval to engage in extra-remunerative work, for a total of 14 open files. During the year, the Council approved eight of those 14 applications contingent upon conditions. Before the Council made a decision on two applications, those two applicants discontinued their engagement in extra-remunerative work and those files were closed. The Council did not approve of three applications in which the Council determined that the extra-remunerative work was commercial activity and the Council was not satisfied that engaging in such work should be approved as an exception to the general policy that full-time presiding justices of



the peace should not engage in extra-remunerative work that is commercial in nature. One of the applications received in 2010 was carried into 2011 for the Council to receive further information and consider it further.

Case summaries for the extra-remunerative files that were completed in 2010 can be found at Appendix B in this Annual Report.

8. COMMUNICATIONS

The website of the Justices of the Peace Review Council includes information about the Review Council, including the most current version of the policies and procedures, as well as information about hearings that are underway or that have been completed. Copies of “Judicial Inquiry Proceedings” held under the former legislation and “Reasons for Decision” from any public hearings held under the current legislation are posted on the website when released. Each Annual Report of the Council is also available on the website after it has been tabled in the legislature by the Attorney General.

The address of the Review Council’s website is: www.ontariocourts.on.ca/jprc/en.

A brochure to inform the public about the process to make complaints about judges and justices of the peace is available in hard copy at courthouses or by contacting the Council’s office, and electronically on the website at www.ontariocourts.on.ca/jprc/en/complaints. The brochure, “Do You Have a Complaint?” provides information on what a justice of the peace does, on how to tell whether the presiding judicial officer is a judge or a justice of the peace, and on how to make a complaint about conduct.

9. ACCOMMODATION OF NEEDS ARISING FROM A DISABILITY

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 Council under section 5.2 of the *Justices of the Peace Act* for an order that such needs be accommodated. The current procedure that governs such applications is included in the Council’s Procedure which is posted on the website at: www.ontariocourts.on.ca/jprc/en/policy/procedure.

During 2010, one application was considered by the Council. The nature of the accommodation requested was found to be outside of the jurisdiction of the Council. Pursuant to section 5.2, the *Justices of the Peace Act* requires the Review Council to determine whether accommodation can be provided for a justice of the peace to perform his or her essential duties of the office.



The Council noted that the legislation does not contemplate an order by the Review Council that a justice of the peace should be accommodated by assigning him or her to only a portion of the essential duties of the office of a justice of the peace.

The role of the Council must be viewed within the legislative framework of the *Justices of the Peace Act* and the legislated authority of the Regional Senior Justice under the direction of the Chief Justice of the Ontario Court of Justice pursuant to section 15(1) to direct and supervise the sittings of the justices of the peace in his or her region and the assignment of their judicial duties. The Supreme Court of Canada has recognized that one characteristic fundamental to judicial independence is institutional independence with respect to matters of administration bearing directly on the exercise of the judicial function: *Valente v The Queen*, [1985] 2 S.C.R. 673 at 686-87; 1985 CanLII 25 (SCC). Judicial control over such matters as assignment of judges and justices of the peace, sittings of the court and court lists has been considered the essential or minimum requirement for institutional independence.

While the Council cannot assume the responsibility of assignment of judicial duties, the Council can consider whether, as a result of a disability, a justice of the peace is able to perform the essential duties of the office if his or her needs are accommodated.

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.

10. OVERVIEW OF THE COMPLAINTS PROCESS

What initiates a review by the Review Council?

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



Does the Council have the legal authority to consider the complaint?

The Review Council has a legislative mandate to review complaints about the **conduct** of justices of the peace. The Council has no authority to review **decisions** of justices of the peace to determine whether there were any errors in how the issues were determined or how conclusions were drawn. If a party involved in a court case thinks that a justice of the peace reached the wrong decision in the case, he or she has legal remedies through the courts. Only a court can change the original decision of a justice of the peace.

All correspondence is reviewed to determine whether or not a complaint is within the jurisdiction of the Review Council. In those cases where the complaint may be 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 by a justice of the peace, 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 through the courts.

If an individual is complaining about his/her lawyer or a Crown Attorney, or another office, the complainant is generally referred to the appropriate agency or authorities.

What happens in the 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 about justices of the peace. If a complaint is ordered to a public hearing, certain provisions of the *Statutory Powers Procedure Act* also apply. The complaints procedure is outlined below. The current procedures are posted on the Council's website at: www.ontariocourts.on.ca/jprc/en/policy/.

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. If the complaint raised allegations of conduct about a justice of the peace who is presiding over a court proceeding, the Review Council will not generally commence an investigation until that court proceeding and any appeal or other related legal proceedings have been completed. This will ensure that any investigation by the Council is not interfering or perceived to be interfering with any on-going court matters.



If there is no ongoing court proceeding, a complaints committee of the Review Council will be assigned 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.

Except for hearings ordered under section 11(15)(c) of the *Justices of the Peace Act* to consider complaints about specific justices of the peace, meetings and proceedings of the Review Council are not held in public. Section 11(8) of the *Act* requires that investigations by the Review Council must be conducted in private. The legislative framework recognizes the need to safeguard judicial independence while simultaneously ensuring judicial accountability and public confidence in the administration of justice.

If the complaint arose from a court proceeding, usually a transcript of the court hearing is ordered to be reviewed by the members of the complaints committee. An audio recording, if available, may also be ordered and reviewed. In some cases, the committee may find that it is necessary to conduct further investigation in the form of having witnesses interviewed. An external lawyer may be retained, pursuant to section 8(15) of the *Act*, on behalf of the Review Council to interview witnesses and provide a report to the investigating complaints committee.

The complaints committee will determine whether or not a response to the complaint should be invited from the justice of the peace in question. If a response is invited from the justice of the peace, the letter sent from the Review Council inviting a response will enclose a copy of the complaint, the transcript (if any) and all of the relevant materials considered by the committee. The justice of the peace may seek independent legal advice or assistance before responding. The justice of the peace will also be invited to listen to the audio recording, if it has been reviewed by the committee.

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 investigating complaints committee will consider whether the allegation(s) warrants making an interim recommendation pending the final disposition of a complaint. Under section 11(11) of the *Act*, an interim recommendation for non-assignment of work or re-assignment to work at another court location may be made to the Regional Senior Justice appointed for the region to which the justice of the peace is assigned. The Regional Senior Justice may decide not to assign work to the justice of the peace until the final disposition (but he or she will continue to be paid); or, with the consent of the justice of the peace, may re-assign him or her to another location until the disposition of the complaint. It is within the discretion of the Regional Senior Justice as to whether he or she decides to act upon the recommendation from a complaints committee.

The Review Council has approved the following criteria in the procedures to guide complaints committees 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 work or re-assigning a justice of the peace to work at a different court location, it may give the justice of the peace an opportunity to be heard on that issue in writing before making its decision. 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.

Of the complaint files that were completed by the Council during 2010, complaints committees made recommendations that two justices of the peace not be assigned work pending the completion of the complaints process and a final disposition of the complaints. The Regional Senior Justices agreed with the recommendation in both instances. In both cases, the Regional



Senior Justices were already not assigning work to the justices of the peace who were the subject of the complaints, and they affirmed those decisions after receiving the recommendations of the complaints committees.

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.

Notification of Disposition

After the complaints process is completed, the Review Council communicates its decision to the person who made the complaint and, in most cases, to the justice of the peace. A justice of the peace may waive notice of the complaint if it is being dismissed and no response was invited by the Council. In accordance with the Procedures of the Review Council, if the Review Council decides to dismiss the complaint, it will provide brief reasons.

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.



The legislation provides for judicial members to be appointed as temporary members of the Council to ensure that the three members of the hearing panel have not been involved in earlier stages of reviewing the complaint. 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*.

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.

The Review Council engages legal counsel, called Presenting Counsel, for the purposes of preparing and presenting the case about 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 to act as Presenting Counsel is not to seek a particular order against a justice of the peace, but to see that the complaint about 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 a hearing.

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.

Public Hearing Unless Ordered Private

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 thirty 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.

Recommendation of Compensation for Legal Costs

When the Justices of the Peace Review Council has dealt with a complaint, section 11(16) of the *Justices of the Peace Act* makes provision for a justice of the peace to request that a complaints committee recommend to the Attorney General that he or she should be compensated for all or part of the costs of legal services incurred in connection with the investigation. Such a request would generally be submitted to the Council after the complaints process has been completed, along with a copy of the statement of account of legal services to support the request. Similarly, section 11.1(17) allows a hearing panel to recommend compensation for all or part of the cost of legal services incurred in connection with a hearing.

During 2010, the Council reflected upon the broader fiscal environment, noting that the use of public dollars requires accountability and containment. The members agreed that it is essential that the amount of compensation for legal costs recommended pursuant to sections 11(16), 11(17), 11.1(17) and 11.1(18) of the *Justices of the Peace Act* for the cost of legal services incurred in connection with an investigation or a hearing must not exceed that maximum rate normally paid by the Government of Ontario for similar services. The members also agreed that there should be consistency in the approach taken to requests for compensation for legal services incurred in connection with an investigation or a hearing.

In 2010, five justices of the peace requested compensation for legal expenses incurred during the complaints process. In all of those cases, a recommendation was made by the complaints committee or the hearing panel to the Attorney General that the justice of the peace be compensated for all or part of the cost of legal services incurred in connection with the investigation or hearing of the complaints.

Legislation

The current legislative provisions of the *Justices of the Peace Act* concerning the Justices of the Peace Review Council are available on the government's e-laws website at www.e-laws.gov.on.ca. The website contains a database of Ontario's current and historical statutes and regulations.

11. SUMMARY OF COMPLAINTS CLOSED IN 2010

Overview

The Justices of the Peace Review Council carried forward 36 complaints to 2010 from previous years. During 2010, 61 new complaint files were opened with the Review Council. Including cases carried into 2010 from previous years, the total number of files open during 2010 was 97. Of the 97 open files in 2009, 60 files were completed and closed before December 31, 2010, including 27 that were opened in 2010.

Of the 36 files carried over into 2010, 33 were from 2009, two were from 2008, and one complaint was the last complaint to be addressed under the former *Justices of the Peace Act*. The former legislation provided for the Attorney General to order a public inquiry into a complaint on the recommendation of the former Justices of the Peace Review Council. (This was unlike the current legislation which provides for a complaints committee to order a hearing, and for a hearing panel composed of Review Council members to conduct the hearing.) In that case, a public inquiry was held under section 11(7) of the former *Justices of the Peace Act* in relation to Justice of the Peace Vernon A. Chang Alloy. The inquiry was completed in 2010 and the complaint was dismissed by the Commissioner who found that the standard of evidence required was “clear and convincing, based on cogent evidence accepted by the tribunal” and that the evidence in that case did not meet that standard. The Judicial Inquiry Report is posted on the Review Council’s website under the link “Judicial Inquiry Reports” at www.ontariocourts.on.ca/jprc/en/reports/2010/alloy.

Thirty-seven complaints were still ongoing at the end of 2010 and were carried over into 2011. Of the 37 files carried over into 2011, 34 were from 2010 and three were from 2009.

Dispositions

As indicated earlier, section 11(15) of the *Justices of the Peace Act* authorizes a complaints committee 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.



Of the 59 files addressed and closed under the current legislation, 10 complaints were dismissed by the Review Council under section 11(15)(a) on the basis that they were found to be outside of 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 the subject of other legal remedies, such as an appeal, the absence of any alleged misconduct meant that the complaints were outside of the jurisdiction of the Review Council.

In one case that was closed, the Council lost jurisdiction over the complaint. One file was closed because investigation confirmed that the complainant had incorrectly identified the justice of the peace. The complaint was subsequently investigated in relation to the correctly identified justice of the peace.

Other complaints included allegations such as improper behaviour (rudeness, belligerence, etc.), lack of impartiality, conflict of interest or some other form of bias.

Twenty-nine 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 or the behaviour did not amount to the level of misconduct.

In 17 cases, the Review Council provided advice to justice of the peace under section 11(15)(b) of the *Act*. In seven cases, the justice of the peace was sent a letter of advice concerning issues raised in the complaints, and in 10 cases the justices of the peace attended before the complaints committee to receive advice in person concerning the issues raised in the complaints.

One complaint was referred to the Chief Justice of the Ontario Court of Justice pursuant to section 11(15)(d) of the *Act* during 2010. A complaints committee will refer a complaint to the Chief Justice of the Ontario Court of Justice in circumstances where the committee is of the opinion that the conduct complained of does not warrant another disposition and that there is some merit to the complaint. As well, the committee is of the view that a referral to the Chief Justice is a suitable means of informing the justice of the peace that his or her course of conduct was not appropriate in the circumstances that led to the complaint. The committee may recommend imposing conditions on its referral to the Chief Justice where the committee agrees that there is some course of action or remedial training of which the justice of the peace could take advantage and the justice of the peace agrees.

Following the meeting with the justice of the peace, the Chief Justice provided a written report to the committee. After reviewing the Chief Justice's report, the committee noted that the matter had been appropriately addressed and the file was closed.

No public hearings commenced in 2010. A public hearing will be ordered pursuant to section 11(15)(c) where the complaints committee is of the opinion that there has been an allegation

of judicial misconduct which the majority of the members of the committee believes has a basis in fact and which, if believed by the finder of fact, could result in a finding of judicial misconduct. When a hearing is ongoing, updates on the status of the case are posted on the Review Council's website. At the end of a hearing, the decision can be found on the website under the link "Public Hearings Decisions" at www.ontariocourts.on.ca/jprc/en/hearings/.

Types of Cases

Of the 60 complaint files that were completed and closed, 30 arose from events during provincial offences proceedings, 13 arose from matters in Intake Court, 11 arose from proceedings under the *Criminal Code* (three from bail court, one from set-date court, five from pre-enquêtes and two from peace bond applications) and six related to conduct outside of court.

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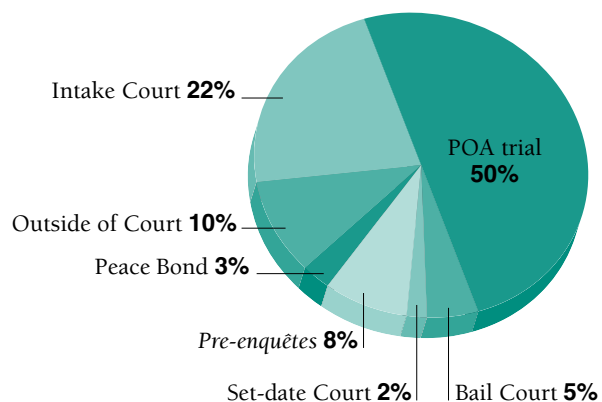
Case summaries for each complaint follow in Appendix A of this Report.

SUMMARY OF COMPLAINTS CLOSED IN 2010

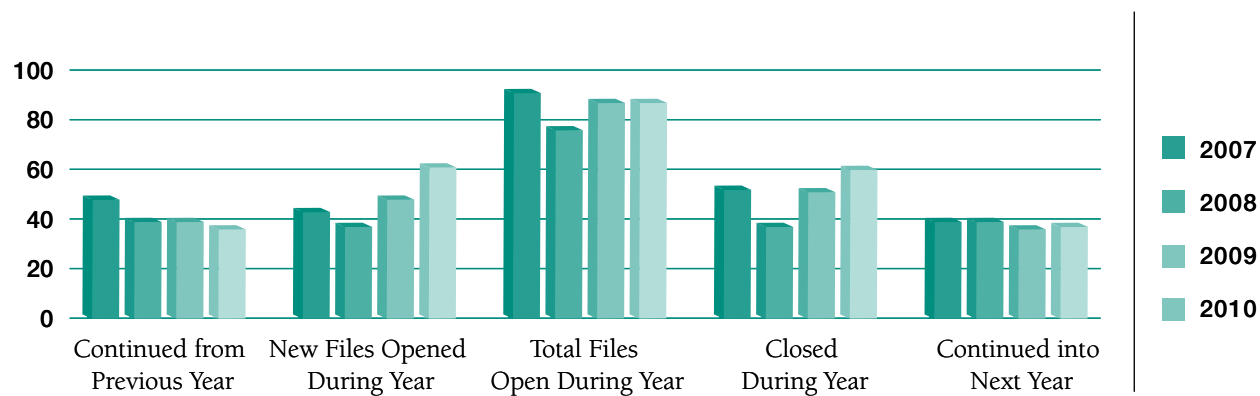
DISPOSITION OF COMPLAINTS	
Cases carried into 2010	36
New complaint files opened	61
Total files open during the year	97
Total files closed during the year	60
COMPLAINTS UNDER FORMER LEGISLATION	
Section 12 Public Inquiry (former Act) - Dismissed	1
DISPOSITIONS UNDER CURRENT LEGISLATION	
Dismissed as out of jurisdiction	10
Dismissed as not substantiated or did not amount to misconduct	29
Advice Letter	7
Advice - In-person	10
Referred to Chief Justice	1
Loss of jurisdiction	1
Closed file (incorrect Justice of the Peace named)	1
TOTAL CLOSED IN 2010	60
Cases continued into 2011	37

TYPES OF CASES CLOSED IN 2010

TYPES OF CASES	# OF COMPLAINTS
Provincial Offences Court	30
Intake Court	13
Bail Court	3
Set-date Court	1
Pre-enquêtes	5
Peace Bond Applications	2
Out of Court Conduct	6
TOTAL	60



CASELOAD IN CALENDAR YEARS



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Complaint 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. 21-001/10 was the first file opened in the 21st complaint year and was opened in calendar year 2010).

Except where a public hearing was ordered, details of each complaint for which the complaints process was completed, with identifying information removed as required by the legislation, are provided below. Decisions on public hearings are provided in other appendices in this Annual Report.

CASE NO. 19-019/08

The complainant was charged for stopping on the shoulder of the road and elected to have a trial. The complainant alleged that the presiding justice of the peace demonstrated prejudice against her and denied her a fair hearing. According to the complainant, His Worship had decided her case before hearing the evidence and had remarked that she was simply presenting excuses to the court for stopping on the shoulder of the roadway. The complainant alleged that His Worship commented that he could cite a “100 cases or more where he has heard these ‘excuses’”. The complainant indicated that she had filed an appeal of the decision and ordered and received the transcript of her trial. Upon review of the transcript, the complainant indicated that the record was incomplete and inaccurate, as some of His Worship’s comments were not reflected.

The investigating complaints committee requested and reviewed the transcript and audio recording of the court proceeding. The committee also invited and reviewed a response from His Worship to the concerns expressed by the complainant. In his response, His Worship included a copy of the transcript of the complainant’s appeal. His Worship limited his response by commenting that he would allow the transcripts of the trial and the appeal proceeding to “speak for themselves”.

After reviewing his response, the committee was concerned that His Worship did not appear to appreciate the concerns apparent in the allegations of misconduct by the complainant. The committee concluded that the manner and tone in which His Worship had conducted himself needed to be brought to his attention through attending before the complaints committee to receive its advice. Pursuant to section 11(15)(b) of the *Justices of the Peace Act*, His Worship was invited and attended before the complaints committee for that purpose.

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It was the committee's advice that His Worship reflect upon and reconsider his conduct with respect to the proceeding, and perhaps similar circumstances, with a view to improving his ability to conduct such matters with the appropriate level of impartiality, courtesy and decorum. The committee encouraged His Worship to refrain from becoming engaged in what could be perceived as adversarial commentary or questioning. The committee also encouraged His Worship to consider carefully before making remarks or when choosing his words as to how those words or remarks could be perceived by the recipient or others.

The committee reminded His Worship of the preamble to the *Principles of Judicial Office of Justices of the Peace of the Ontario Court of Justice* that have been approved by the Justices of the Peace Review Council:

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.

In response to the committee's advice, His Worship acknowledged that he appreciated the perceptions left with the complainant and thanked the committee for its advice and the opportunity to reflect on the matter. The complaints committee was encouraged by the attitude and sincere consideration that His Worship exhibited in his review of this complaint with the committee.

The complaints process through the Review Council is remedial in nature and through the review of one's conduct, improvements are made as to how individuals are treated and situations handled in the future. Having provided its advice, the complaints committee closed the complaint file in this matter and thanked the complainant for bringing this matter to the attention of the Review Council.

CASE NO. 19-031/08

A Regional Senior Justice of the Ontario Court of Justice filed a complaint in relation to a justice of the peace who had previously been granted a leave of absence to pursue full-time employment but failed to have his leave of absence extended. After many years, the justice of the peace sought to be assigned as a justice of the peace. The complaints committee found that in the circumstances of the case, there had been an abandonment by the justice of the peace from his position, and he had thereby ceased to be a justice of the peace.

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The Committee determined that it had no jurisdiction to make an order under section 11(15) of the *Justices of the Peace Act*. The file was administratively closed. The justice of the peace was advised that if he wished to become a justice of the peace again, he would need to re-apply. He was also referred to the website of the Justices of the Peace Appointments Advisory Committee for further information on the application process.

CASE NO. 20-008/09

A young man attended the Intake Court accompanied by his mother for the purpose of requesting a re-opening of a conviction. Both the son and mother filed letters of complaint regarding the conduct of the subject justice of the peace. According to the complainants, the son received a ticket for a “prohibited left turn” and indicated in his letter that shortly after receiving the ticket, he faxed a traffic ticket agency to assist him in fighting this charge. To his surprise, a notice of conviction was received in the mail so he contacted the traffic ticket agency to find out what happened. He was informed that his fax was never received by the agency. The agency instructed him to go to the court and request a re-opening.

The complainants attended for a re-opening before the subject justice of the peace. According to the complainants, they were unfamiliar to court procedures and with what to expect in having the matter considered for a re-opening. On attending, the son greeted His Worship and extended his hand to shake His Worship’s hand. In reply, His Worship allegedly commented “I do not shake hands with criminals”. The son indicated that he stated “I am not a criminal.” He alleged that His Worship responded, “I will prove you wrong”. The complainant alleged that His Worship shocked and embarrassed him, and made him so nervous that he could not express himself to explain his case. Aside from this exchange, the complainants both perceived His Worship to be interruptive, intimidating and they perceived that he seemed to have decided the re-opening before hearing the application.

The investigating complaints committee reviewed both letters of complaint and requested and reviewed the transcript and audio recording of the complainants’ appearance before the subject justice of the peace. After reviewing the court record, the complaints committee invited His Worship to respond to the concerns expressed by the complainant.

The complaints committee found that the court record confirmed that His Worship did comment that he doesn’t shake hands with criminals. In the complaints committee’s opinion, the comment was unprofessional. Although not shaking hands with individuals is a general policy or best practice for sanitary or other reasons, making reference to criminals was deemed insensitive and inappropriate by the committee. The committee understood how the comments

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of His Worship could have been perceived as offensive, intimidating and embarrassing for the young complainant and his mother. Aside from His Worship's comments, the committee concluded that His Worship's attitude and demeanour was interruptive and dismissive in not allowing the complainants to speak and ask questions, particularly having regard to the fact that they were self-represented. In general, the committee concluded that His Worship's conduct fell short of that expected of a judicial officer.

After careful review of His Worship's response, the committee noted that His Worship considered the complaint and his conduct very seriously. In responding, His Worship expressed his deep regret and apologized to the Council for his behaviour. His Worship also expressed his desire to extend his sincere regrets to the complainants for his remarks, which he acknowledged were insensitive and reflected an unfortunate lapse of judgment. The complaints process is a remedial one. The complaints committee was satisfied with His Worship's response and level of reflection and concluded that no further action was needed to bring the concerns about his conduct to his attention or to mitigate against future behavior of this type. The committee also thanked the complainants for bringing this matter to the attention of the Review Council and ultimately to the attention of His Worship.

CASE NO. 20-010/09

The complainant was an employee of a large public organization. According to the complainant, an official in the organization had pursued, through government bodies with investigative powers, allegations that the complainant had assaulted him. The complainant advised that all of these investigations resulted in the allegation of assault being determined to be unfounded. According to the complainant, the official continued his harassment of him by swearing a private criminal information before the subject justice of the peace.

The complainant was of the view that His Worship acted in a conflict of interest in being involved in the issuance of the private information against him. According to the complainant, His Worship had been an official in the same organization in the same community as the official prior to His Worship's appointment to the bench and as such, His Worship and the official who was the informant on the criminal information were long-time colleagues. In addition, he alleged that His Worship knew the complainant through their joint work matters. Considering these relationships, the complainant was of the view that His Worship should not have been involved in the issuance of the private information application and should have referred the informant to another justice of the peace. Aside of the conflict of interest allegation, the complainant alleged the possibility of an abuse of his judicial position by the justice of the peace in doing a favour for a friend.

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The complainant indicated that the charges were ultimately withdrawn by the Crown Attorney. Although pleased with the outcome, the complainant was asking the Council to investigate “to determine if the inappropriate actions and involvement of His Worship were legitimate, professional and within the guidelines of the justice system”.

The complaints committee reviewed the letter of complaint and requested and reviewed the transcripts and audio recordings of four separate proceedings before the subject justice of the peace in relation to the informant’s criminal information and the resulting charge of assault. The complaints committee also invited and reviewed a response from the subject justice of the peace to the concerns raised by the complainant.

After a thorough review of the record of each appearance and His Worship’s response, the complaints committee concluded that there was no misconduct on the part of His Worship in his involvement of this matter. Although the committee could understand the complainant’s perception of bias between His Worship and the informant, the committee did not find any demonstration of bias or favouritism in the transcripts. His Worship noted in his response, and it was reflected on the court record, that he sought the assistance of another justice of the peace to review the private complaint package and, as such, he played no part himself in the decision to advance the matter to a *pre-enquête*. His Worship did have the informant swear to the information before him but only after another justice of the peace had already determined that the materials met the requirements of the testatutory provisions under section 507.1 of the *Criminal Code of Canada*. The committee noted from the record that the Crown Attorney, after a series of adjournments, asked that the information against the complainant be withdrawn. His Worship granted the request and endorsed the withdrawal of the information. The committee understood how the complainant may have drawn the conclusion that His Worship was in a conflict of interest situation. However, after careful review, the committee found that there was no evidence to support this position. In fact, His Worship appeared to have been alive to the issue of a possible conflict from the onset and he acted with a heightened sense of awareness in dealing with this matter.

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

CASE NO. 20-011/09

The complainant was a paralegal who attended before the subject justice of the peace to represent a client on a *Provincial Offences Act* matter. The complainant advised the court that he was seeking an adjournment on the basis that he had not received disclosure, despite repeated requests made to the Crown Attorney. On the record, the Crown Attorney suggested that the complainant either had the disclosure or failed to display due diligence in his requests. She also

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expressed interest in seeking costs against the complainant. According to the complainant, His Worship granted his request for an adjournment but did so after entertaining the submissions from the prosecution and because the witnesses in the trial consented to return and not due to the fact that disclosure had not been provided.

Following this attendance, the complainant returned home to retrieve evidence of his “due diligence” in making disclosure requests. He re-attended before the court to provide this additional information on the record. He took this action because the Crown Attorney had expressed interest in seeking costs against him, his diligence had been “indirectly challenged” and he wished to correct a previous statement that he made to the court regarding the timing of his last disclosure request. The complainant felt it was important that the record be complete and accurate.

The complainant alleged that when he re-attended and began to address the court, the Crown Attorney blurted out “court adjourned”, and when the complainant tried to continue with his submissions, the Crown Attorney told him that he had no right to call the list. The complainant alleged that His Worship said, “the Crown asked to adjourn court and I agreed” even though, according to the complainant, His Worship had not expressed on the record any intention to adjourn prior to this comment. Further, he alleged that when he pointed out that it would be in the interests of justice to hear his comments, His Worship allegedly raised his voice and said something to the effect, “No, it’s over”, and declined to go back on the record for the complainant to express his objections.

The complainant was of the view that in the circumstances there was no reason why the Court could not have allowed the record to reflect the comments he wished to make. He expressed the concern that the actions of His Worship in not taking his comments gave “the appearance that justice was not done”. The complainant enclosed a copy of the transcript of his re-attendance before His Worship that day.

The complaints committee reviewed the letter of complaint and attached transcript. The committee also requested and reviewed the transcript of the initial court proceeding, as well as the audio recordings of both appearances. The committee observed that the audio recording did not support the allegation that His Worship raised his voice. However, the audio recording did show that His Worship’s manner in adjourning the court, on the pronouncement of the prosecutor, appeared as dismissive and arbitrary in dealing with the complainant’s request to go back on the record. The committee was concerned that His Worship did not allow the complainant to address the court. The committee noted that all judicial officers have a duty to ensure the court record is complete and accurate. On this occasion, from the information available to the committee, it appeared that it would have been prudent to permit the complainant, at a minimum, to be heard as to his request to correct the record.

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With respect to the complainant's allegation that the Crown Attorney was the first person to state that court was adjourned, the committee found that the transcript supported the allegation. The committee noted that the courtroom is subject to the direction and control of the justice of the peace. He or she must always be mindful of that responsibility and that this is clear to the parties and the public.

The committee invited a response to the allegations from His Worship. The justice of the peace provided no response other than referring the committee to the transcripts.

Without the benefit of further information and explanation from the justice of the peace, the complaints committee considered its disposition. After careful consideration of the allegations and the court record, the committee concluded that an attendance by His Worship before the complaints committee to receive advice was a suitable and appropriate means of informing His Worship that his conduct and consideration of the complainant during the subject proceeding fell short of the standards expected of judicial officers. Pursuant to section 11(15)(b) of the *Justices of the Peace Act*, the committee invited His Worship to attend before the complaints committee to receive advice.

The committee reminded His Worship of the responsibilities of a justice of the peace, and encouraged His Worship to reconsider his handling of this situation, and perhaps other similar occasions, with the view of improving his ability to conduct such matters professionally, patiently and with due consideration. In the administration of justice, it is important not only that justice is done but also that justice is seen to be done.

The committee observed that His Worship had reflected upon his conduct toward the complainant. Having reviewed the complaint with His Worship and having provided its advice, the complaints committee was satisfied that His Worship fully understood and appreciated the complainant's concerns about his conduct. The complaints process is a remedial one. The committee noted that His Worship had gained insight to better deal with similar situations in the future. The committee closed the complaint file in this matter.

CASE NO. 20-012/09

The complainant filed a complaint about the subject justice of the peace in relation to his trial for a traffic violation. According to the complainant, he pled not guilty and was self-represented at his trial. He alleged that His Worship "[threw] away the procedure book and conducted the court in a way I can only describe as 'unlawful'". He indicated that His Worship used a condescending tone of voice for the purpose of humiliating him in order to set an example for others. The complainant further indicated that his evidence was "thrown in my face, literally, by the

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judge at the end of the trial”. According to the complainant, he was unable to “continue to pursue my appeal” because His Worship imposed a \$98 expense to appeal a \$235 judgment.

The investigating complaints committee requested and reviewed the transcript and audio recording of the court appearance. Although the record did not support the complainant’s allegations of procedural unlawfulness or that the complainant’s evidence was literally thrown in his face, the committee had concerns about the manner in which His Worship conducted himself. The committee invited and reviewed a response from His Worship. In response to the complaint allegations, His Worship responded by commenting on legal aspects of the case. His Worship also commented on positive feedback that he had received from other persons appearing before him. After reviewing His Worship’s response, the committee was concerned that the allegations relating to his conduct were not duly considered or appreciated.

From its review of the court record, the committee found that His Worship had “entered the arena” during this trial. The committee noted that His Worship’s questions and comments appeared to be designed to be frustrating, dismissive and devaluing of the complainant’s evidence. The committee could understand from its review of the record why the complainant perceived that that His Worship was attempting to humiliate him in order to set an example for others.

As its disposition, His Worship was invited to attend for advice pursuant to section 11(15)(b) of the *Act*. His Worship attended before the complaints committee for the purpose of receiving advice.

It was the committee’s advice that His Worship reflect upon and reconsider his conduct with respect to the complainant’s trial, and perhaps similar circumstances, with a view to improving his ability to conduct such matters with the appropriate level of impartiality, courtesy and decorum. The committee encouraged His Worship to refrain from becoming engaged in what could be perceived as adversarial commentary or questioning.

In a sincere response to the committee’s advice, His Worship acknowledged that he appreciated the perceptions left with the complainant and recognized on reflection that on this occasion he entered the fray. His Worship thanked the committee for its advice and the opportunity to reflect on the matter.

The complaints process through the Review Council is remedial in nature and through the review of one’s conduct, improvements are made as to how individuals are treated and situations handled in the future. Having provided its advice, the complaints committee closed the complaint file in this matter and thanked the complainant for bringing his concerns to the attention of the Council.

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CASE NO. 20-013/09

The complainant attended before the subject justice of the peace to seek a re-opening of his daughter's conviction. The complainant alleged that His Worship denied the re-opening because a Notice of Intention to Appear was not filed within 15 days. The complainant believed that around the time that he mentioned to His Worship that he would file an appeal, His Worship asked "do you want to resolve this today?" and then offered to reduce the charge and lower the penalty so it didn't impact on the daughter's demerit points. The complainant indicated that he "found this very odd since my understanding of the role of a justice is to only deal with the fine amount and time to pay". The complainant further indicated that he "found the pressure to accept a guilty plea at a reduced charge to be unprofessional conduct". In the end, the complainant advised His Worship that he "did not have any instructions to settle the matter today, I came for a re-opening for a chance to defend this charge".

The investigating complaints committee reviewed the letter of complaint and requested the transcript and audio recording of the complainant's appearance before the subject justice of the peace. Court Services advised that there was no recording of the complainant's attendance before His Worship so neither a transcript, nor a recording could be provided. The complaints committee invited and reviewed a response from His Worship to the concerns expressed by the complainant.

Without the benefit of an independent court record, the complaints committee was unable to make any findings as to the allegations about His Worship's conduct in this matter. Following its investigation, based on the information that was available, the committee determined that the circumstances warranted a letter of advice to the justice of the peace pursuant to section 11(15)(b) of the *Justices of the Peace Act*.

The committee's advice to His Worship emphasized the importance of having a proper court record made of all proceedings. A complete court record ensures that justice is not only done but seen to be done.

The committee also observed that there appeared to be a misunderstanding or miscommunication between the complainant and His Worship regarding the legal options available to him to pursue. The committee provided advice that, while it appreciated the demands upon a justice of the peace, regardless of how busy a court is, there is an obligation on every justice of the peace to take the requisite time to listen to individuals before him or her, to explain what the proceeding is about and/or what the jurisdiction of the justice is, so that they can properly understand the decision of the justice. This is particularly important if the individual before them is not legal counsel or represented by legal counsel.

Having provided its advice in writing to His Worship, the complaints committee has closed its file.

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CASE NO. 20-014/09

The complainant informed the Council that he was charged with speeding. At his first trial, he was found guilty and fined. He successfully appealed on the basis that the officer contradicted himself no less than five times. The complainant had a second trial, and his complaint was about the conduct of the justice of the peace during that trial. He alleged that during the second trial, His Worship stated that the first trial never happened, the officer's contradictory evidence was irrelevant, and the complainant was found guilty and fined.

The complainant alleged that:

- ♦ There is an onus on judges and justices of the peace to be fair. The trial before His Worship was not fair. His Worship showed bias towards a guilty finding. The complainant felt that, "I was there to be processed, not listened to." His Worship exhibited bias in two ways: firstly, by taking the officer's word over that of the complainant without any cogent evidence; and, by using generalizations such as agreeing with the objections of the Crown Attorney attorney to the complainant's line of questioning on the basis that, "people watch too much television".
- ♦ His Worship cared very little for what the complainant had to say or for the facts of the case and was only interested in finding him guilty.
- ♦ His Worship was demeaning, intolerant of the complainant's questions, and almost childish in his desire to ridicule him. He made statements that were snide and condescending, showing lack of control and outrage at the complainant's insolence at challenging the officers.

The complaints committee reviewed and considered the complaint, the transcript and the audiotape. The committee also invited and reviewed a response to the complaint from His Worship.

Following its investigation and careful consideration of all of the materials, the committee found that His Worship's conduct raised serious concerns. The transcript and the audiotape disclosed rude, sarcastic, bombastic demeanour on the part of His Worship, and that His Worship intervened to run the prosecution's case. Further, he interrupted the complainant/defendant frequently and refused to accept the argument that he gave in his defence and yet appeared to be incensed when the complainant interrupted him.

The committee noted that the complainant had also alleged that His Worship made errors in determining issues and in weighing evidence. The committee advised that if the complainant disagreed with how the justice of the peace determined these issues, the proper way for the complainant to proceed was through other legal remedies. Matters of law are outside of the jurisdiction of the Council.

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The complaints committee noted the *Principles of Judicial Office of Justices of the Peace of the Ontario Court of Justice* which state that justices of the peace must strive to be patient, dignified and courteous in performing their duties of judicial office and shall carry out their role with integrity, appropriate firmness and honour. The principles reflect the justice of the peace's unique role as exemplary and guardian of dignity of the court. A justice of the peace is expected to demonstrate proper decorum and courtesy to all parties in the courtroom, including self-represented litigants.

The committee also observed the importance, as expressed in the *Principles of Judicial Office*, of a justice of the peace being impartial and objective in the discharge of his duties. Because a justice of the peace's courtroom conduct symbolizes the law in action, a justice of the peace compromises the notion that the law is impartial and uniform in its application if he is seen to manifest favour or bias toward a party, including a police officer. Because of the pivotal role a justice of the peace plays in preserving the rule of law, his or her conduct must foster respect for him, for his decisions, and for the judiciary at large.

It appeared to the complaints committee of the Review Council that His Worship's conduct fell below the standard of conduct expected of justices of the peace in the courtroom, and in their interactions with members of the public, particularly with self-represented persons. The committee invited a response from the justice of the peace to the complaint.

After carefully considering the complaint, the response from the justice of the peace, and the results of the investigation, the complaints committee determined that the matter warranted a referral to the Chief Justice of the Ontario Court of Justice, pursuant to section 11(15)(d) of the *Justices of the Peace Act* for discussion.

Following her meeting with the justice of the peace, the Chief Justice reported back to the complaints committee. The committee noted that His Worship had expressed regret for his conduct during the complainant's trial. From its review of the report from the Chief Justice, the committee was satisfied that His Worship appreciated that as a judicial officer, he is expected to behave with dignity and restraint. The committee observed that His Worship had reflected upon his conduct in the courtroom, and was aware that on the day in question, he did not appear impartial and objective in the discharge of his duties and, as a result, he did not maintain the high standards of conduct to which justices of the peace are held. The committee also noted that His Worship had apologized for his conduct and confirmed his understanding that he should carry out his duties as a justice of the peace in a manner that upholds the high standards of the Ontario Court of Justice.

After the committee received and reviewed the report from the Chief Justice, the file was closed.

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CASE NO. 20-015/09

The complainant filed a complaint about an unidentified male justice of the peace in relation to trial on a by-law infraction. Based on the details of the time and location provided by the complainant of his court appearance, Court Services confirmed the identity of the justice of the peace who presided over the trial.

According to the complainant, he wished to “contest the charges because the ticket I received contained a number of defects”. The complainant alleged that, “When I brought these defects to the Justice’s attention, he became very aggressive and rude and threatened that if I raised any objections to the ticket, he would do something different, implying that he would have me arrested”. The complainant alleged that during the trial, His Worship spent the whole hearing nodding in an exaggerated manner at everything the officer was saying and ignoring the complainant. He alleged that His Worship overruled everything the complainant brought to his attention. The complainant indicated that he was appealing the decision and requested that His Worship’s conduct be investigated. The complainant was left with a negative impression of the administration of justice following his trial before the justice of the peace.

The investigating complaints committee reviewed the letter of complaint and requested and reviewed the transcript and audio recording of the complainant’s appearance before the justice of the peace. Following a review of the record, the complaints committee invited a response from His Worship to the concerns expressed by the complainant.

Having carefully considered his response, the record, and in particular the audio recording, the committee concluded that His Worship’s conduct was at times less than ideal in dealing with the complainant. The committee found His Worship’s manner in exerting control over his courtroom to be impatient and condescending. The committee observed that the record indicated that at times, His Worship was “entering the arena”, becoming engaged in debates with the complainant, and assuming the role of prosecutor. Although the committee noted that a justice of the peace should be seen to be impartial, the investigation showed that His Worship’s conduct and comments during the trial supported a perception on the part of the complainant, and perhaps others in the courtroom, that could call into question his impartiality in hearing the complainant’s case.

While the committee appreciated the demands of a busy courtroom upon a justice of the peace, the committee was also of the view that the pressures of the court should not interfere with ensuring that fair consideration is given to all matters. Regardless of how busy a court is, there is an obligation on every justice of the peace to take the requisite time to listen to individuals before him or her and to explain what is happening, so that they can properly understand the decisions or rulings that have been made.

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While the committee found that His Worship's conduct and behaviour did not amount to misconduct, the committee concluded that it would be appropriate and beneficial to have these concerns brought to his attention through attending in person before the complaints committee to receive its advice pursuant to section 11(15)(b) of the *Justices of the Peace Act*.

The committee provided advice to assist His Worship in fully understanding and appreciating the importance of the impressions and perceptions of justice in maintaining and building the public's respect and confidence in the justice system. The manner in which a justice of the peace conducts himself or herself gives rise to perceptions on the part of those in the courtroom and impacts on their confidence in a justice of the peace specifically, and in the administration of justice generally.

The committee's advice to His Worship was to reconsider his conduct in his dealings with the complainant that day with a view to improving his ability to conduct such matters professionally, patiently and in upholding the high standards expected of the court. The committee encouraged His Worship to refrain from "entering the arena" and from becoming engaged in what could be perceived by members of the public as adversarial commentary or questioning in an attempt to exert control over his court.

In response to the committee's advice, His Worship acknowledged that he appreciated the opportunity to reflect and learn from this complaint and thanked the committee for its advice. The complaints committee reported that His Worship demonstrated serious and sincere consideration in his review of this complaint with the committee.

Having provided its advice, the complaints committee closed the complaint file in this matter and thanked the complainant for bringing their concerns to the attention of the Review Council.

CASE NO. 20-016/09

The complainant attended court on behalf of his wife to request an adjournment of her trial to contest a parking infraction. His wife could not attend court on this day as she was teaching. He indicated that the male justice of the peace, whose identity was confirmed through Court Services, denied his adjournment request and ordered him to contact his wife and get instructions on how to proceed. The complainant alleged that His Worship was loud and demanding in his instructions that he contact his wife before the end of court at 4:00 p.m. While waiting, the complainant alleged that he witnessed impatient, belligerent and bullying behaviour from His Worship toward other defendants in denying them adjournments and in not accepting a plea of guilty with an explanation. The complainant indicated that His Worship "became increasingly dismissive, constantly interrupting the defendants' explanation of events with

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sarcasm. He became increasingly irritable, red faced and angry”. The complainant was left with the impression that His Worship was “extremely biased and prejudicial in his rulings and did not treat the defendants in a dignified and respectful manner”.

In the end, the complainant was unable to contact his wife. He indicated that instead of adjourning the matter to another date, His Worship ignored the fact he was there as an agent for his wife and proceeded in registering a conviction against her. In addition, the complainant alleged that defendants who arrived late were told by His Worship that their matters would not be heard and that their reward for being late would be another court date. The complainant described His Worship as “overbearing, pugnacious, arrogant and unkind”. The complainant claimed that His Worship “intimidated and belittled everyone.”

The members of the complaints committee reviewed the complainant’s letter and requested and reviewed the transcript and the audio recording of the court appearance and of the entire tier of cases on the docket. The committee also requested and reviewed a response from the subject justice of the peace.

After a thorough review of the court record and of His Worship’s response, the committee was concerned by the tone in which His Worship spoke and by the manner in which he conducted himself and treated individuals appearing before him. The committee found that the court record supported the complainant’s allegation that, at times, His Worship’s manner was perceived as bullying. The record showed a rather loud, impatient and abrupt manner and style on His Worship’s part in dealing with the cases before him on that day. This was most obvious in His Worship’s treatment of the complainant. In relation to others before His Worship, the committee also observed that his manner appeared as angry and lecturing. In addition, the committee was concerned by the perceptions created by the perfunctory approach that His Worship took to many of the cases before him. The perception left with the complainant, and perhaps others in the courtroom, was that the manner in which His Worship dealt with cases appeared to be arbitrary.

The record also supported the complainant’s allegation that the individuals who showed up late were given adjournments. The committee understood how the complainant would have felt witnessing the automatic adjournments for the latecomers in contrast to His Worship’s demands on him and his denial of the complainant’s request for an adjournment. The committee noted that for an individual like the complainant, who arrived on time and who was respectful of the court and of His Worship’s requests to contact his wife, it was understandable that the complainant perceived as unfair His Worship’s actions, overall conduct and decision to proceed in finding the complainant’s wife guilty without permitting him to participate in the proceeding as her agent.

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A Following its investigation, the committee was concerned with the manner in which His Worship conducted himself and how his conduct gave rise to the perceptions of the complainant, impacting on his confidence in His Worship and in the administration of justice generally. After a review of His Worship's response, the committee was also concerned that His Worship may not have truly appreciated the nature of his conduct and how that conduct was perceived by others.

The committee was of the view that all justices of the peace have a duty to maintain and uphold high standards of personal conduct and professionalism so as to preserve the independence and integrity of judicial office and to preserve the faith and trust of society. While the committee appreciated the demands of a busy courtroom upon a justice of the peace, it was the view of the committee that regardless of how busy a court is, there is an obligation on every justice of the peace to take the requisite time to listen to individuals before him or her and to explain what is happening, so that they can properly understand the decision of the justice of the peace. As well, all judicial officers have a responsibility to treat members of the public with courtesy and respect.

In considering a disposition in this matter, the complaints committee was of the view that having His Worship attend before the complaints committee to receive advice, pursuant to section 11(15)(b) of the *Justices of the Peace Act*, would assist His Worship in fully understanding and appreciating the importance of the impressions and perceptions of justice in maintaining and building the public's respect and confidence in the justice system.

It was the committee's advice to His Worship that he re-consider his conduct in his dealings with the complainant and the other defendants that day with a view to improving his ability to conduct such matters professionally, patiently and by upholding the high standards expected of a justice of the peace. The committee encouraged His Worship to have a heightened sense of awareness of how his conduct may be viewed by others.

The committee reminded His Worship that the pressures of the court should not interfere with ensuring that fair consideration is given to all matters. In the administration of justice, it is important not only that justice is done but also that justice is seen to be done.

The complaints process through the Review Council is remedial in nature and through the review of one's conduct, improvements are made as to how individuals are treated and situations handled in the future. Having provided its advice, the complaints committee closed the complaint file in this matter and thanked the complainant for bringing his concerns to the attention of the Council.

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CASE NO. 20-017/09

The complainant appeared in court to challenge a parking ticket, taking her infant son with her in a car seat. She alleged that she was “subject to a blatant Human Rights violation in [Her Worship’s] courtroom”. According to the complainant, she was informed by the prosecutor that her case could not be heard because she had a baby with her, and that she could not present evidence with a baby and should have arranged for a babysitter. The complainant informed the prosecutor that she was breastfeeding and that it would not be possible to leave her son with a sitter. When asked, the complainant entered a plea of not guilty and then waited for her trial.

The complainant indicated that while waiting for her trial, her son was hungry and therefore she sat covered by a sarong in the body of the court and breastfed him. Shortly after, she was asked to approach the Bench and was allegedly informed by both the prosecutor and the presiding justice of the peace that her trial would be adjourned as she was unable to present her evidence “unencumbered” because she had her child with her. When she asked for clarification as to how she was encumbered, it was alleged that Her Worship “sternly indicated that I could not have a court case while nursing a child”. The complainant, who indicated that she had her son underneath a sarong completely covered while addressing the court, said that she was appalled by the comments. She also wrote that she had asked for the minutes of the court proceeding and her request was ignored. The complainant indicated that her matter was held down.

When her matter was recalled, the complainant indicated that she was given a choice of future dates for her trial. A six month adjournment was given. According to the complainant, “the justice lectured me that it was not because I was nursing my child but that I had to be able to provide evidence unencumbered” and later commented that “they were not against breastfeeding”. The complainant was told to bring a babysitter next time. The complainant indicated that she spoke to the prosecutor afterwards and obtained her name and the name of the justice of the peace. According to the complainant, the prosecutor “proceeded to explain to me that it was not personal, but a policy of the court that children were not allowed in the event that the proceedings were disrupted”. The complainant indicated that she subsequently researched the existence of any such policy and “found the contrary to be true. It is fairly common for women to breastfeed on the stand in family court”.

The complainant indicated that the social, emotional and mental effect of the incident had been significant. She stated that, “I was humiliated standing before the court simply because I needed to breastfeed my child.” Further, she advised that she had filed a complaint based on a violation of the *Human Rights Code* with the Ontario Human Rights Tribunal against other parties in the court house. Through that process, she was informed that she could not bring

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a *Human Rights Code* complaint about a justice of the peace, and that the appropriate process for her complaint was through the Justices of the Peace Review Council. She sought to have the Review Council uphold her rights, make the necessary changes and recommendations and consequences, including: training for staff in the court system on breastfeeding rights; new policy and procedures in the court system to accommodate breastfeeding such as being able to address the court while seated; a written apology from the court and the subject justice of the peace; and, a suspension of Her Worship's duties.

While the legislative authority of the Justices of the Peace Review Council includes reviewing the conduct of justices of the peace, the authority does not extend to the review of conduct of court staff or prosecutors. Other offices have the responsibility for the oversight of court staff and prosecutors. The complainant was advised to contact the Provincial Offences Office at the subject court location and direct her concerns to the Supervisor of Prosecutors and the Manager of Court Operations.

With respect to the complainant's allegations about the conduct of the justice of the peace, the complaints committee reviewed the complainant's letter and requested and reviewed the transcript and the audio recording of the court appearance.

Following their review of the court record, the committee found that it was not entirely clear what the basis was for Her Worship's decision to not permit the complainant's trial to proceed on that day. The committee invited and reviewed a written response from the justice of the peace. In her written response to the committee, Her Worship expressed her sincere apology to the complainant for offending her by deciding her matter would be adjourned.

The committee supported the view that a court should be accepting of breastfeeding in the courtroom. During its investigation of the complaint, following up on the complainant's search for a breastfeeding policy, the committee explored whether or not a written court policy existed in relation to breastfeeding in court. Court Services advised that no such policy existed. The committee was aware of the Ontario Human Rights Commission's "*Policy on Discrimination because of Pregnancy and Breastfeeding*". In addition, the committee noted that a "*Breastfeeding in Public*" policy was approved by the city in 2007, supporting breastfeeding "anytime and anywhere" in all public places controlled by the City and its Agencies, Boards and Commissions (ABCs)".

The complaints process through the Justices of the Peace Review Council is remedial in nature and through the review of and reflection upon one's conduct, improvements are made as to how situations and individuals are treated and handled in the future. In considering a disposition in this matter, the complaints committee determined that it was both appropriate and remedial to have Her Worship attend, pursuant to section 11(15)(b) of the *Justices of the Peace Act*,

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before the complaints committee to receive its advice. During the private advice meeting, the committee reviewed the complainant's concerns with Her Worship and ensured that Her Worship was aware of the policies of the Ontario Human Rights Commission and the city.

It was the complaints committee's advice to Her Worship that she consider and reflect upon her dealings with the complainant that day and consider how she might better handle a similar situation in the future to ensure that parties in the courtroom are left with the assurance that the court recognizes the rights of breastfeeding women and respects the dignity of a breastfeeding woman.

Recognizing the importance of the rights of breastfeeding women, the committee suggested to the Advisory Committee on Justices of the Peace Education that they consider putting the topic on a future agenda. (The committee did not disclose any information about the complaint to the Advisory Committee.)

In the letter to the complainant advising her of the disposition of the matter, the committee conveyed Her Worship's apology to her.

Having provided its advice to His Worship and communicated its disposition and reasons to the complainant, the committee closed its file in the matter.

CASE NO. 20-022/09

The complainant indicated in his letter that he was a former police officer and that he had previously worked as a paralegal in Ontario. On the date in question, he appeared before the justice of the peace in relation to a traffic ticket to act as an agent for the defendant, who was a personal friend. The complainant was acting for him as a favour and was receiving no fee for his services. A written authorization from the defendant authorizing the complainant to act as his agent was provided to Her Worship.

The complainant alleged that Her Worship refused to allow him to represent his friend and "insisted that the defendant must have a licensed paralegal to defend him". The complainant alleged that Her Worship demonstrated "overbearing conduct" and, in his words, "treated me with absolute contempt, even hinting that because I was not qualified it must be some ruse for [the defendant] to appeal if and when she convicted him". She adjourned the trial, stating that the defendant must have a licensed paralegal to defend him. The complainant stated that Her Worship had no right to stipulate who may or may not represent the defendant.

The members of the complaints committee reviewed the complainant's letter and requested and reviewed the transcript and the audio recording of the court appearance. After reviewing the

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record, the committee was sufficiently concerned by the manner in which Her Worship acted that a response was invited from Her Worship to the complaint allegations. The committee received and reviewed the response.

The committee noted that Her Worship's decision to refuse to permit the complainant to act as agent was a matter outside of the Council's jurisdiction to review that could be pursued through other legal remedies. However, the committee found that the record supported the allegation of the complainant that the manner in which Her Worship delivered that decision was perceived as "overbearing". The committee advised that the court record showed that the complainant maintained a respectful and calm manner, even in his display of clear frustration towards the end of the proceedings.

Following its investigation, the committee concluded that the court record confirmed that Her Worship's conduct was abrupt, impatient, arbitrary and disrespectful in her dealings with the complainant. While the committee concluded that her conduct did not amount to misconduct, in the committee's opinion Her Worship's failure to listen and act with patience fell short of that expected of a judicial officer.

Pursuant to section 11(15)(b) of the *Justices of the Peace Act*, the complaints committee invited Her Worship to attend in person before them for the members to provide her with advice in person relating to their concerns about her conduct.

Noting the impact of the pressures of time and heavy court lists on Her Worship on the date in question, the committee advised Her Worship that a justice of the peace must never allow the length of the list and the shortage of time to result in a failure to allow for due process and to listen to a case. The committee reminded the justice of the peace of the fundamental right of defendants to hear the case against them and to be given the opportunity, should they wish, to defend themselves. The committee concluded that other pressures of the court must not be given priority over that right.

The committee expressed to Her Worship that her overall conduct and treatment of the complainant was considered inappropriate and could have been more professional. The committee stated that all judicial officers are obligated to treat members of the public with courtesy and respect.

It was the committee's advice that Her Worship reflect upon and reconsider her conduct with respect to the subject proceeding, and perhaps similar circumstances, with a view to improving her ability to conduct such matters with the appropriate level of consideration, courtesy and patience.

Having provided its advice, the complaints committee closed the file.

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CASE NO. 20-023/09

The complainant, who was contesting a speeding charge, filed a complaint about the presiding justice of the peace. The matter was scheduled for trial that afternoon, however, the complainant appeared before His Worship in the morning to request an adjournment of his trial on the basis of incomplete disclosure. The prosecutor was not opposed to the adjournment request. The complainant alleged that when his matter came before His Worship, he became belligerent, raised his voice at him, made unfounded accusations that he was on a “fishing expedition” and implied that he was “playing games” and didn’t have the right to ask for more information.

The complainant stated that His Worship explained that the *Provincial Offences Act* was there to allow “simple matters” like speeding to be processed expeditiously and implied that this charge wasn’t worth the court’s time. It was alleged that His Worship’s tone was offensive, intimidating and downright rude. The complainant expressed that he felt embarrassed and humiliated. He alleged that when he respectfully asked for an adjournment on another basis - to properly file a notice of constitutional question - His Worship became angrier and that he used an aggressive tone, refusing the request before the complainant could finish his argument. In the complainant’s opinion, His Worship showed a “complete lack of respect for me, the prosecutor and the court with his behaviour”. The complainant indicated that he felt intimidated enough by His Worship’s conduct and comments that he “gave up my right to a fair trial, paid the fine and went home”. The complainant indicated that he perceived a clear display of prejudice, where it appeared that “nothing could avoid a conviction”. The complainant clarified that he was not taking issue with His Worship’s decisions but rather his conduct. He further indicated “it is my opinion that this justice should be reminded of his obligation to conduct himself in a professional manner”.

The members of the complaints committee reviewed the complainant’s letter and requested and reviewed the transcript and the audio recording of the subject court appearance. After reviewing the record, the committee decided it was necessary to ask for His Worship to respond to the complaint. Following a review of His Worship’s response, the committee was concerned that His Worship appeared to fail to appreciate the nature of the allegations about his conduct in the matter, and failed to address the specific allegations of the complainant. Based on its review of the transcript and audio recording, the committee was troubled with the manner in which His Worship engaged with the complainant and felt that His Worship had “entered the arena”.

As its disposition, His Worship was invited and attended before the complaints committee for the purpose of receiving advice.

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It was the committee's advice that His Worship reflect upon and reconsider his conduct with respect to the subject proceeding, and perhaps similar circumstances, with a view to improving his ability to conduct such matters with the appropriate level of impartiality, civility and decorum. The committee encouraged His Worship to refrain from becoming engaged in what could be perceived as adversarial commentary or questioning. The committee clarified that they were not taking issue with the decisions His Worship made in the matter but with the manner in which His Worship conducted himself that gave rise to the perceptions of the complainant and impacted on his confidence in the administration of justice.

After receiving the committee's advice, His Worship acknowledged that he appreciated the perceptions left with the complainant and recognized on reflection that on this occasion his conduct and tone gave rise to a negative impression of the justice system. His Worship thanked the committee for its advice and the opportunity to reflect on the matter.

The complaints process through the Review Council is remedial in nature and through the review of one's conduct, improvements are made as to how individuals are treated and situations handled in the future. Having provided its advice, the complaints committee closed the complaint file in this matter and thanked the complainant for bringing his concerns to the attention of the Council.

CASE NO. 20-025/09

This was a complaint by the defendant about the presiding justice of the peace arising from a *Dog Owner's Liability Act (DOLA)* charge. The charge originated from an incident involving the complainant's dog grazing its upper teeth on and puncturing a boy's leg. The complainant raised legal arguments about the charging document issued by the officer and about the summons.

With respect to his complaint about the subject justice of the peace, the complainant alleged that "the actions and remarks made by [His Worship] in regards to this case were biased and I respectfully submit that he has not only tainted this proceeding, but has brought the administration of justice in disrepute". According to the complainant, His Worship was loud in his exchanges with him in his repeated questioning of him as to whether he intended to plead guilty or not. The complainant indicated that he agreed to the fine negotiated with the prosecutor but not with a proposed muzzle order for his dog. According to the complainant, his wife, who was sitting in the body of the court, was disturbed by the "loud exchanges between me and the justice and asked me to 'plead guilty and get it over and done with'". His Worship stood the matter down briefly to allow the prosecutor and complainant to resolve the "disputed issue" of muzzling the dog at all times. According to the complainant, His Worship commented before the brief break, "I don't have time

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for this”. The complainant indicated that no consultation took place during the break. When the matter was re-called, the complainant indicated to the court that he was pleading guilty. In response, the complainant alleged that His Worship “got some what loud-mouthed” and stated that, “I gave you a first chance with a good deal and you chose to mess around with me in this courtroom. You don’t mess around with me, now you are going to trial and I will make sure that the next judge will this dog put down and throw the book at you, “because of your inconsistent attitude”.

The complainant indicated that His Worship made inquiries about the kind of dog and its weight and made a further comment about dogs that he had owned and his own expertise with dogs. The matter was adjourned for trial. Following his trial before a different justice of the peace, the complainant confirmed that the matter had concluded before the courts and requested the Council to commence its investigation and review of his concerns.

The complaints committee reviewed the letter of complaint and requested and reviewed the transcript and audio recording of the court appearance. In addition, the complaints committee invited and reviewed a written response from His Worship to the concerns expressed by the complainant.

After careful consideration of the record of the proceedings, the complaints committee concluded that the transcript and audio recording showed that His Worship demonstrated an air of frustration in his interactions with the complainant. Although the court record did not support the exact wording of the alleged comments made, the committee noted that the record showed that His Worship did become engaged in unnecessary commentary which the committee found as contributing to the complainant’s negative perceptions of His Worship’s conduct that day. In the opinion of the committee, the gratuitous comments made by His Worship were neither necessary nor helpful in alleviating the frustration and emotion felt by the complainant. Furthermore, His Worship’s tone of voice towards the complainant was viewed as disrespectful at times.

Of particular concern to the committee were His Worship’s remarks, “don’t fool around in my court” and the warning that “the next justice hearing it may have the dog put down”. Despite His Worship’s explanation in his response that his intentions were to convey the seriousness of the charge and to ensure the complainant understood the possible outcome, the committee concluded that those objectives could have been met through better chosen words. Following their investigation, the committee was concerned that His Worship may not fully have appreciated or assumed responsibility for the impact of his comments and tone of voice on the complainant.

The complaints committee, in considering its disposition, concluded that there was some merit to the concerns raised by the complainant, which needed to be brought to His Worship attention. The committee concluded that a justice of the peace should remain neutral and is expected to

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refrain from making comments that could be seen as trying to pressure a defendant. As well, the committee held the view that it is the responsibility of a justice of the peace to endeavour to maintain dignity and decorum in the courtroom. A justice of the peace should remain neutral regarding the proceedings at all times, control his or her temper and emotions, and be patient, respectful, and courteous to defendants and others in the courtroom with whom the justice of the peace deals in an official capacity. The committee noted that inappropriate or discourteous conduct towards litigants by a justice of the peace reflects adversely on the judiciary as a whole. The impression left with a defendant creates an impression of the courts in general.

The committee decided to provide advice to the justice of the peace in writing, pursuant to section 11(15)(b) of the *Justices of the Peace Act*. The committee reminded His Worship of the responsibilities of a justice of the peace, and encouraged His Worship to reconsider his handling of this situation, and perhaps other similar occasions, with the view of improving his ability to conduct himself and control the proceedings in a more patient and professional manner.

Having provided its advice, the complaints committee closed the complaint file in this matter.

CASE NO. 20-029/09

The complainant appeared before the subject justice of the peace to lay criminal charges against two people. The complainant wrote to the Review Council about His Worship, alleging:

- 1) Gross discourtesy and rudeness, including that His Worship yelled at him for being late for court and continued being angry at him throughout the proceedings;
- 2) Obstruction and perversion of the law during evidence, including that His Worship prevented him from presenting his full case and said this was not a case for full evidence. His Worship interrupted and disturbed the complainant's "trend of thought" and obstructed him in a very rude manner.
- 3) Discrimination and bias, including bias in favouring the Crown Attorney;
- 4) That His Worship practised deception and misled the complainant on the law, and rendered his decision to not issue process on the grounds of no evidence but would not disclose the basis for his finding of no evidence, while preventing the complainant from offering further evidence;
- 5) Lack of judicial temperament, professionalism and competence, including behaving like a bully on the bench. His Worship allowed the Crown Attorney to sit but wanted the complainant, who has a disability, to stand.

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The complaints committee reviewed the letter of complaint, the transcripts and audio recordings of the court appearance, as well as a later appearance when His Worship delivered his decision orally. After a careful review of the record of each attendance, the complaints committee concluded that there was no evidence of misconduct on the part of His Worship in the conduct of the matter before him or in the manner in which he exercised his judicial discretion in making the decisions he made.

The committee noted that the complainant made allegations about how His Worship determined issues and assessed the evidence. The committee advised that such matters are outside of the jurisdiction of the Review Council. If the complainant disagreed with decisions made by the justice of the peace, the proper way for him to proceed was through other legal remedies.

With respect to His Worship's conduct, it was the committee's opinion that the record did not support any of the allegations made by the complainant. The record reflected that His Worship was fair and patient in allowing the complainant to present his information to the court. The audio recording revealed no evidence of yelling, rudeness, bullying or a "lack of judicial temperament, professionalism and competence", as the complainant alleged. The committee noted that His Worship was calm, rational and articulate throughout the proceeding. It was noted from the record that His Worship did interrupt at times in order to ask for clarification; however, this was not viewed as obstructive but rather an expected part of the pre-enquête process, which differs significantly from the trial process.

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

CASE NO. 20-030/09

A defendant filed a complaint about the presiding justice of the peace in relation to his trial *in absentia* where he was convicted of two counts of "enter on premise without permission" contrary to the *Trespass to Property Act*. The complainant alleged, based on his reading of the transcript, that Her Worship failed to read his application on constitutional issues and that she did not appear to have considered, made a ruling or conducted an investigation with regard to the decisions of the Superior Court of Justice, Ontario Court of Appeal or the Supreme Court of Canada which had previously ruled that the *Charter of Rights and Freedoms* was applicable to the circumstances of his arrest. The complainant asserted that, in accordance with the principle of "*stare decisis*", Her Worship was required to confirm her decision with decisions of the higher courts and undertake necessary investigations to rule on these decisions. Because Her Worship did not do these things, the complainant was of the view that "she was either unprepared for this trial or she corrupted morals of her office and decided to override decisions of higher courts".

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Following a thorough review of the letter of complaint and the extensive supporting documentation provided by the complainant, which included a copy of the transcript of the complainant's trial *in absentia*, the complaints committee concluded that the allegations were outside the jurisdiction of the Council to consider. In the committee's view, the complainant was arguing that Her Worship's decision was wrong in law because he felt that it did not reflect prior decisions from higher courts. As well, it appeared to the committee that the complainant felt that Her Worship had an obligation to investigate and to conduct the legal research for the case. The committee found that the proper remedy to dispute a disagreement with the decision or application of the law was through legal remedies through the courts. Such matters are outside of the jurisdiction of the Council. The committee noted that the complainant was not present at his trial and did not arrange to have a representative attend and make submissions on his behalf.

The complaints committee dismissed the complaint as being outside the jurisdiction of the Review Council and closed its file.

CASE NO. 20-031/09

The complainant attended before the subject justice of the peace seeking to lay a number of private informations to start criminal proceedings against persons. The complainant indicated that these were matters that were previously known to the court for a number of months. According to the complainant, Her Worship confronted him in the hallway of the courthouse and demanded to see government issued identification to prove who he was. He indicated that he had advised Her Worship that he did not have government issued identification "as my appellation was given to me by spirit according to my nation's traditions", adding further that, "spirit does not issue identification". He alleged that when he told her that he did not have a birth certificate, Her Worship had demanded to know what his mother called him. He stated that when he told her the name, Her Worship responded that she doubted it and insisted on seeing a government issued piece of identification, his health card. He felt that she had no right or authority to do so, as those documents did not identify him.

He also alleged that when he referred her to the *Change of Name Act*, which he interpreted to mean that a person is entitled, but not required, to be recognized by the legal name, Her Worship rudely told him not to quote the law to him. The complainant alleged that another court had previously permitted him to appear and be addressed by his appellation given to him by spirit according to his nation's traditions, and that Her Worship was made aware of that.

He alleged that Her Worship "deliberately created a confrontation environment in an attempt to prevent me from filing the information which she knew were directed at a local justice, a federal

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prosecutor and a number of police officers”. The complainant felt that Her Worship “deliberately insulted both my People and myself in suggesting that I was lying about my appellation”. He further stated that she “had the unmitigated gall to suggest that it was I who was being rude and uncooperative”. He alleged that Her Worship needed to be reminded in no uncertain terms that she works for him, and not “as she appears to think, I who work for her”. He alleged that Her Worship’s conduct was “an attack on the customs, the traditions and the laws of my People.”

The complaints committee assigned to review and investigate this complaint ordered and reviewed the transcript and audio recording of the complainant’s appearance before Her Worship. After reviewing the record, the committee observed that the complainant was not entirely forthcoming and candid in his responses to Her Worship’s questions regarding his legal name and proof of identity. He had denied that he had a birth certificate, even though the transcript showed that he later produced a “certification of birth”. In the committee’s view, it was understandable for Her Worship to continue her questioning and ask to see a piece of photo identification to be satisfied that the informant listed on the informations before the court was indeed the person attending before her.

However, the committee also found that the record showed that Her Worship appeared to have briefly lost her composure and had not consistently maintained proper decorum in the court. The transcript and the audio recording confirmed that Her Worship had made inappropriate comments including stating, after the complainant asserted that she worked for him, “you work for me, Mister”. At one point she had stated that she would throw him out of the office.

The committee concluded that every justice of the peace has the responsibility to maintain decorum in the court and must strive to be patient, dignified and courteous in performing the duties of judicial office, regardless of the conduct of the parties before him or her.

The complaints committee determined that it was necessary to invite a response from Her Worship. After receiving and reviewing her response, the committee noted that although Her Worship had briefly lost her composure and made inappropriate comments, her response showed that she had genuinely reflected upon her conduct. She acknowledged the inappropriateness of her remarks and expressed regret for her choice of words to the complainant.

The committee noted that the complaint review process is a remedial one. It is through the review of one’s conduct that improvements are made to how situations and individuals are treated in the future. The committee was satisfied that Her Worship had considered and understood her shortcomings during her dealings with the complainant on this occasion. Taking into account all of the circumstances, the committee concluded that Her Worship’s interactions with the complainant did not amount to misconduct.

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With respect to the complainant's allegation that Her Worship had no right or authority to request proof of identification, the committee noted that when individuals appear before the court seeking to issue criminal process, it is both customary and prudent for justices of the peace and judges to require identification, regardless of a complainant's race, cultural background, colour or origin.

The committee also noted the reference by the complainant to the *Change of Name Act* and to other cases that had been before the courts. The committee advised that if the complainant felt that there were errors in law committed by Her Worship in requiring the complainant to show proof of his legal identity, the proper way to proceed was through other legal remedies in the courts. The review and determination of such legal issues are outside of the jurisdiction of the Review Council.

With respect to the allegation that Her Worship "deliberately created a confrontation environment in an attempt to prevent me from filing the information", the committee found that the court record did not support that allegation. Additionally, there was no support in the court record for the allegation that Her Worship "deliberately insulted both my People and myself in suggesting that I was lying about my appellation". The committee also found that their investigation found no support for the allegation that Her Worship's conduct was "an attack on the customs, the traditions and the laws of my People." The committee determined that Her Worship was applying her understanding of the laws of Ontario, and there was no evidence of racial or cultural prejudice on her part.

For the above reasons, the complaints committee determined no further action was necessary, and dismissed and closed its file.

CASE NO. 20-032/09

The complainant attended the Intake Court office to request a re-opening of a traffic ticket of which she had been convicted, and of which she stated she had not been provided with notice of the trial. The complainant alleged that His Worship was "dominating, aggressive and intimidating from the moment I stepped into the room". She perceived that His Worship "had no interest in being reasonable and doing his job and honouring his position as a justice of the peace". She further alleged that His Worship advised within two minutes of hearing the complainant's position that he would not allow the re-opening. The complainant felt that His Worship was not calm, reasonable or rational and alleged that His Worship's voice was raised at her from the start. She further alleged that when she respectfully asked about appealing the decision, His Worship "flipped out at me, raised his voice even louder, his eye was twitching

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and pointed his finger with pen in hand in my face saying ‘who do you think you are talking to? ... I am a justice of the peace!’”. According to the complainant, when she told His Worship that she would be reporting him, he refused to provide his name and information on the process for appeal, and instead called a security guard to have her removed from the building. She further stated that when she re-attended the court to file an appeal, she saw him in the office, and expressed that she “was numb and shaky and felt intimidated and violated all over again”.

The complaints committee reviewed the letter of complaint and requested and reviewed the transcript and audio recording of the complainant’s Intake Court appearance before His Worship. After careful review of the court record, the committee found that His Worship was careful and polite in his initial review of the complainant’s application. The audio recording of the exchange did not reflect the comments the complainant alleged that His Worship made to her. However, the committee noted that His Worship allowed himself to be provoked in his interactions with the complainant. Although, the audio recording confirmed that His Worship raised his voice and called for and instructed security to escort the complainant out of the Intake office, His Worship’s tone and demeanour was not viewed, in the circumstances, to amount to misconduct.

The complaints committee noted that the complainant appeared to be frustrated by the court system and His Worship’s decision to not re-open her matter. The committee further noted that justices of the peace are independent judicial officers and the Justice 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 the complainant was unhappy with His Worship’s decision, the proper way to proceed was through legal remedies through the courts.

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

CASE NO. 20-033/09

The complainant, a lawyer, filed a complaint about the subject justice of the peace in relation to a court appearance for charges against him of speeding and failure to produce a driver’s license, ownership and insurance. Having declined to plead guilty to a lesser speeding charge, the Crown Attorney proceeded to trial on all four charges, which the complainant felt was unfair. The complainant alleged that His Worship was “patently biased, exhibited impatience, interfered with my cross examination, gave hostile looks, misapprehended the evidence and took into consideration supposed evidence that was not presented to him”. The complainant further alleged that after he was convicted, and after hearing his submissions on sentencing, His Worship reduced the fines on all four charges. However, when the complainant indicated to

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the court that he would be filing an appeal, he alleged that in response, His Worship “became extremely upset and caustic and said that he would not be intimidated”. The complainant further alleged that when he went to pay the fines, His Worship had substituted the full penalties on the original certificates submitted to courts administration. The complainant stated that he was shocked by His Worship’s actions to change his decision and that His Worship’s overall conduct does not meet the skills, abilities and personal characteristics which have become the selection requirements for justices of the peace.

The complaints committee reviewed the letter of complaint and requested and reviewed the transcript and audio recording of the trial. As well, the committee requested and received verification of the certificates of offence in order to address the allegation regarding the penalties applied in this matter. The complaints committee concluded that there was no misconduct on the part of the justice of the peace in the conduct of the proceeding before him or in the exercise of his judicial discretion in making the decisions he made. The complaints committee noted that the record did not support the allegations made by the complainant with respect to either His Worship’s conduct or any irregularities with the fines he imposed. The committee confirmed that the victim fine surcharge and applicable court costs were applied in accordance with the law to each fine upon conviction. The fines, as stated by His Worship in sentencing, were accurately reflected on the certificates of offence. Although His Worship did not articulate to the complainant that the victim fine surcharge and court costs would be applied to the fine, the committee noted that there is no requirement to do so and that the application of the victim fine surcharge and court costs are non-discretionary.

After a thorough review, the committee found no basis to the allegations about that His Worship and for the above reasons, dismissed the complaint and closed its file.

CASE NO. 20-035/09

The complainant was the informant on a private information who, following his *pre-enquête* appearance, filed a complaint about the presiding justice of the peace. According to the complainant, he was unfamiliar with how a *pre-enquête* proceeding is conducted. When he took the stand, he indicated that he was not permitted to read a statement and outlined his verbal evidence “probably eight or ten times”. The complainant commented, “I felt like I was being interrogated instead of being able to give my testimony freely”. It was alleged that “His Worship closely scrutinized my testimony”. The complainant expressed that he was “upset after being put on trial by the Justice”.

The complainant indicated that two witnesses provided testimony in support of his version of events, following which His Worship rendered his decision that there would be “no issuance”.

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When the complainant asked about a piece of evidence, His Worship allegedly “looked sternly at me and I realized that I should not pursue it further”. The complainant expressed he was shocked and indicated that “I felt like what a rape victim feels when a judge questions what they were wearing and were they drunk or similar questions”.

The complaints committee reviewed the letter of complaint and reviewed the transcript of the court appearance. A member of the committee also listened to the audio recording of this proceeding. Based on its review of the record, the committee concluded that there was no evidence of misconduct by His Worship in the execution of his duties. In fact, the committee found that His Worship’s conduct was patient and his approach to the hearing was both reasoned and thorough. The committee noted that His Worship explained at the outset how the *pre-enquête* hearing would proceed and demonstrated respect to the complainant throughout the court appearance.

With respect to the complainant’s allegation that His Worship stopped him from reading his typed-out statement, the committee found that this action was appropriate but noted that His Worship could have provided further explanation as to why the complainant could not read from a statement. Following its review of the court record, the committee found no evidence that the complainant was being interrogated. The committee found that His Worship’s manner was calm and his tone of voice professional and respectful. Although the committee noted that His Worship confused some of the dates and addresses, which required the complainant to reiterate portions of his testimony, this was not viewed as evidence that would support the complainant’s assertion that His Worship was trying to get him to commit perjury or to entrap him.

With respect to the complainant’s allegation about being prevented from giving evidence about matters not relative to the *pre-enquête*, the committee noted that it is the responsibility of a justice of the peace to control his or her court and to not allow evidence that is not relevant or material to the matter before the court.

Following a thorough review of the court record, the complaints committee dismissed the complaint as being unsupported by the court record.

CASE NO. 20-036/09

The complainant informed the Review Council that he had attended court in relation to his common-law wife’s case, in order to be called as an expert witness and to offer moral support to his spouse. The complainant alleged that on the day in question, he was just sitting in the courtroom and when Her Worship saw him, she adjourned court, returned with a police officer, and had the police officer remove him. He indicated that the police officer led him out of the

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courtroom, took his identification, told him that Her Worship had ordered him removed and that he was barred from attending the court at any time. According to the complainant, there was a history between himself and the presiding justice of the peace. He indicated that she “does not like me going back years” and that she “misused her power against me for personal reasons”. He alleged that “she does not like that I know law better than her, and I have in the past made a fool of her in court”. He also alleged that his *Charter* rights were violated, and that she “completely misuses her power and authority. She is prejudice, and does not deal with people equally.” The complainant believed that Her Worship should be removed from the bench “in the interest of justice”.

The complaints committee reviewed the letter of complaint and requested and reviewed the transcript and audio recording of the court appearance. In addition, the complaints committee invited and reviewed a written response from Her Worship to the concerns expressed by the complainant.

The complaints committee noted that the court case in which the complainant appeared on that day with his common-law wife was a designated French trial court, for the exclusive benefit of French speaking defendants. The complainant had stated in his letter that he was educated in French, and he had criticized Her Worship’s French. The committee further noted from a review of the transcript and the audio recording that the complainant’s wife, the defendant, did not speak or understand French and as a result there was no reason for her case to have been placed in the French court. The committee found that Her Worship’s conduct in assisting the defendant to have her matter adjourned to the proper court was appropriate and did not constitute misconduct.

Although the complainant indicated in his letter to the Review Council that he was in court to offer moral support and be an expert witness, the committee observed that its review of the court record showed that he responded to the court when the matter was first called, as if he were representing his wife as her agent. The committee also observed that if the complainant was only in court to provide moral support for his spouse and to be a witness, the case should not have been placed in the French court. Following its investigation, the committee’s impression from the complainant’s actions and comments on the record was that it appeared likely that the complainant was instrumental in having the case added to the list in the French court and that he was there to attempt to act as his wife’s agent, to try to participate in the defence of his partner, and to participate in the French language.

The complaints committee found that there was no misconduct in Her Worship’s refusal to allow the complainant to act as agent based on the information she had regarding his competence, as ruled on by a judge of the Superior Court of Justice who found that the complainant was

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not competent to represent anyone else except himself. Noting that the record showed that the complainant continued to argue with Her Worship, the committee found that Her Worship's manner in refusing to allow him to participate in the process was not misconduct. In the circumstances, her response and tone were sufficiently forceful and authoritative to manage the complainant and maintain control and decorum in her courtroom. While Her Worship may have shown some irritation with the complainant, the committee found that the court record did not support the allegations that Her Worship demonstrated any misuse of "power and authority" or "prejudice or not dealing with people equally".

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

CASE NO. 20-037/09

The complainants in this matter were the mother and father of an accused young adult who filed a complaint about the presiding justice of the peace in relation to their son's bail hearing. The complainants alleged that His Worship denied their son his right to a fair bail hearing. According to the complainants, their son contacted them after the bail hearing and mentioned that he didn't receive a fair bail hearing because the presiding justice of the peace "was asleep behind the bench". The complainants indicated that they were both present for the bail hearing and in fact indicated that the wife was on the stand answering questions when the husband noticed His Worship's eyes "opening and closing". The complainants were of the view that His Worship's conduct reflected that "he didn't really care what went on or what was happening". The complainants brought this matter to the Council's attention because "we don't want more innocent people put away for His Worship's conduct".

The complaints committee reviewed the letter of complaint and requested and reviewed the transcript and audio recording of the bail proceeding before the justice of the peace. After a thorough review of the record, the committee concluded that there no evidence that His Worship "was asleep behind the bench" or that the accused did not receive a fair bail hearing. The committee noted that the Crown Attorney expressed their concerns about the release of the accused on both the secondary and tertiary grounds and stated at the outset that it was a reverse onus situation. The committee also noted that Duty Counsel assisted the accused and called and examined the mother of the accused about previous charges pending before the courts and related release orders, the involvement of the accused in school and work and a plan of supervision in the event that the court released him.

In the committee's view, there was no indication from the record that at any time during the proceeding His Worship had fallen asleep; nor did anyone in the court raise concerns that it

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appeared that His Worship was asleep or that he was not paying attention to the evidence. On the contrary, the record showed that from time to time, His Worship interacted with the parties by seeking clarification to questions and answers. His Worship's questions were responsive to and not out of step with the evidence being presented. Likewise, the committee noted from its review of the record that His Worship's decision contained a fairly comprehensive review of the concerns and evidence put forward by the Crown Attorney, Duty Counsel and the mother of the accused, which supported a finding that he was indeed paying attention to the proceedings.

Following a careful review of the record, the committee found no reasonable basis for further investigation and for the above reasons, dismissed the complaint and closed its file.

CASE NO. 20-039/09

The complainant was charged with disobeying a red light contrary to s. 144(18) of the *Highway Traffic Act*. He elected to go to trial and was convicted of the charge by the subject justice of the peace. The complainant successfully appealed and a re-trial was ordered. A copy of the original trial transcript and the appeal transcript was provided by the complainant.

In his letter, he complained that: he was falsely charged by the police officer for something that he never did; the municipal prosecutor led the police witness and made errors; the clerk withheld and issued false documents; and the police officer gave false evidence. In addition, he alleged that Her Worship "was more interested in being done and leaving her position by 4:30". The complainant expressed frustration with the court system in having to attend multiple times travelling considerable distance to defend himself, and indicated that he suffered aggravation, frustration, loss of health, loss of enjoyment of life, and that his experience contributed to his resignation from his job as a sales person. He also complained that when he successfully appealed, the matter was mistakenly set before the subject justice of the peace to set a new date.

The complainant requested that the Review Council investigate his case and the following people: Her Worship, the prosecutor, the OPP officer, and the court clerk. He was also seeking to have criminal charges filed and issued. In acknowledging the complaint, the Council informed the complainant that it has the authority to review matters of involving Her Worship's conduct but not matters related to judicial discretion or decision-making and not the conduct of others. Given his reference to his loss of job and opportunities related to his job (e.g., trip to Vegas), he was also provided with the Lawyer Referral Service to get advice on any other remedies which may be available to him.

Following a thorough review of the complainant's letter and materials, which included copies of the transcripts of the complainant's trial and successful appeal, the complaints committee

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concluded that there was no evidence of misconduct by Her Worship. The committee noted that Her Worship's demeanour appeared to be courteous and respectful and that she afforded the defendant an opportunity to make a full answer and defence. The committee found no evidence of improper conduct by Her Worship or that Her Worship appeared to be rushing the defendant. In fact, the committee noted that Her Worship slowed the process down by trying to clarify some of the evidence. The committee felt that the complainant had pursued the proper legal remedy in filing an appeal.

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

CASE NO. 20-040/09

The complainant attended before the subject justice of the peace for his trial at which he was contesting a traffic ticket. While sitting in the court, the complainant alleged that Her Worship was staring at him like she was angry at him. When his matter was called, the complainant requested a court interpreter for the trial. He indicated in his letter that he didn't understand English and that his friend, who had assisted him on previous court matters, was unable to attend that day. The complainant alleged that Her Worship refused to provide an interpreter and displayed a threatening demeanour towards him.

The complainant indicated that he had appeared before the same justice of the peace on a previous occasion and alleged that she had displayed a "rude and reckless attitude towards me". He stated that he had been scared to file a complaint because he feared that his brothers and sisters would be punished. The complainant is of the view that Her Worship is a "racist, human rights violator, reckless behaviour, being rude to Human being, and suffers from racially motivated anger".

The complaints committee reviewed the letter of complaint and requested the transcript and audio recording of the complainant's trial appearance. The committee also asked the complainant for further details in order to evaluate his concerns about the previous court appearance. The complainant responded indicating that he was not able to provide the appearance details of the earlier court attendance and expressed that he was more concerned with the most recent incident. The committee requested from Court Services an outline of the history behind the complainant's charge, in an attempt to identify the earlier occasion as well as to inform the committee of the context of how the charge was before Her Worship that day.

After a careful review of the complaint, the court record and the history of the charge, the committee concluded that there was no evidence to support the complainant's allegations that Her Worship used rude language, was threatening, displayed anger or acted in a racially motivated manner towards the complainant. To the contrary, the complaints committee noted

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from its review of the audio recording that Her Worship's responses were carefully articulated, in a quiet, moderate tone of voice. The committee noted that the question of whether or not an adjournment for the purposes of securing a translator ought to have been granted in this case was a matter of judicial discretion and, without evidence of misconduct, falls outside the jurisdiction of the Review Council. The committee expressed that if the complainant was unhappy about Her Worship's decision to proceed with his trial that day, he may wish to seek legal advice to determine what, if any, remedies may be available to him.

For the above reasons, the complaints committee found no basis to the allegations of misconduct made about Her Worship and dismissed the complaint and closed its file.

CASE NO. 20-041/09

The complainant, a lawyer, filed a complaint about the presiding justice of the peace arising from an appearance on behalf of his client for his trial on charges of careless driving and speeding. The complainant indicated that he arrived in the court at 9:07 a.m. and was informed by the justice of the peace that his client was "convicted as he was not present and deemed not to dispute the charges". The complainant was told to "go and appeal or re-open the case". The complainant indicated that he spoke with the prosecutor to ask for her consent to have the case re-opened before His Worship. The complainant alleged that after two attempts to have the matter re-visited by His Worship, including the second time which was on the consent of all parties, His Worship continued to deny the request to re-open the matter.

The complainant stated in his letter to the Council that "my client is now forced to endure additional procedural delays and expense resulting from the appeal and/or re-opening process and setting a new court date". The complainant indicated that the court tier was completed by 9:37 a.m. with the next docket not until 10:30 a.m.. The two areas of concerns for the complainant were that His Worship:

- 1) Convicted accused persons, my client and other persons, in less than 7 minutes after court commences.
- 2) Refused to exercise discretion to re-open or otherwise deal with my client, notwithstanding the consent of all parties.
- 3) The complaint also felt that there was a double standard in that matters are often held down to allow attendance by a police officers, but the same fairness is not extended to defendants. The complainant was of the view that His Worship's "conduct is against the principle of natural justice; it is unfair and not judicious".

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The complaints committee reviewed the letter of complaint and requested and reviewed the transcript and audio recording of the complainant's appearances before the court. The committee noted from the record that, at the request of the prosecutor, His Worship deemed the client's two charges as "not to dispute" after there was no response to the clerk's page of the accused at 9:10 a.m. of the 9:00 a.m. docket. When the matter was first addressed by the complainant, the committee noted that it was 9:41 a.m. and the officer and all other parties had already left the court. The matter was brought back a second time at 9:48 a.m. by the prosecutor who indicated her consent to the re-opening. At that time, it was noted that His Worship advised both the prosecutor and the complainant of the proper re-opening procedure and that he was not willing to circumvent that process.

The complaints committee noted that often the tone or manner in which a matter is addressed can leave a party with a stronger impression than the actual words used. The committee observed that its investigation showed that His Worship's tone was somewhat sharp while dealing with the joint submission and his manner in addressing the complainant could have been more polite. However, this did not amount to judicial misconduct. The committee advised that the complainant's allegations raised matters involving the exercise of judicial discretion. If the complainant disagreed with His Worship's decision to proceed in deeming matters not to dispute so early after the beginning of court or with his refusal to exercise his discretion to re-open a deemed matter, the proper way for the complainant to proceed was through other legal remedies. Such matters fall outside of the Council's jurisdiction.

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

CASE NO. 20-042/09

The complainant attended for trial on a parking violation before the justice of the peace. He had driven over 17 hours without sleep to ensure that he arrived at court in time for his trial. The justice of the peace told him that the matter would not proceed on the scheduled date, and adjourned the matter to a later date for trial.

The complainant alleged that the justice of the peace told him that the charge would be withdrawn on the next date, and this did not happen. He alleged that the justice of the peace lied. He stated that when he asked why the matter would not proceed on the date indicated on the Notice of Trial, the justice of the peace said that it didn't matter, they weren't ready to proceed. He alleged that when he told the justice of the peace that the Crown Attorney should withdraw the charge, the justice of the peace said, "Don't worry, this is working for you. This will be good for you. Next time, you can say that you have waited too long for the trial and I think the case will be dismissed." The complainant also alleged that he was totally ignored.

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A On the subsequent date, when he appeared for the trial, the same justice of the peace was presiding. The complainant alleged that when he told him what was said at the previous appearance, the justice of the peace said to him that he must have misunderstood. The complainant said that he was so upset on the return date when the matter was not withdrawn, that he told the justice of the peace that he would do whatever he wanted him to do; if he wanted him to plead guilty, he would do that. He entered a guilty plea and was fined \$50.00. He also alleged that the court reporter appeared to be turning off the tape recorder whenever there was something said that was not favourable to the justice of the peace.

After careful review of the complainant's letter of complaint and supporting documents, the complaints committee ordered and reviewed the transcripts of both court appearances and listened to the audio recordings. The committee observed that the court record showed that the justice of the peace did not say because the complainant had to wait too long for the trial, the case would be dismissed. However, based on the comments that were made, the committee could understand why the complainant was under the impression that the charge would be dismissed. His Worship used such expressions as "it's to your benefit". After its review, the committee concluded that an inference could be reasonably drawn by the complainant from the various comments made that the "benefit" to him that His Worship referenced several times would be a withdrawal of the charge.

The committee's review of the transcript and the audio recording also showed that there were instances where His Worship appeared to be impatient, and at times interrupted the complainant and did not permit him to speak.

The committee found that the court record showed that on the second court date, although the complainant did appear to be frustrated that the charge was not being withdrawn, the justice of the peace did make it clear to him that he did not have to plead guilty and could have a trial.

After reviewing the record and making its observations, the committee was sufficiently concerned by the comments and the perception left with the complainant that a response was invited from the justice of the peace. Upon receiving the response, the complaints committee was concerned that the response did not indicate that His Worship had fully appreciated how his conduct was perceived by others, particularly a self-represented litigant.

It appeared to the committee from both the response and from His Worship's actions on the record that he allowed the pressures of time and heavy court lists to prevent him from permitting the complainant to fully communicate his viewpoint, and from observing the complainant's lack of understanding of what His Worship intended to communicate.

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The complaints process through the Review Council is remedial in nature. The Council considers that through the review of one's conduct, improvements are made to how situations and individuals are treated and handled in the future. In this case, the committee decided to send a letter of advice to the justice of the peace pursuant to section 11(15)(b) of the *Justices of the Peace Act*. A letter of advice was a suitable means of informing him that his conduct during the court proceedings fell short of the standards expected of judicial officers.

The committee considered that regardless of how busy a court is, there is an obligation on every justice of the peace to take the requisite time to listen to individuals before him or her and to explain what is happening, so that they can properly understand the decision of the justice and feel that they have been heard. A justice of the peace must never allow the length of the list and the shortage of time to result in a failure to allow for due process and to listen to a defendant. This is particularly important if an individual before them is not legal counsel. In the administration of justice, it is important not only that justice is done but also that justice is seen to be done.

The committee encouraged the justice of the peace to carefully consider how his comments may be construed by others. The committee noted that self-represented defendants may have no familiarity with the legal concepts that may be alluded to in general terms and are often obvious to a legally trained person. While it is always important for a justice of the peace to be aware of how his or her comments and conduct are viewed by those appearing before him or her, when dealing with self-represented persons, one must have a heightened sense of awareness of how words or expressions may be viewed by others.

With respect to the allegation that the court report had turned off the tape recorder, the complaints committee noted that the audio recordings showed that the dialogue was very continuous and without interruption. The committee was satisfied that the record was accurate.

After the committee sent its letter of advice to the justice of the peace, the file was closed.

CASE NO. 20-043/09

The complainant indicated that he went to the Intake Office of the courthouse to swear an affidavit and alleged that the subject justice of the peace asked whether or not there was a problem between him and another justice of the peace from the same region. The complainant alleged that Her Worship stated to him "she didn't know her jurisdiction". In the end, Her Worship declined to swear the affidavit and the complainant advised that he swore the affidavit in front of a court clerk. His allegations about Her Worship were that she:

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- 1) Failed to fulfill her administrative duties which she was bound to fulfill and therefore obstructed justice.
 - 2) Acted in a manner unbecoming of her position of office, by undermining public trust and in the best interest of the public and displayed an abuse of power.
 - 3) Discriminated and punished him for filing a complaint against one of her peers; a complaint she should have had no knowledge of.
 - 4) Acted in a manner that was condescending, demeaning and insulting to a member of the public.
 - 5) Had his documents in her hand, reviewed them and was prepared to commission them until she became aware of his identity.
 - 6) Breached public trust and broke the law by making a phone call and disclosing the content of his affidavit to a third party without a release of information and/or his permission to do so.

The complaints committee reviewed the letter of complaint, as well as the transcript and audio recording of the subject court appearance. In addition, the committee requested and reviewed a written response from Her Worship to the complainant's allegations. Based on its review of the record and Her Worship's response, the committee concluded that there was no evidence of misconduct of the part of the justice of the peace in the conduct of the matter before her or in the exercise of her judicial discretion in making the decision to decline to swear the affidavit. The committee noted that from the outset of Her Worship's interactions with the complainant, she made it clear that she was uncertain of whether she had jurisdiction to swear an affidavit for use in a Superior Court of Justice matter, which is what the complainant was seeking. Her call to another judicial officer, as she told the complainant, was to find out if she had such jurisdiction. That was the reason she could not assist him immediately and why she told him she would check into it.

It appeared to the committee that it was the complainant, not Her Worship, who was concerned about prior dealings with other justices of the peace and who, as he stated on the record "is going to make an issue of that." The committee found that there was no evidence in the transcript or on the audiotape that Her Worship was condescending, demeaning, or insulting. In fact, the transcript and audio recording revealed that when Her Worship explained that she could not do what the complainant was asking because she lacked jurisdiction, he was insulting to her stating "... then you shouldn't be sitting in that seat..". The committee noted that there was no evidence that Her Worship obstructed justice or breached public trust or failed to fulfill her duties. She appropriately questioned whether she had the

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legal power to do what was being asked of her, checked with a colleague about that issue and then made a decision that she lacked jurisdiction and that the complainant would have to go elsewhere. In the committee's opinion, there was no misconduct in that process, her dealings with the complainant or in her decision.

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

CASE NO. 20-044/09

The complainant appeared before the subject justice of the peace seeking to have criminal process issued against an accused. In his initial letter of complaint, the complainant alleged that His Worship acted in bad faith, acted in open defiance of law and procedure, and that he was "bull-dozing his way throughout".

The complainant alleged His Worship demonstrated:

- 1) Conflict of interest and deception, including disclosing to the Crown Attorney matters that were derogatory and prejudicial towards the complainant;
- 2) Bias and discrimination, including a display of bias in favouring the Crown Attorney and a failure to permit the complainant to "give evidence, present my case and tender documents". His Worship took over the case for the Crown Attorney, cross-examining the complainant as if he were the accused, and refused to permit the complainant to exercise his rights under the law;
- 3) Gross rudeness and lack of courtesy, including that he yelled at the complainant "so loud that they were heard even by those outside the court room in the hallways", and was disrespectful and angry toward him. His Worship instructed him to "stop there" and "sit down" when he tried to submit authority and precedents;
- 4) Refusal to allow the complainant to apprise His Worship of the events of a previous attendance by playing the tape recording he was permitted to make of that proceeding. His Worship stated that he was not bound by what may have transpired on the last date;
- 5) Refusal to allow him to make a tape recording of the appearance; and,
- 6) Violation of "all conceivable rules and code of professional conduct".

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The complainant submitted an additional letter expanding his allegations of misconduct about His Worship to include:

- ♦ that His Worship's bias and discrimination was "racially based", as everyone except the complainant were white; and,
- ♦ that His Worship was "neither patient, courteous nor performed his duties with integrity and honour as mandated by the Standards of Conduct for Justices of the Peace."

The complainant requested a public hearing into these allegations to "determine whether [the justice of the peace] is fit to hold this responsible and honourable office".

The complaints committee reviewed the letters of complaint and requested and reviewed the transcript and audio recording of the court appearance. After a thorough review of the record, particularly the audio recording, the complaints committee found that the record did not support the allegations made by the complainant.

In particular, the committee found no evidence to support the allegations that His Worship demonstrated racial discrimination or bias in favour of the Crown Attorney. Following its review of the audio recording, the committee observed that the audio recording showed no support for the allegation that His Worship was "yelling so loud that they were heard even by those outside the court room in the hallways".

The committee noted from its review of the record that the complainant's matter was carefully considered by His Worship during the course of a lengthy *pre-enquête* proceeding. Throughout the appearance, His Worship's tone and demeanour was noted as calm and professional yet firm. At times, His Worship interrupted the complainant in an effort to maintain focus on the relevant information before the court. The committee observed that these interruptions were necessary in the circumstances and are considered not uncommon in the *pre-enquête* process. His Worship exhibited professional behaviour in controlling his courtroom, even when faced with interruptions during his final decision from the complainant. The committee concluded that His Worship demonstrated competence in the execution of his duties and in considering the complainant's matters.

Overall, following their investigation, the complaints committee found that there was no evidence of misconduct to form any basis for the allegations made by the complainant. The committee observed that if the complainant was unhappy with His Worship's decision or believed that errors in law were committed by the justice of the peace (and the committee is making no such finding or suggestion), the proper way for the complainant to proceed was through other legal remedies. Such matters are outside of the jurisdiction of the Review Council.

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

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CASE NO. 20-045/09

The complainant appeared before the justice of the peace in relation to alleged criminal harassment by the property manager where he lived, by other tenants, by Rogers Telecom, and by the police. The complainant also believed that there was collusion between the municipal police and the Ontario Provincial Police. He also believed that there was an “illegal campaign of terrorization, intimidation and isolation tactics” being carried out against him by the Ontario Provincial Police. From the complaint, it appeared that the complainant had sought a private information against a fellow tenant for an alleged assault. He believed that the OPP and a provincial politician were involved in causing his first affidavit to go missing and later in having the decision of the subject justice of the peace “suppressed”.

The complainant alleged that when he appeared before the justice of the peace, Her Worship issued process and there was to be a trial of a charge against the complainant’s tenant for the alleged assault of the complainant. The complainant indicated that he was informed by police that the trial was to be heard on one date, and he was later advised it was to be earlier that year. According to information that he received from a friend who attended on the original date, and from a court clerk, the trial did not proceed on either date. The complainant claimed that the summons, as ordered by Her Worship during the *pre-enquête* was never issued against the accused. The complainant expressed the view that the court system was not impartial and independent, and it could be swayed by the corrupting influence of either the OPP or a prominent politician. “The only possible explanation is that the decision of the Ontario Justice of the Peace was suppressed”. The complainant alleged that Her Worship failed to act as section 507.1(2) of the *Criminal Code of Canada* clearly defines and breached s. 507.1(5).

The complaints committee found that there was no evidence to support a finding of misconduct. Having reviewed the written documentation submitted by the complainant and the transcript of the court proceeding, the committee determined that the complainant’s allegation that Her Worship was part of a conspiracy to make court documents disappear, in relation to a private charge that he had laid, was unfounded. The committee found that Her Worship conducted herself in an appropriate manner during the court appearance and ordered that a replacement information be prepared and that a new summons be issued with respect to the private charge he had laid sometime earlier. There was no evidence of conduct on the part of Her Worship that would suggest a failure to act or any involvement or knowledge of suppressing the charges which the complainant wished to advance to trial. The complainant was informed by the complaints committee that if he was unhappy with how his matter was handled by court staff and if he thought they may have caused court documents to go missing or be lost, he would need to address his concerns to the appropriate manager of Court Operations. The review of conduct of court staff is not within the jurisdiction of the Review Council.

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

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CASE NO. 20-046/09

The complainant attended with a social worker before the subject justice of the peace to have a Form 2 under the *Mental Health Act* issued to have her daughter admitted to hospital for a psychiatric assessment. The complainant informed the Council that her initial surprise was that His Worship did not introduce himself and that when asked for his name, his response was that it is irrelevant and she could ask at the front desk. She also alleged that he then mumbled his name. The complainant expressed that she was taken aback by His Worship's rudeness in this introduction.

The complainant indicated that she was familiar with the process of obtaining a Form 2 and expressed concerns that His Worship's questions were prefaced with "in the last seven days", which is not a restriction in applying for a Form 2. The complainant indicated that the time restriction applies to a Form 1 application completed by a physician who is required to examine the patient in the last seven days. She stated that she was found it "appalling that a justice of the peace is not aware of this vital distinction". She further expressed that "trying to get a loved one who is not functioning into hospital for treatment is distressing enough without having a Justice of the Peace throwing out questions that do not pertain to a Form 2". The complainant said she hoped that His Worship "is made aware of this complaint and that he will be educated about the details of Forms 1 and 2".

The complaints committee reviewed the letter of complaint and requested and reviewed the transcript of the court appearance. Additionally, a member of the committee reviewed the audio recording of the complainant's attendance before His Worship. After a thorough review of the record, the complaints committee found that the record did not support the allegations made by the complainant. From the committee's review, it was observed that the audio recording showed no support for the allegation that His Worship was "rude" in his introduction or in his treatment of the informant or the social worker who attended with her. With respect to His Worship's questioning, the complaints committee noted that His Worship's questions were relevant to the issuance of a Form 2 under the *Mental Health Act*. The record reflected that His Worship appeared to be reading from the form itself in asking his questions and in the end issued the Form 2 and explained the basis for his decision.

Following its investigation and review, the complaints committee concluded that there was no evidence of misconduct to form any basis for the allegations made by the complainant. The complaints committee dismissed the complaint and closed its file.

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CASE NO. 20-047/09

The complainant filed a letter with the Review Council making allegations about the presiding justice of the peace in relation to a private information he wished to lay against a judge of the Ontario Superior Court of Justice. The complainant appeared before Her Worship at a *pre-enquête* to determine whether or not criminal charges would advance. The complainant's allegations were:

- 1) That Her Worship had a conflict of interest in presiding over the *pre-enquête*, as she was a local justice of the peace and the information before the court was alleging criminal actions by a local judge of the Superior Court of Justice. The complainant alleged that there was or could be perceived to be a working relationship between the two judicial officers.
- 2) That Her Worship refused to hear from the complainant in relation to his private information and instead heard only from the Crown Attorney, who indicated that it was his position that there was no chance of conviction and requested the charges be withdrawn immediately.
- 3) That Her Worship acceded to the Crown Attorney's position that the charges be withdrawn and ignored the complainant's argument that she lacked the authority to withdraw the information without conducting a *pre-enquête*.
- 4) That the participants in law enforcement, including so called independent judicial officers, had joined together to violate and deny the rights of the People.
- 5) That "Her Worship clearly used her authority to protect her colleague and friend, thereby, in my opinion, seriously undermining both the Administration of Justice and the public's confidence in the Administration of Justice."

The complaints committee reviewed the letter of complaint, as well as the transcript and audio recording of the court appearance. Based on its careful review of the record, the committee concluded that there was no evidence of misconduct of the part of the justice of the peace in the conduct of the proceeding before her.

The committee found that the record did not support the allegations that Her Worship was attempting to protect a judge or violate or deny the rights of the complainant. Additionally, there was no evidence of collusion or conflict of interest in Her Worship's assignment to preside over the matter. Further, the committee noted from the record that Her Worship was polite, respectful and treated the complainant with dignity.

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With respect to the complainant's allegation that Her Worship refused to hear from him, the committee noted that the record reflected that the Crown Attorney intervened at the outset and withdrew the charges. The record also showed that Her Worship ruled that, with the withdrawal of the charges, she had lost jurisdiction over the matter. The committee observed that it would have been preferable for Her Worship to hear from the complainant before making her ruling that she had lost jurisdiction. However, in the circumstances rendering her decision before hearing submissions from the complainant did not constitute judicial misconduct.

With respect to his allegation that Her Worship ignored his argument that she lacked the authority to withdraw the information without conducting a *pre-enquête*, the committee noted from the record that the complainant addressed the court only after Her Worship indicated that she felt she had already lost jurisdiction. The complainant also asserted that Her Worship knew or should have known about a recent authoritative court case which he felt supported his view that she had no authority to permit the charge to be withdrawn and instead required her to hear the *pre-enquête* proceeding. The committee noted that if the complainant disagreed with the decision of Her Worship on the basis that he felt there was an error in law made by Her Worship, the proper way to proceed was through other legal remedies. The review of a decision, without evidence of misconduct, was a matter outside of the jurisdiction of the Review Council.

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

CASE NO. 20-048/09

This file was closed because investigation confirmed that the complainant had incorrectly identified the justice of the peace. The complaint was subsequently investigated under File 21-004/10 in relation to the correctly identified justice of the peace.

CASE NO. 21-002/10

The complainant was charged with speeding and, after discussions with a prosecutor, appeared before the subject justice of the peace to plead guilty to a lesser charge and provide an explanation. The complainant alleged that His Worship became irritated with her, and would not allow her to enter a guilty plea "as a convenience". The complainant also alleged that His Worship shouted at her to, "Get Out!" The complainant alleged that she felt embarrassed due to this public humiliation in front of other people who were present, and that she felt very bullied by His Worship's "inappropriate and unprofessional behaviour". The complainant indicated that her own behaviour remained polite and courteous, despite the alleged unprofessional outburst by His Worship.

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The complaints committee reviewed the letter of complaint and requested and reviewed the transcript and audio recording of the complainant's court appearance before His Worship. After careful review, the committee reported that the transcript did not support the allegation that His Worship shouted at the complainant to "Get out!" The committee observed that while His Worship did appear as somewhat abrupt and impatient in his dealings with the complainant, his conduct was not bullying.

The committee advised that the decision by His Worship to decline to accept a guilty plea and to set the matter to another date for trial was a matter of judicial discretion that falls outside of the Council's jurisdiction. If the complainant disagreed with the decision, the proper way to proceed was through an appeal.

The committee also noted that it is important that a justice of the peace take the requisite time to listen to individuals before him or her and, ensure that every party is given the full right to be heard according to the law. This requires hearing submissions courteously and then deciding impartially. As well, with a self-represented party, it is particularly important for the justice of the peace to explain his reasons for a decision. In the administration of justice, it is important not only that justice is done but also that justice is seen to be done.

While the committee noted that His Worship could have been more patient and it would have been preferable for His Worship to allow the complainant to fully address the court with her explanation before determining that he was not going to accept her plea of guilt, the committee advised that in the circumstances, his conduct did not amount to misconduct.

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

CASE NO. 21-003/10

A complaint was filed by the complainant in relation to a peace bond issued by the subject justice of the peace. The complainant alleged that Her Worship was gender biased, had a conflict of interest, showed a lack of impartiality by pre-deciding on issuing the peace bond beforehand, and showed "unprofessional conduct by interfering with a Police Investigation". The complainant also alleged that Her Worship allowed an ex parte proceeding and that he was, as a result, not allowed to cross-examine a witness. The complainant was of the view that Her Worship was "a closet Red Hat (i.e., either a member of the Red Hat Society, or sympathetic to their cause), and thus did not handle the proceedings in a fair and equitable manner".

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The complainant included a Notice of Appeal motion application which further expanded his allegations about Her Worship. Those allegations included procedural errors, obstruction, exhibiting bias, favouritism and lack of impartiality, and in holding an *ex parte* hearing under s. 810 of the *Criminal Code* without authority.

The complaints committee carefully reviewed the complaint letter and supporting documents provided by the complainant. They ordered and reviewed the transcript and audio recording of the proceeding. As part of its investigation, the committee also invited a response from Her Worship to the complaint.

After reviewing Her Worship's response, the committee was satisfied that Her Worship had no conflict of interest that would have prevented her from presiding over the matter involving the complainant or otherwise impairing her ability to act judiciously. After reviewing the record and Her Worship's response, the committee concluded that there was no basis to the allegation of gender bias or to the allegation that Her Worship was a member of or sympathizer toward the Red Hat Society.

With respect to the allegations in relation to a section 810 hearing *in absentia*, following its investigation, the committee found that on a previous court date, Her Worship had not proceeded to make an order in the absence of the complainant that he must enter into a peace bond. Rather, she had shown fairness in subpoenaing him to court on a later date so that he would have the opportunity to respond. Further, the committee advised that if the complainant disagreed with how Her Worship interpreted or applied section 810, the proper way to proceed would be through other legal remedies. The Review Council had no jurisdiction to review decisions of justices of the peace in matters of law.

The committee also noted that Her Worship had felt that it was necessary to use a firm approach to maintain order and decorum in the courtroom.

After reviewing the record and after considering her response, the committee observed that while the complainant's behaviour may have been less than ideal, Her Worship's conduct could have been more patient.

The Review Council, and by extension, every complaints committee, has the role of maintaining and preserving the public's confidence in judicial officers and in the administration of justice through its review of complaints. The approach is remedial. Section 11(15) of the *Justices of the Peace Act* provides for dispositions that should be invoked when necessary to restore public confidence. The committee concluded that it was appropriate to invite Her Worship to an in-person advice session pursuant to section 11(15)(b) to assist Her Worship in fully understanding and appreciating the importance of the impressions and perceptions of justice in maintaining and building the public's respect and confidence in the justice system.

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The committee encouraged Her Worship to have a heightened sense of awareness of how her conduct is viewed by others, in particular the force and tone of her remarks and how she was being perceived.

While the committee appreciated the demands of a busy courtroom upon a justice of the peace and the challenges that may arise, the committee reminded Her Worship that regardless of how busy a court is, there is an obligation on every justice of the peace to take the required time to listen to individuals before him or her and to explain what is happening, so that they can properly understand the decision of the justice of the peace. This is particularly important if an individual before the court is not legal counsel. In the administration of justice, it is important not only that justice is done but also that justice is seen to be done.

Following the advice meeting, the committee determined that no further action was required and the file was closed.

CASE NO. 21-004/10

The complainant had originally filed a complaint about another justice of the peace in relation to his trial on a *Highway Traffic Act*, as well as a *Liquor Licence Act* charge. A complaint file was opened and assigned to a complaints committee in accordance with the Review Council's procedures. Subsequently, Court Services confirmed however that the presiding justice of the peace in the matter was a different justice of the peace. As a result, the complaint file was closed and the complainant was informed.

The complainant re-submitted a complaint about the justice of the peace confirmed to have presided over this trial alleging the same misconduct as originally stated. He alleged that His Worship:

- 1) "Ignored all facts" and did not take evidence into consideration and decided to find him guilty of failing to signal when changing lanes. The complainant felt that the charge should have been "tossed" as he had evidence that his signal was "out of commission"; and,
- 2) Was "unprofessional, discriminative and has committed a monstrous misconduct". He alleged that His Worship "mocked me facially at my (Orthodox) religion and Bible, I felt it."

The complainant further alleged that "...this man has portrayed a severe MISCONDUCT (erred in judgment) towards me, that costed me demerit points.."

He indicated that His Worship has caused him severe stress, trauma and distress.

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The complaints committee reviewed the letter of complaint as well as the transcript and audio recording of the subject court appearance. Based on its review of the record, the committee concluded that there was no evidence of misconduct of the part of the justice of the peace in the conduct of the hearing before him or in the exercise of his judicial discretion in making the decision he made. The committee noted that His Worship was measured and courteous throughout the trial. Should the complainant continue to be unhappy with His Worship's decision, the appropriate remedy would be to seek an appeal of the decision to a higher court.

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

CASE NO. 21-005/10

The complainant had filed a prior complaint (File 20-027/09) in relation to a court proceeding in which he had sought to represent another person. The complaint was dismissed after the committee determined that there was no misconduct on the part of the justice of the peace.

The complainant submitted a letter of complaint which raised new allegations. In relation to the same appearance that gave rise to his prior complaint, he alleged that His Worship knew him and that they were both members of the same community organization. He alleged that the justice of the peace had a legal obligation to declare a conflict of interest and to adjourn the case immediately. He also alleged that His Worship "used and abused his position of authority to humiliate me, because in my opinion, he feels I do not give him the respect he THINKS he is entitled to" in the organization in which they were both members.

Further, the complainant alleged that before the court appearance giving rise to the original complaint, His Worship attended a lunch arranged for members of the community organization of which they were both members, and that he had insisted that he be listed on the lunch program as "His Worship". The complainant believed this was an attempt to be seated closer to the head table and higher ranking persons in the organization. He further believed that His Worship seemed to think that his title, "His Worship" should give him special privileges in the organization to which he not entitled and that he liked to refer to himself as a "Mini Judge".

The committee noted that at the earlier court proceeding, the complainant had never raised a concern that His Worship had a conflict of interest in dealing with the case. Nor had a request been made that His Worship should recuse himself from the case. Following its review of the court record, the committee noted no familiarity was evident between the complainant and His Worship. Further, the committee advised that a decision by a justice of the peace of whether or not to recuse himself or herself from presiding over a case is a matter of judicial decision-

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making that was outside of the jurisdiction of the Review Council. The proper way to proceed if he disagreed with His Worship presiding over the matter was through other legal remedies.

The complaints committee retained an external investigator to interview an independent third party who was a member of the community organization. However, the investigator was unable to locate the person and the complainant declined to provide the contact information. Based on the information that was provided by the complainant, the committee concluded that a response should be requested from the justice of the peace in relation to his use of the title of “His Worship” outside of court. The response from His Worship was received and reviewed by the committee.

The committee did not find that its investigation confirmed that the justice of the peace actually used his title for the purpose gaining special privileges or that there was evidence that he had referred to himself as a “Mini Judge”. However, following its investigation, the committee could understand why the complainant had the perception that His Worship may have been using his title to try to gain special privileges in the community organization. The farewell lunch had no relationship to his position as a justice of the peace. The committee noted that no others on the invitation list were indicated by any similar title. As well, the committee noted that another justice of the peace who attended the function was not listed by his title. However, when His Worship was asked by an event organizer about how he would like to be listed, he indicated that he should be listed as “His Worship”.

The committee was concerned that the response from His Worship did not indicate that he had fully appreciated the great care that must be taken in the use of one’s title as a justice of the peace, or of the importance of the perceptions of others and how his conduct is perceived by others. A justice of the peace must always be aware of how his or her comments and conduct are viewed by other members of the community.

The committee decided to provide the justice of the peace with written advice, pursuant to section 11(15)(b) of the *Justices of the Peace Act*, as its final disposition of the matter. The committee chose this option after determining that there was some merit to the concern raised by the complainant that His Worship requested to be listed as “His Worship” at the lunch to which he was invited in his personal capacity. The committee concluded that a letter of advice was a suitable means of informing him that his request to be identified as “His Worship” at this function was not appropriate.

The committee reminded His Worship that a justice of the peace must have a heightened sense of awareness of the appearance to others as to how the title or prestige of judicial office is used outside of the courthouse. A justice of the peace must take care to ensure that he or she is not perceived as using the power or prestige of his or her office to advance the private interests of himself or herself, or of others. Using one’s title or communicating with the use of information

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on one's business card in relation to matters that do not relate to court could appear to others as an attempt to advance one's interest or to take advantage of one's position as a justice of the peace for some benefit.

The complaints process through the Review Council is remedial in nature and through the review of one's conduct, improvements are made to how situations and individuals are treated and handled in the future. The committee was satisfied that following its letter of advice, no further action was required and the file was closed.

CASE NO. 21-007/10

The justice of the peace was the subject of a complaint containing allegations that he made inappropriate sexual comments to and about women working in the justice system; and, that he had inappropriate sexual contact with three women working in the justice system.

Before a final determination was made on this complaint, the Review Council administratively closed its file due to a loss of jurisdiction.

The complainants and the former justice of the peace were informed that if he were to return to the office of justice of the peace, the complaint would become re-activated and the complaint process would proceed.

CASE NO. 21-008/10

The complainant, a judge, filed a complaint about a justice of the peace who was charged with a driving offence under the *Criminal Code of Canada*.

The charge against His Worship proceeded to court. The committee requested and reviewed the transcript of His Worship's court appearance. The court record confirmed that the Crown Attorney concluded that the facts leading to the charge did not support a criminal charge. The charge was withdrawn. The Crown Attorney proceeded with a lesser driving charge under the *Highway Traffic Act*. The justice of the peace entered a guilty plea to the provincial offence.

After careful review and consideration of the circumstances of the charge, the findings of the Crown Attorney, and the fact that the matter was found by the court to be a provincial offence, as reflected on the court record, the complaints committee concluded that His Worship's conduct did not constitute judicial misconduct. The committee noted that the charges were dealt with by the court and His Worship accepted responsibility for his actions. For the above reasons, the complaints committee dismissed the complaint and closed its file.

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CASE NO. 21-009/10

The complainant filed a complaint about the presiding justice of the peace in relation to his trial on a charge of violating the *Ontario Fire Code*. The complainant alleged that His Worship failed to listen to him and his explanations, and that His Worship told him very strictly not to waste the time of the court. He further alleged that His Worship asked “scary questions” about his mortgage and home price, and asked him “to take out from my home equity and pay [a large] fine for the fire marshall”. The complainant also alleged that when he tried to submit evidence of harassment by his tenants, His Worship said this was all irrelevant and commented that he was just wasting the court’s time.

The complaints committee reviewed the letter of complaint and requested and carefully reviewed the transcript of the complainant’s trial appearance.

The committee found that the transcript confirmed that the complainant was self-represented and was assisted by a language interpreter. The committee noted that in such circumstances, judicial officers must be sensitive to the needs of the defendant, and should exercise extra care and attention to ensure that the defendant understands the proceedings and is aware of his or her procedural rights. While the committee considered that the justice of the peace could have been more sensitive to the needs of this self-represented defendant and more helpful than he was, the committee did not find that his conduct amounted to judicial misconduct.

With respect to the complainant’s allegation that His Worship would not listen to him and his explanations, the committee noted that the matter was set for trial and His Worship’s decision to deny the request for an adjournment was a matter of judicial discretion. As such, this was not a matter within the authority of the Review Council to consider. If the complainant disagreed with His Worship’s decision, the proper way to proceed was through an appeal.

The committee also observed that while a justice of the peace has an inherent power to examine witnesses, he or she should take care to refrain from such active participation that might be seen to undermine their impartiality. Although the transcript showed that the justice of the peace did enter into the process of asking questions, the committee found from its review of the transcript that his involvement did not demonstrate bias or prejudice towards the complainant.

The committee noted that the transcript did show that the justice of the peace said “don’t waste my time”, as the complainant alleged. However, His Worship did so in the context of his determination that certain evidence or issues were not relevant. The committee expressed the view that His Worship could have chosen his words more carefully so as to assure the complainant that he was receiving a full and fair trial. His Worship’s assessment of the evidence and his determination of the relevance of issues presented, however, is a matter within his jurisdic-

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tion to decide. If the complainant disagreed with how His Worship determined the issues, the proper remedy was through an appeal.

With respect to the complainant's allegation that His Worship asked "scary questions" about his mortgage and home price, the transcript confirmed that His Worship did ask such questions. However, the record did not support the allegation that His Worship directed the defendant "to take out from my home equity and pay [a large] fine for the fire marshall". The committee advised that it is appropriate for judicial officers to ask about financial information in the context of determining the ability of the defendant to pay a fine.

With respect to the complainant's allegations that His Worship would not hear submissions about harassment of the defendant by his tenants, the record did reflect that His Worship explained that this information was not relevant to the specific *Fire Code* violations that were before the court.

While the committee advised that most of the allegations by the complainant were matters of procedure or decision-making that were outside of the jurisdiction of the Council, the committee thanked the complainant for bringing the matters to the attention of the Council as a good reminder that the procedures adopted by a justice of the peace play an important role in whether a litigant is left with an impression that he or she has a full right to be heard according to the law.

For the above reasons, the complaints committee found no judicial misconduct and dismissed the complaint and closed its file.

CASE NOS. 21-011/10, 21-012/10, and 21-015/10

The complainant filed complaints about four justices of the peace in relation to his Intake Court attendances. On each occasion, the complainant attended for the purpose of requesting that a private information be laid against his neighbour and criminal charges be issued. These three complaint files (Files 21-011/10, 21-012/10, and 21-015/10) were closed in 2010 in relation to complainant's allegations.

The complainant expressed that his concerns were not being duly considered. He indicated that he felt that he was a victim of crime, and that neither the police nor the municipality would take any action to help him. He stated that he filed the complaints because he felt that the justices of the peace were not fully considering his matter.

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CASE NO. 21-011/10

This complaint related to an attendance in Intake Court where it was alleged that the subject justice of the peace “refused to look into the matter”. The complainant alleged that His Worship “would not look at the photos that I tried to present and I was told that the situation was a civil matter”, which the complainant claims “was misleading information”.

The complaints committee investigating this file ordered and reviewed the transcript of the complainant’s attendance before His Worship. The complaints committee concluded that there was no misconduct on the part of His Worship. The committee advised that His Worship’s decision not to proceed with laying criminal charges against the neighbour was a matter of judicial discretion, rather than a matter of conduct. The committee observed that while the complainant may have received some incorrect information about whether he could proceed with the charges that he wished to lay under the *Criminal Code*, the proper way for the complainant to proceed was through other legal remedies. The Review Council does not have the legislative authority to review or change decisions of a justice of the peace. Such matters are within the jurisdiction of courts. As such, the complainant was advised that a lawyer was in the best position to advise him on his legal remedies.

Having viewed no evidence of misconduct on the part of His Worship in the execution of his duties, the complaints committee dismissed the complaint.

CASE NO. 21-012/10

The complainant advised that prior to this appearance, the subject justice of the peace had told him that the actions of the neighbour were punishable by up to seven years in jail. However, the complainant alleged that on the date in question, His Worship reviewed the evidence and refused to lay charges. Instead, the complainant indicated that he was directed to the Crown Attorney’s office and told to contact a lawyer. The Crown Attorney’s office told him to go to the justice of the peace. The complainant further indicated that he received an opinion from a woman at the Victim/Witness Assistance Program, who after reviewing his evidence, expressed that she couldn’t understand why His Worship would refuse to lay charges.

After careful review, the complaints committee found that the court record did not support the complainant’s allegation that His Worship refused to lay charges against the complainant’s neighbour. Rather, in the committee’s opinion, the record showed that His Worship listened to the complainant’s concerns, which included allegations of obstruction of justice and complaints against police and tried to provide the complainant with information that would be helpful in the circumstances being described. In doing so and in recommending

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that the complainant contact a lawyer, there was no evidence of misconduct on the part of His Worship.

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

CASE NO. 21-015/10

The complainant indicated that he attended before the subject justice of the peace and alleged that His Worship entered his name into the computer and indicated that there was nothing that he could do for him. According to the complainant, His Worship would not look at his evidence, nor would he provide him with the opportunity to express his concerns about the situation with his neighbour. He alleged that His Worship told him that there was nothing he could do and he could not go above the OPP Commissioner. The complainant alleged that His Worship “may know what is behind the conflict of interest that I have been experiencing at the hands of the legal system, but he clearly does not want to say”. The complainant expressed that he “would like to know why he would not take responsibility and help me with my issues”.

The complaints committee requested and reviewed the transcript of the complainant’s attendance. Based on its review of the transcript, the complaints committee observed that the court record clarified that a comment relating to the OPP Commissioner appeared to have been misunderstood by the complainant. It was clear from the transcript that His Worship felt that the correct legal procedure was that the matter needed to go to the Superior Court of Justice. In the view of the complaints committee, His Worship was simply providing information to the complainant that there was no jurisdiction to deal with the matter, and that his remedy was through another level of court.

After reviewing the transcript of the complainant’s appearance before His Worship, for the above reasons, the complaints committee dismissed the complaint and closed its file.

CASE NO. 21-014/10

The complainant appeared before the subject justice of the peace on a trial on a speeding ticket. The complainant indicated that he was “absolutely shocked at what I witnessed”. He claimed that Her Worship “did not use her discretion properly and convicted me”. Aside from disagreeing with Her Worship’s decision, the complainant alleged that his “main complaint is about the behaviour and demeanour of [the justice of the peace] and the fact that she was not fair and impartial and did not act in a professional manner”. He also alleged that she showed no common sense or knowledge of the law and was talking nonsense.

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According to the complainant, Her Worship “showed a clear bias towards the police and a disdain and contempt to me as a member of the public”. He alleged that she “couldn’t care less about the merits of the case and just wanted to rubber stamp the policeman’s charge”. He alleged that as he waited for his trial, he witnessed the same contempt directed towards others. The complainant described Her Worship’s behaviour and style as “a bullying and abusive approach”. The complainant indicated that he felt he did not receive a fair trial and provided examples of Her Worship’s incompetence and unfairness. The examples included such behaviour as denying cross-examination, constantly interrupting him, being “super controlling and foul-tempered”, ignoring perjury and generally demonstrating incompetence. He stated that the conduct of this justice of the peace “is damaging the reputation of all good justices in the system”. He informed the Review Council that following his conviction, he had filed an appeal.

The complaints committee assigned to review and investigate this complaint ordered and reviewed the transcript and audio recording of the complainant’s trial before Her Worship. Additionally, a member of the committee reviewed the audio recording of the entire tier to assess the allegation that Her Worship displayed “contempt” for others appearing before her that day.

Based on its review of the record, the committee concluded that the court record did not support the allegation of bias in favour of the police. Following its review of other proceedings before Her Worship on the date in question, the committee did not find that the court record supported the complainant’s allegations of misconduct toward others who appeared before her.

However, after reading the transcript and listening to the audio recording, the committee did have some concerns about the manner in which Her Worship treated the complainant during the course of his trial. While the committee found that the record did not support that allegations that Her Worship was incompetent, that she did not know the law or that she ignored perjury, the committee observed that at times Her Worship entered into debates with the complainant, and her tone, choice of words and comportment were not appropriate. She demonstrated a lack of tolerance, and became overly involved in the prosecution, rather than permitting the prosecutor to have full carriage of the prosecution. Following its review of the transcript and the audio recording, the committee could understand why the complainant perceived Her Worship’s conduct and attitude towards him as prejudicial and lacking in objectivity.

The record showed that at one point, in an attempt to exert control, Her Worship raised her voice and threatened that the complainant would be leaving the courtroom if he continued to interrupt. The committee found that Her Worship’s methods of controlling her court and maintaining decorum did not meet the high standard expected of judicial officers. Rather, her

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manner undermined the complainant's confidence in her ability to remain impartial, and his confidence in the administration of justice.

After reviewing the record, the committee invited a written response from Her Worship to the complainant's concerns in relation to her conduct and behaviour towards him during his trial.

In her response, Her Worship expressed regret over her harshness and choice of words during the trial, and acknowledged that her comportment was not appropriate. Following its review, the committee remained concerned that Her Worship did not fully understand and appreciate how the complainant perceived her treatment of him and the impact of her conduct on him.

The committee held the view that it is the responsibility of a justice of the peace to endeavour to maintain dignity and decorum in the courtroom. A justice of the peace should remain impartial and objective regarding the proceedings at all times, and must take care to ensure that he or she is perceived to remain impartial and objective. A justice of the peace must strive to be patient, dignified and courteous in performing the duties of judicial office, including maintaining control of his or her reactions and emotions.

The complaints process through the Review Council is remedial in nature. In this case, the committee decided to send a letter of advice to the justice of the peace pursuant to section 11(15)(b) of the *Justices of the Peace Act*. A letter of advice was viewed by the committee as a suitable means of informing her that her conduct was not appropriate in the circumstances that led to the complaint.

The committee advised Her Worship that her conduct towards the defendant in an effort to exercise control over the proceeding was inappropriate and not in keeping with the high standards expected of judicial officers. Further, the committee noted that a justice of the peace must have a heightened sense of awareness of the appearance to others as to how his or her conduct is perceived. A justice of the peace must take care to ensure that he or she is not perceived as being biased or unfair. This is even more important when presiding over matters in which a defendant is self-represented.

The committee encouraged Her Worship to reconsider her handling of this situation, and perhaps other similar occasions, with the view of improving her ability to conduct herself and control the proceedings in a manner consistent with the high standards of personal conduct and professionalism expected of justices of the peace.

After providing Her Worship with advice in writing, the committee determined that no further steps were required and closed its file.

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CASE NO. 21-017/10

The complainant filed a complaint about a justice of the peace who presided over a hearing of an application for a peace bond brought by the complainant's brother against him. The complainant alleged that during the peace bond hearing:

- 1) "The fact that I was not represented by a lawyer brought a bad light on my presence in the courtroom from Her Worship".
- 2) "When I tried to present my case to Her Worship I was continually shut down" and as a result, he could not present all of his evidence and information to the court.
- 3) Her Worship commented to him, "Don't tell me how to do my job".
- 4) Because of his apprehension, he did not get a chance to present and emphasize certain facts.
- 5) Her Worship demonstrated bias against him in that his brother was permitted to speak out of turn and the complainant was continually told not to speak and was once threatened with jail if he did not keep quiet.

The complainant indicated that he felt that he had no option but to sign the peace bond. He stated that a one year peace bond was excessive. He felt that justice was not served and that Her Worship had contempt for him and the case that he was trying to present.

The complaints committee reviewed the complaint letter and ordered and reviewed the transcript and audio recording of the proceeding. Following its review of the audio recording, the committee observed that the justice of the peace appeared to show a lack of restraint in dealing with the party before her, allowing her manner and tone to become aggressive, abrupt, scolding and confrontational. The committee could understand why the complainant perceived that Her Worship "shut him down". The record supported the allegation that he was threatened with jail if he did not keep quiet. The committee noted the threatening tone and force of Her Worship's comments when the possibility of jail was discussed.

With respect to the allegation that Her Worship had contempt for the complainant and the case that he was trying to present, following the committee's review of the audio recording, the committee could understand how he formed that perception. As well, the committee found that the justice of the peace appeared to be overactive in the court process, "entering into the arena" and engaging in debates with the complainant. The committee could understand how Her Worship's choice of words and the remarks that she made to the complainant gave rise to his perceptions that he was being treated unfairly.

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The committee invited Her Worship to respond to the complaint. After its review of the response to the complaint, the committee was concerned that the justice of the peace may not have truly appreciated the nature of her conduct and how that conduct was perceived by others. The committee did not take issue with the procedural matters or decisions of the justice of the peace. The committee advised that if the complainant disagreed with those matters, the proper way to proceed was through other legal remedies through the courts. Rather, the committee's concern was with the manner in which the justice of the peace conducted herself and how that gave rise to the perceptions of the complainant and how the conduct of the justice of the peace impacted on his confidence in Her Worship specifically, and generally in the administration of justice.

The committee noted the preamble to the *Principles of Judicial Office of Justices of the Peace of the Ontario Court of Justice* where it states:

“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. All judicial officers are obligated to treat members of the public with courtesy and respect”.

The committee also observed that the commentary of the *Principles of Judicial Office* states that justices of the peace must be patient, dignified and courteous in performing the duties of judicial office.

In addition, the committee noted that a justice of the peace, as a judicial officer, is not an active adversarial participant in the court forum. Rather, the role of a justice of the peace is to execute the duties of the position in a manner that is dignified and judicial, while remaining neutral, maintaining appropriate decorum and in control of the proceedings.

The Review Council, and by extension, every complaints committee, has the role of maintaining and preserving the public's confidence in judicial officers and in the administration of justice through its review of complaints. The approach is remedial. Section 11(15) of the *Justices of the Peace Act* provides for dispositions that should be invoked when necessary to restore public confidence. Once it is determined that a disposition under section 11(15), other than dismissal, is required, the Council must consider and order what is necessary to restore the public confidence in the judicial officer and in the administration of justice generally.

The committee determined that the appropriate disposition was to invite the justice of the peace to an in-person advice meeting, pursuant to section 11(15)(b) of the *Act* to assist Her Worship

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in fully understanding and appreciating the importance of the impressions and perceptions of justice in maintaining and building the public's respect and confidence in the justice system.

At the meeting, the committee raised with the justice of the peace their concerns about the manner and tone in which she had conducted herself in the proceeding. The committee encouraged Her Worship to have a heightened sense of awareness of how her conduct is viewed by others, in particular the force and tone of her remarks and how she was being perceived.

While the committee appreciated the demands of a busy courtroom upon a justice of the peace and the challenges that may arise, the committee reminded Her Worship that the pressures of the court should not interfere with ensuring that fair consideration is given to all matters. Regardless of how busy a court is, there is an obligation on every justice of the peace to take the required time to listen to individuals before him or her and to explain what is happening, so that they can properly understand the decision of the justice of the peace. This is particularly important if an individual before the court is not legal counsel. In the administration of justice, it is important not only that justice is done but also that justice is seen to be done.

The committee encouraged the justice of the peace to reflect upon and reconsider her approach in the proceeding, and perhaps similar circumstances, with a view to conducting all matters with courtesy, restraint, patience, and decorum. The justice of the peace showed a sincere understanding of the concerns raised by the complainant and by the committee. She acknowledged the challenges of a busy caseload and the time pressures on a justice of the peace, and agreed that she needed to be more aware in the future of the impact of her conduct on others. She expressed her appreciation that the concerns had been brought to her attention.

The complaints process through the Review Council is remedial in nature and through the review of one's conduct, improvements are made as to how situations and individuals are treated and handled in the future. After providing its advice, the committee determined that no further action was needed and the file was closed.

CASE NO. 21-018/10

The complainant, a police officer, filed a complaint relating to a comment made by the presiding justice of the peace during her reasons for decision when she released an accused following his contested bail hearing.

The complainant informed the Council that prior to the bail hearing, the accused was arrested for public intoxication. He was subsequently charged with resisting and assaulting a peace officer, and was released from custody on an undertaking. Subsequently, the accused was observed by the

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complainant in a grossly intoxicated state. He was re-arrested and charged with failing to comply with a condition of his previous undertaking. During the booking on that charge, the accused resisted the complainant and other officers and allegedly stated to the complainant that he had “better be prepared” but would not elaborate. The complainant interpreted the comment as an attempt to intimidate by way of threatening retaliation. The accused was charged with public intoxication and resisting a peace officer. During the bail hearing on those charges, the police became aware that the accused had possession of several of his father’s firearms. He was released by the subject justice of the peace on a recognizance, one term of which required him to surrender the firearms to the police.

The accused relied upon the wording of the recognizance to refuse to surrender the firearms, and a couple of days later, the police attended with a search warrant issued by the subject justice of the peace, seized a number of firearms and arrested the accused. The accused, who at that point had numerous charges before the court, was again before the same justice of the peace for a contested bail hearing in a reverse onus situation. The accused was released by Her Worship on a recognizance with conditions.

The complainant clarified in his letter that his complaint was not pertaining to Her Worship’s decision to release him. Rather, the complainant’s concern was with the statement of Her Worship in her ruling that, “I mentioned earlier whether the accused poses a danger that there is a substantial likelihood that the accused will commit a criminal offence, my belief is he does not pose a danger. His violence is directed towards the police and not to anyone else.”

The complainant indicated in his letter, “Not only do I find this comment offensive, I believe the comment is unconstitutional and discriminatory”. The complainant believed that Her Worship was expressing a view that police are not entitled to equal protection under the law”. The complainant cited Section 15(1) of the *Charter of Rights and Freedoms* which states that every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination. He also stated that he believed that the discriminatory views expressed by Her Worship extend to the families and loved ones of the police, and people who associate with the police both on and off duty.

The complaints committee requested and reviewed the transcript and audio recording of the bail hearing. Following a careful review, the committee found that throughout the bail hearing Her Worship’s conduct was professional, patient and judicial. The record confirmed the comment by Her Worship, as stated by the complainant in his letter. The committee found that it could understand how the comment gave rise to the perception left with the complainant, and perhaps others in the courtroom, in relation to the possible meaning of Her Worship’s comment that the police may not be entitled to the same level of protection as other citizens.

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The committee invited and reviewed a written response from Her Worship. After reviewing her response, the committee was satisfied that Her Worship's comment was not the result of animus towards or a lack of respect for the police. Rather, the committee concluded that it appeared that Her Worship may not have fully appreciated how her words had been perceived or the impact that her comments had on the complainant, and perhaps on others in the courtroom.

The complaints process through the Review Council is remedial in nature. In this case, the committee decided to send a letter of advice to the justice of the peace pursuant to section 11(15)(b) of the *Justices of the Peace Act*. The committee concluded that a letter of advice was a suitable means of reminding Her Worship that in the administration of justice, it is important not only that justice is done but also that justice is seen to be done. The conduct of a justice of the peace plays a vital role in building and maintaining the public's respect and confidence in an individual judicial officer, in the bench, and in the justice system.

The committee reminded Her Worship that a justice of the peace must have a heightened sense of awareness of the appearance to others as to how his or her conduct or comments are perceived. A justice of the peace must take care to ensure that he or she is not perceived as being biased, unfair or discriminatory. The committee further noted that a commentary in the *Principles of Judicial Office of Justices of the Peace of the Ontario Court of Justice* states, "Justices of the peace shall maintain their objectivity and shall not, by words or conduct, manifest favour, bias or prejudice towards any party or interest."

The committee noted that the pressures of courts can be demanding and extremely busy. While the committee appreciated the demands that this places upon a justice of the peace, the committee observed that regardless of how busy a court is, there is an obligation on every justice of the peace to take the requisite time to maintain and uphold the high standards of conduct expected by the public that will preserve that faith and trust that society places in the men and women who have agreed to become justices of the peace.

After providing Her Worship with advice in writing, the committee determined that no further steps were required and closed its file.

CASE NO. 21-019/10

The complainant attended before the subject justice of the peace to seek an extension of time to pay fines for a parking conviction or a reopening of the case with a new trial date set. The complainant alleged that the justice of the peace refused to look at or discuss the complainant's documents, commented that she had received extensions before and told her to just pay the fines. She provided the Review Council with information that confirmed her financial hardship.

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Further, she alleged that in response to her question of “where do I go from here”, the justice of the peace stated, “The Mayor is the only one who can forgive these infractions, but Mayor Miller is not the forgiving kind.” She also alleged that he was rude and sarcastic. She advised that when she contacted the Mayor’s office, the staff were appalled at the comment.

The complainant advised that she wanted the justice of the peace to issue a formal apology for his attitude and behaviour, attend sensitivity training and make a donation to her local hospital in her name in the amount of her fines.

The complaints committee ordered and reviewed the transcript and listened to the audio recording from the court proceeding.

With respect to the allegation that His Worship refused to look at or discuss the complainant’s documents, the committee found that the court record showed that while His Worship was somewhat brusque in dealing with her request, and he interrupted her without listening to her explanation, his behaviour did not amount to judicial misconduct. The record showed that His Worship responded to her that she had received time to pay the fine previously, she was going to have to pay it, and she couldn’t get a re-opening.

The committee noted that it was unclear from the record whether His Worship meant that he had no jurisdiction to re-open the case or grant an extension, or whether he was indicating that he was deciding against granting her a re-opening or extension. The committee advised that the decision that His Worship could not or would not grant a re-opening or extension was a matter of judicial discretion. Matters of judicial decision-making are outside of the jurisdiction of the Review Council. If the complainant disagreed with his determination that she could not have her case re-opened or time to pay extended, she would need to pursue her legal remedies through the courts.

The committee reported that the court record confirmed that when the complainant indicated that she was unable to pay the fine, and asked whether she could ask for forgiveness, His Worship did make a comment that “see, Mayor Miller is not the forgiving kind.” He also stated, “if the Mayor’s office will forgive them they can, but we can’t.” Following its review of the audio recording, the committee found that the audio recording did not support the allegation that His Worship was rude or sarcastic. Rather, his tone suggested that he may have believed that the Mayor’s office had discretion to not collect on parking fines and his comment may have been an attempt to be helpful.

For all of the reasons above, the complaint was dismissed.

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CASE NO. 21-021/10

The complainant, a lawyer, attended before the subject justice of the peace for his trial on a parking violation. The complainant indicated that he requested an adjournment as he was unable to find the by-law under which he was charged. His request was denied by His Worship and the by-law was provided by the clerk. During his trial, the complainant alleged that the justice of the peace disallowed many of his questions during cross-examination of the police officer even though there was no request by the municipal prosecutor. Near the end of his cross-examination of the officer, the complainant asked the justice of the peace for his name. The justice of the peace asked why he felt he needed his name, and the complainant informed him that he was going to report him to the Justices of the Peace Review Council for “incompetence”. The complainant alleged that His Worship responded by telling him to get out of the courtroom or he would cite him for contempt.

The complainant said he never identified himself as a lawyer, and he wondered whether the justice of the peace would have reacted differently had he done so. The complainant expressed the view that “this court, operated by this particular justice of the peace, gives the general public the wrong impression of the justice system in the Province of Ontario. He was not only the Judge, but the Crown Counsel.” The complainant suggested that His Worship should be dismissed or, at the very least, reprimanded.

After reviewing the complainant’s letter, the complaints committee ordered and reviewed the transcript and audio recording of the court proceeding. In the committee’s opinion, the court record supported some of the concerns expressed by the complainant.

In this case, the complaints committee was concerned that an individual appearing before the court with the intention of having a trial and of giving evidence, abandoned that objective as a result of the perceived bias and prejudgment of the presiding justice of the peace. While the issues of law or procedure as to how the trial was conducted and its fundamental fairness were viewed by the committee as matters to be addressed through an appeal, the committee’s focus was on His Worship’s conduct and treatment of the complainant on this day in court.

From the committee’s review of the court record, the committee found that His Worship was interruptive of the complainant and disallowed some of the complainant’s questions of the officer which were seemingly relevant to the charge before the court. The committee also observed that His Worship “entered into the arena” during the trial, engaging in questions and comments that gave rise to the perception that he was acting as the prosecutor at times and that His Worship’s decision was already determined.

The committee invited and reviewed a written response from His Worship to the allegations made. The committee noted that His Worship showed some appreciation that the conduct

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of the trial was less than ideal, and that he could have expressed himself differently at times. However, the committee was concerned that His Worship may not have fully appreciated how his words and actions had been perceived by the complainant, and perhaps others.

The complaints process through the Review Council is remedial in nature. In this case, the committee decided to send a letter of advice to the justice of the peace pursuant to section 11(15)(b) of the *Justices of the Peace Act*. The committee concluded that a letter of advice was a suitable means of reminding His Worship that in the administration of justice, it is important not only that justice is done but also that justice is seen to be done. The conduct of a justice of the peace plays a vital role in building and maintaining the public's respect and confidence in an individual judicial officer, in the bench, and in the justice system.

In its advice, the committee encouraged His Worship to reconsider his handling of this situation, and perhaps other similar occasions, with the view of improving his ability to conduct himself and the proceedings in a manner consistent with the high standards of personal conduct and professionalism expected of justices of the peace. His Worship was reminded that a justice of the peace should remain impartial and objective regarding the proceedings at all times, and must take care to ensure that he is perceived to remain impartial and objective in deciding matters.

The committee noted that the pressures of courts can be demanding and extremely busy. While the committee appreciated the demands that this places upon a justice of the peace, the committee observed that regardless of how busy a court is, there is an obligation on every justice of the peace to take the requisite time to maintain and uphold the high standards of conduct expected by the public that will preserve that faith and trust that society places in the men and women who have agreed to become justices of the peace.

After providing His Worship with advice in writing, the committee determined that no further steps were required and closed its file.

CASE NO. 21-022/10

The complainant attended before the subject justice of the peace to set a court date for a criminal charge. The complainant stated that His Worship “repeatedly interrupted me and refused to allow me the opportunity to respond to statements made by the Crown”. The complainant indicated that he asked His Worship if he was going to allow him an opportunity to respond to the false statements made by the Crown Attorney, to which His Worship allegedly responded, “There is nothing you can say at this point that will change my position.” The complainant believed that from His Worship's actions and statements, “he was not prepared to hear anything I had to say”.

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The complaints committee requested and reviewed the transcript and audio recording of the complainant's appearance before His Worship. The committee observed that during the set-date proceeding, the Crown Attorney provided some history of the matter on the record and indicated that the matter was already set for trial and that outstanding disclosure would be ready shortly. The committee noted that the record did show that the complainant wished to make comments but His Worship interjected by repeatedly asking him not to speak. The record also reflected that His Worship commented that "nothing you can say can really change my mind because you have to come back to give us an update on whether you're getting a lawyer. You've also got some disclosure that apparently is outstanding. So get on top of it." He also later remarked "Sir, it doesn't matter what your position is. You've got a trial date set".

The committee found that His Worship's handling of this matter was less than ideal. The committee concluded that regardless of how busy a court is, there is an obligation on every justice of the peace to take the requisite time to listen to individuals before him or her and to explain what is happening, so that they can properly understand the decision of the justice and feel that they have been heard. A justice of the peace must never allow the length of the list and the shortage of time to result in a failure to allow for due process and to listen to a defendant. This is particularly important if an individual before him or her is not legal counsel. In the administration of justice, it is important not only that justice is done but also that justice is seen to be done.

The complaints committee noted in this case that His Worship appeared dismissive of the accused and of any comments he wished to make. Following its review of the record, the committee invited a response from His Worship to the complainant's concerns.

The committee noted from His Worship's response that he had genuinely reflected upon his conduct towards the complainant. In his response, His Worship acknowledged that he had interrupted the complainant and prevented him from speaking. It was evident to the committee from the response that His Worship had considered the situation from the perspective of the complainant, and realized that his conduct had appeared as impatient, dismissive and discourteous.

His Worship expressed sincere regret for his interruptions of the complainant and his decision to not allow him to speak. He also explained to the committee that in the particular circumstances, despite how it had appeared, he had been genuinely trying to safeguard the complainant's interests. The response showed that in retrospect, His Worship realized that if he had been more articulate in explaining what he was doing and why, and more patient in letting the complainant speak, the impact of his conduct on the complainant could have been avoided. His Worship's response to the complaint was viewed by the committee as thorough, thoughtful and sincere. His Worship candidly acknowledged his failure to meet the high standard of conduct

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expected of justices of the peace. He accepted full responsibility for his actions, and expressed his apology to the complainant for the negative experience that he had undergone.

The complaints process through the Review Council is remedial in nature and through the review of one's conduct, improvements are made to how situations and individuals are treated and handled in the future. After reviewing and considering His Worship's response, the complaints committee was satisfied that His Worship understood and appreciated his shortcomings on this occasion and that he realized the importance of being fair and courteous to defendants. The committee concluded that no further action was required.

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

CASE NO. 21-023/10

This was a complaint about the subject justice of the peace in relation to a *pre-enquête* appearance. The complainant had previously sworn an information alleging an individual had uttered threats to harm him. The complainant indicated he was upset that his matter was dismissed by Her Worship during the *pre-enquête* appearance. The complainant expressed that he wanted the matter to proceed to court and felt he was being threatened with bodily harm because Her Worship was "not doing her job".

The complaints committee reviewed the complainant's letter. The committee observed that the complainant was upset because the justice of the peace who conducted the *pre-enquête* hearing determined that legal process should not issue. The committee noted that a review of a decision of the justice of the peace, without allegations and evidence of misconduct, is a matter outside of the jurisdiction of the Review Council.

The complaints committee noted in its letter to the complainant that justices of the peace are not under any obligation to issue process during the *pre-enquête* appearance. A justice of the peace listens to the evidence presented and makes up his/her mind about whether or not he or she will issue process. That decision is theirs alone to make and the Justices of the Peace Review Council cannot direct them in their decision making. If the complainant disagrees with the outcome of the *pre-enquête*, the proper way to proceed would be through other legal remedies.

For the above reasons, the complaints committee dismissed the complaint as outside the jurisdiction of the Review Council.

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CASE NO. 21-024/10

The complainant, a lawyer, had been retained by the subject justice of the peace as his legal counsel in a civil court proceeding. His Worship discharged the complainant from his duties partway through the civil matter and chose to represent himself. A final invoice for legal services rendered was sent to His Worship. The complainant advised in his letter that he was served with a Notice of Bankruptcy by His Worship's trustee.

The complainant expressed concern that a judicial officer earning in excess of \$100,000 per year could remain on the bench and at the same time be a bankrupt. The complainant argued that His Worship's "conduct with respect to me, his affairs, his colleagues not only brings the administration of justice into disrepute but also compromises the independence and integrity of a sitting member of the bench". The complainant further submitted that, "one of the reasons justices of the peace are paid a high salary is to ensure their independence. By declaring bankruptcy, in my view this independence is now compromised".

After reviewing the complainant's letter, the complaints committee invited a written response from His Worship to the allegations. Information was provided by His Worship as to the details of the reason that His Worship went into bankruptcy.

After careful consideration of the complaint and His Worship's response, the committee concluded that in this case bankruptcy did not amount to misconduct. The committee noted that bankruptcy can result from a range of life events and does not in and of itself lead to a finding of misconduct or wrongdoing. Creditors have legal remedies which they are free to pursue. After careful consideration of the particular facts, the complaints committee concluded that in this case, there was no evidence to support a conclusion that His Worship's state of bankruptcy had compromised his judicial independence and impartiality.

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

CASE NO. 21-025/10

The complainant attended before the subject justice of the peace in the Intake Court for a re-opening of a speeding conviction. According to the complainant, Her Worship was "uninformative, callous and a disservice". The complainant indicated that she had elected for a trial but attended at the wrong court location. As a result, a conviction was registered. The complainant indicated that she was unaware that she needed to apply for a re-opening within 15 days of becoming aware of the conviction and as a result she was a few days late in her request. The complainant expressed that Her Worship was "cold, heartless and unreasonably uncompas-

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sionate” in stating that she could not re-open the matter as the 15 day deadline had passed. The complainant indicated that she was informed by another justice of the peace that a justice of the peace has some discretion to accommodate and extend the deadline. The complainant alleged that Her Worship “ignored my circumstances and refused to consider re-opening another hearing”. Further, she alleged that Her Worship “didn’t care to listen/discuss/ consider my explanations despite the leaway/discretion she had”.

The complainant also mentioned in her letter that Her Worship was appeared to have a particular ethnic background, and stated that she wondered if Her Worship “had acted on a hidden racial motive” in her dealing with her and her request.

The committee requested and reviewed the transcript and audio recording of the complainant’s appearance in Intake Court. After a careful review of the record, the complaints committee concluded that there was no misconduct on the part of Her Worship in considering the complainant’s request for a re-opening. The record did not support any of the allegations made by the complainant. In fact, the committee found that Her Worship was polite, patient and professional in her dealings with the complainant. It was further noted that Her Worship took time to listen to the complainant, ask questions to better understand the circumstances behind the conviction and to explain the reason for her decision not to re-opening the matter. The record reflected that Her Worship further answered questions and provided information to the complainant as to other options available to her.

With respect to complainant’s issues with Her Worship’s decision, the record reflected that the complainant was unaware of the law that applied to re-openings. The committee noted that Her Worship explained the 15 day limitation to consider a re-opening, her lack of authority to extend that timeline and that she was required to act in accordance with the law. If the complainant was unhappy with Her Worship’s decision not to re-open her matter, she could seek legal advice with respect to other remedies which may be available to her. The Justices of the Peace Review Council has no jurisdiction to intervene and review such decisions.

With respect to the complainant’s suggestion that Her Worship may have “acted on a hidden racial motive”, there was no basis or support to that assertion observed from the committee’s review of the court record. Her Worship’s dealings with the complainant were observed as friendly, helpful and accommodating.

For the above reasons, the complaints committee dismissed the complaint as being without basis and closed its file.

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CASE NO. 21-027/10

The complainant was convicted of using the designated lane for buses, taxis and vehicles with three or more persons following a trial before the subject justice of the peace. According to the complainant, she had to bring her two children with her to the trial as she couldn't find a babysitter. She alleged that while waiting for her case to be heard, His Worship was "extremely rude and disrespectful and condescending as he told me to take my children outside". She also alleged that during her trial, His Worship "rudely interrupted my account of the details and was almost very smug and sarcastic when listening to my side of the story". According to the complainant, His Worship had a lack of respect for her and her children, demanded respect for himself and was rude. Additionally, she alleged that His Worship "did not explain the rules of engagement yet expected me to stand at a certain point (I had a baby on my lap)". The complainant indicated that His Worship did not explain the conviction and was not compassionate to her explanation or position.

In her letter of complaint, the complainant sought to have her case re-opened. In a letter to her acknowledging receipt of her complaint, the complainant was informed that the Council does not have jurisdiction to re-open a case and that if she disagreed with the decision of the justice of the peace, the proper way to proceed was through other legal remedies such as an appeal through the courts. She was also referred to the Lawyer Referral Service for legal advice.

After reviewing the complaint letter, the complaints committee requested and reviewed a copy of the transcript and audio recording of the complainant's trial. The committee found that the court record confirmed that His Worship asked the complainant to "take the baby outside please" while other matters were proceeding, and he indicated to her that she would be called into court for her matter. After reviewing the transcript and the audio recording, the complaints committee found that the court record showed that His Worship was not rude, disrespectful or condescending in his request or in his treatment of the complainant and her children. Additionally, the court record did not support the allegation that His Worship was interruptive or sarcastic towards the complainant during her trial. The record reflected that His Worship allowed the complainant to proceed with her trial while having her children present. His Worship allowed her to freely provide her testimony and permitted her to give her testimony from the counsel table rather than requiring her to be in the witness box. The committee noted that although His Worship could have explained the trial process to ensure the self-represented accused understood the flow of the proceedings, this did not amount to misconduct. With respect to the allegation that His Worship was not compassionate toward her, the committee found His Worship's decision to reduce the fine and provide time to pay as reflective of his understanding and consideration of the complainant's explanation and financial position.

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

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CASE NO. 21-028/10

The complainant explained that he was “falsely charged” with impaired driving and his car was impounded by the police. He appeared before the subject justice of the peace to have an order issued releasing his car from impoundment and to have the impound fees waived. According to the complainant, he brought “an emergency motion” before Her Worship for this purpose. He indicated that he was accompanied by a real-time captionist and an American Sign Language Interpreter, as he had a hearing disability.

The complainant alleged that Her Worship demonstrated “demeanour and aggressiveness” towards him and “exposed me in public, deridingly I felt, with questions of religion and my accommodations”. He further alleged that Her Worship was aggressive and loud in questioning his accommodations saying, “I think we have to slow down here. Who is the interpreter? I don’t know what is going on here. What’s that machine for?” causing the complainant to feel embarrassed and resulted in him becoming assertively defensive. He indicated that Her Worship would not allow him to speak and allegedly “shut me down forcefully” indicating “the matter is closed”. It was further alleged that Her Worship acted in “collusion” with the Crown Attorney and proceeded with his motion without him being present. At the end of the proceedings, the complainant indicated that Her Worship “kicked me out of the court (angrily I recall)”.

The complainant indicated that the experience left him, a person with a disability, feeling ill-treated. Additionally, the complainant indicated that Her Worship’s order for the release of his car contained the wrong identifying information (colour, year, model and VIN#), which could have been corrected had Her Worship allowed him to address the court.

The complaints committee reviewed the letter of complaint and the transcripts provided by the complainant. In addition, the committee requested and reviewed the audio recording of the complainant’s appearance before Her Worship. After careful consideration, the committee found that the court record did not support the allegations made by the complainant.

The committee found no support for the allegations about Her Worship’s tone and demeanour during the proceedings. The record reflected that Her Worship was patient and courteous in confirming the complainant was wearing a hat in the courtroom for religious purposes, and in her inquiries about the sign language interpreter and real-time captionist who were present to assist him. The committee observed that throughout the proceeding, Her Worship was fair and helpful. The committee noted that Her Worship was firm at times with the complainant; however, her conduct was respectful and professional rather than harsh or angry, as alleged by the complainant. The record confirmed that Her Worship did order the release of the vehicle and she explained that she had no authority to order the waiver of any impound fees. The

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committee found that Her Worship exercised her judicial discretion in not hearing any further evidence or submission on the issue of releasing the vehicle, as the Crown Attorney was consenting to the release and there were no other issues within her jurisdiction to decide. If the complainant disagreed with Her Worship's rulings, the proper way to proceed was through his legal remedies in the courts. The Review Council has no jurisdiction to review or change the decisions of justices of the peace.

Following its review, the complaints committee concluded that the complainant was not mistreated by Her Worship. He was unhappy that the fees that had amassed on his impounded vehicle were not waived. The committee noted that Her Worship explained her lack of jurisdiction to waive the impound fees and provided the complainant with suggestions of possible remedies available to him. The record did not support the complainant's allegations that he was angrily kicked out of court or that Her Worship's release order contained wrong identifying information for his vehicle. Additionally, there was no evidence apparent in the court record of collusion between Her Worship and the Crown Attorney.

For the above reasons, the complaints committee dismissed the complaint as unsupported by the court record and closed its file.

CASE NO. 21-029/10

The complainant indicated that he was falsely charged by police for impaired driving, despite passing a breathalyzer, and had his car seized. He advised that the charges were later withdrawn. He appeared before the subject justice of the peace in the criminal remand court with a sign language interpreter to assist him with his hearing disability.

The complainant alleged that Her Worship displayed "deriding and discriminatory demeanour/attitude" and publicly exposed his need for a sign language interpreter by remarking, "Let's call the matter for the interpreter because I'm sure she's tired of being here". The complainant alleged that Her Worship illegally defined what the complainant could and could not do and was allegedly rude and loud in remarking in open court, "Well yeah, but I know he can read lips and he understands some so. He's not totally...", which shocked the defendant. He alleged that Her Worship rudely cut him off and curtailed his responses to the court. He indicated that she demonstrated "discriminatory attitudinal barriers" continuing "as if I were deaf and dumb". Her Worship was also alleged to have remarked, "I have no jurisdiction to deal with the fact that you may be disabled and have been refused Legal Aid. I suppose (not the first), or the last whom is disabled who will have been refused Legal Aid", which the complainant felt was a very discriminatory "attitudinal barrier" contrary to the *Accessibility for Ontarians with Disabilities Act*.

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The complaints committee reviewed the letter of complaint and the transcript provided by the complainant. In addition, the committee requested and reviewed the audio recording of the complainant's appearance before Her Worship. Following its review of the court record, and in particular the audio recording, the committee found that the allegations made by the complainant lacked support when considered in the context and purpose of the proceedings.

The committee noted that although the record confirmed many of the remarks alleged to have been made by Her Worship, the tone and force in the delivery of her comments were professional and judicial throughout the matter. The committee noted that the purpose of the court appearance was to enter a plea to the criminal charge and to establish dates for the continuation of the matter. When the complainant attempted to bring up other issues, including matters previously decided, matters outside of the justice of the peace's jurisdiction and matters involving files not before the court, the committee noted Her Worship intervened to prevent a loss of control over the proceedings, having regard to the purpose and intent of the court attendance. The committee found that Her Worship exhibited reasonable and appropriate command over the proceedings while maintaining consistent tone, demeanour and patience at all times. The committee observed that Her Worship took the time to explain the history of the matter and explain her jurisdiction. Having carefully reviewed the record and after completing its investigation, the committee concluded that Her Worship's comments were not demeaning; nor did they constitute a discriminatory "attitudinal barrier", as alleged.

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

CASE NO. 21-030/10

The complainant was charged with driving offences and hired a lawyer to represent him. When the complainant was out of town, the lawyer retained a paralegal, who, in the absence of the complainant, agreed to a plea to a lesser offence. The complainant successfully appealed the conviction and appeared before a male justice of the peace for a trial. Court Services confirmed the name of the presiding justice of the peace.

The complainant represented himself and advised that he was convicted after the trial. He believed that the whole thing was a set-up and conspiracy between the prosecutor and the justice of the peace. He alleged that the prosecutor was upset that the complainant had successfully appealed the earlier conviction and made a deal with this justice of the peace to make sure there was a guilty verdict.

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The complainant alleged that His Worship:

- ♦ “Allowed the officer to lie”, which was part of the collusion between the prosecution and the justice of the peace;
- ♦ Cleared all of the other cases in the courtroom before the complainant’s, and the complainant felt there must have been a reason for this;
- ♦ Allowed the prosecutor to present his case but would not permit the complainant to do the same;
- ♦ Constantly interrupted the complainant’s cross-examination, commenting “no statements, just questions”;
- ♦ Established the complainant’s guilt in the justice of the peace’s chambers before the trial by “making deals with prosecution”; and,
- ♦ Violated the complainant’s constitutional rights.

The complainant wanted the decision overturned and his record cleared.

The complaints committee reviewed the letter of complaint and requested and reviewed the transcript of the complainant’s trial before His Worship. In addition, the committee reviewed portions of the audio recording of the complainant’s trial, specifically the cross-examination of the police officer, in order to assess the tone of the proceedings.

The complaints committee concluded that there were no concerns with the conduct of the trial by His Worship. The committee noted that His Worship did interrupt the complainant a few times during the cross-examination of the officer to remind him to ask questions of the officer, rather than giving evidence by making statements. The committee noted that these interruptions were appropriate guidance to the self-represented complainant in terms of proper court procedure. As well, His Worship’s tone and demeanour throughout were professional and polite. The committee also found no evidence of collusion against the complainant and no evidence to support the allegation that he was not allowed to present his case. With respect to the allegation that His Worship had pre-decided the case, the committee found no basis in the record to support that claim.

For the above reasons, the complaints committee dismissed the complaint as unsupported by the court record and closed its file.

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CASE NO. 21-034/10

The subject justice of the peace presided over appearances in bail court with respect to “people from Quebec who were arrested at the demonstration against the G20”. The complainant alleged that Her Worship stated twice on the record that “she was not prepared to make any concessions with regard to bail conditions because these people had come to Toronto from Quebec to cause damage” and “havoc”. According to the complainant, “using such words the justice of the peace was unfairly prejudging a group of people, thereby denying them the presumption of innocence”, which was contrary to the *Charter of Rights and Freedoms* and the *Criminal Code of Canada*.

The complainant asserted that Her Worship “was behaving in a way that was neither principled nor trustworthy. Through her misconduct she has compromised the integrity and independence of her judicial office”.

After a review of the complainant’s letter, the complaints committee ordered and reviewed the transcript of the bail court proceedings before Her Worship that evening. The committee observed that the court record confirmed that, in the context of discussions with the Crown Attorney on the issue of whether to impose a cash deposit on each recognizance, Her Worship commented, “These people came here all the way from Quebec, in general, to cause mayhem. It is important for individuals, for people in general, to accept the consequences of their actions when they are involved in a demonstration that is not peaceful”.

Following its review of the transcript, the committee found that the comments were made in circumstances where the Crown Attorney was submitting that the persons should be released from custody without cash bail. Her Worship expressed her understanding of the *Criminal Code* requirements for a cash deposit when an accused lives beyond a 200 kilometre radius of the region where the alleged criminal act took place. The committee noted that the interpretation of the legislated requirements for interim release was a question of law, and if errors in law were committed by Her Worship in her understanding and application of the law (and the complaints committee made no such finding), the proper way to address such errors would be through on appeal. Such matters are not within the jurisdiction of the Review Council to review.

With respect to Her Worship’s comments, the committee could understand how the complainant perceived the comments as prejudicial. However, the committee noted that the record confirmed that Her Worship’s comments were made in the context of considering whether or not to require a cash deposit as a condition of interim release, and not in the context of deciding whether or not the accused persons would be released.

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The committee's investigation also indicated that on the date in question, bail court had been operating since morning and the events that gave rise to the complaint appeared to occur late in the evening. The committee appreciated the demands of this busy courtroom and the length of the court day upon Her Worship; however, the committee also noted that in the administration of justice, it is important not only that justice is done but also that justice is seen to be done. As is also noted in the commentary of the *Principles of Judicial Office of Justices of the Peace of the Ontario Court of Justice*, justices of the peace must be patient, dignified and courteous in performing the duties of a justice of the peace.

While the committee observed that Her Worship could have expressed herself more carefully and exercised greater patience, the committee concluded that Her Worship's comments and conduct did not amount to misconduct. The complaints process through the Review Council is remedial in nature and the committee observed that through the complaints process, Her Worship would be sent a copy of the disposition letter. This ensured an opportunity for Her Worship to reflect upon her conduct and to gain an appreciation of how her conduct had been perceived in the courtroom. Through the review of and reflection upon one's conduct improvements are made as to how situations and individuals are treated and handled in the future.

For the above reasons, the complaints committee dismissed the complaint as requiring no further action and closed its file.

CASE NO. 21-036/10

This is a complaint about a male justice of the peace, whose identity was confirmed through Court Services based on the date, time and location provided by the complainant. According to the complainant, he received notice of a red light camera infraction and after reviewing his options, he elected to "plead guilty with an explanation" with the intention of seeking a reduced fine. The complainant indicated that he understood from the provincial website that he would have the opportunity to explain the situation and ask for a reduction in the fine. He alleged that His Worship "absolutely refused to let me explain the situation at all. I was not allowed to offer a single word of explanation". According to the complainant, His Worship only asked how much time he needed to pay the fine. The complainant felt that it was unfair of His Worship to not allow him to explain. Further, he was of the opinion that the information provided by the province about the process had misled him to believe that he would have the chance to explain. He indicated that had he known he would not be permitted to explain, he would have opted for a trial. He asked that the justice of the peace to be reprimanded and that his conviction be struck and a trial scheduled.

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The complainant was advised in the acknowledgement letter that the Review Council does not have the jurisdiction to review or change the decisions of a justice of the peace, including striking convictions. The proper way to proceed was through the courts. As such, he was informed that he may wish to seek legal advice, should he wish to pursue other legal remedies.

After a review of the complainant's letter, the complaints committee ordered and reviewed the transcript and listened to the audio recording of the court appearance. The committee observed that His Worship's manner and tone was abrupt and at times discourteous in his dealings with the complainant. The committee also observed that it appeared that His Worship's rushed approach and failure to listen carefully contributed to the negative perceptions left with the complainant. The committee concluded that this conduct, although less than ideal, did not amount to the level of misconduct.

The committee noted that the record confirmed the allegations of His Worship's position that he doesn't reduce fines for red light tickets and his failure to provide the complainant with an opportunity to provide an explanation as to why his fine might be reduced. However, the committee advised that such matters are not within the jurisdiction of the Council to review. Such decisions could be pursued through the courts through other legal remedies, such as an appeal. In the absence of evidence as to the reason why His Worship made such decisions, no conclusion could be drawn by the complaints committee that there was misconduct on the part of His Worship.

The complaints process through the Review Council is remedial in nature. Although the committee dismissed the complaint, the committee sent a copy of the complaint, as well as a copy of the transcript of the proceeding, to His Worship so that His Worship could reflect upon how he dealt with this matter which gave rise to the concerns of the complainant.

CASE NO. 21-039/10

The complainant, who was appearing for his trial, indicated that the subject justice of the peace who was presiding was previously aware that he had a learning disability that made writing notes "impossible". At his trial, the complainant requested permission of His Worship to "unobtrusively record my own court hearing for the purpose of supplementing my notes". According to the complainant, His Worship refused to allow him to make a recording under s. 136 of the *Courts of Justice Act*.

The complainant alleged that His Worship:

- ♦ "Failed to uphold the law and protect my rights in his court, specifically those granted under Section 136 of the *Courts of Justice Act* which gives persons the right to audio record their own personal court hearing";

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- ♦ “By refusing to allow me exercise my rights under the Law, [the justice of the peace] has obstructed justice and has violated his own sworn oath and duty as judge”; and,
- ♦ “By showing such a blatant lack of knowledge and respect of the application of section 136 of the *Courts of Justice Act*, [the justice of the peace] has brought the administration of Justice in disrepute”.

The complainant requested that a memorandum be sent to the judiciary to clarify the issue of audio recordings to remind them “that they MUST not interfere with a party’s request to audio record their own court hearing if the party is doing it in a reasonable manner”. Additionally, the complainant asked the Council to advise His Worship that “he should recuse himself from hearing any court matter before him where I may be a party at the hearing”.

After careful review and consideration, the complaints committee concluded that the allegations raised by the complainant were not matters of conduct of the justice of the peace. Rather, the committee observed that the complainant was disagreeing with how His Worship interpreted and applied section 136 of the *Courts of Justice Act* in deciding not to allow him to record the proceedings. The committee noted that the proper way to proceed if the complainant objected to the decision of the justice of the peace was through other legal remedies. Matters of law are outside of the jurisdiction of the Review Council.

Further, with respect to the complainant’s request that the Council make an order that the justice of the peace must recuse himself from any other court matters in which the complainant may be a party, the committee determined that the Council does not have the legislated mandate to make such an order. Similarly, the committee determined that the Council does not have the authority to issue a directive to the judiciary regarding the interpretation and application of law. The committee noted that both of these requests sought orders that would be fundamentally inconsistent with the nature of judicial independence. The ability of judges and justices of the peace to exercise judicial discretion is an essential aspect of judicial independence. Judicial discretion includes the determination of a case or legal issues by a judge or a justice of the peace, including whether or not to recuse oneself from a case. If a person disagrees with how a justice of the peace exercises his or her judicial discretion, the proper way to proceed is through the appropriate legal remedies.

For the above reasons, the complaints committee dismissed the complaint as being outside of the jurisdiction of the Justices of the Peace Review Council.

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CASE NO. 21-044/10

The complainant, writing on behalf of his mother, criticized the conduct of the justice of the peace who presided over his mother's trial on a charge of driving through a red light. The complainant alleged that His Worship acted "in a manner that demonstrated partisan interest, public pressure and/or fear of criticism" contrary to the *Principles of Judicial Office of Justices of the Peace on the Ontario Court of Justice*, which states that justices of the peace must be "impartial and objective in the discharge of their duties". The complainant indicated that His Worship's misconduct was evidenced in the transcript which he provided. The complainant alleged that:

- ♦ A witness misidentified his mother's car and made an outrageous statement about her driving a luxury car. With such bias economic/ class tension being introduced openly in the proceedings, His Worship either felt pressure to rule in favour of the witness for fear of public criticism, or shared her biased beliefs;
- ♦ His Worship showed bias when he found that the witness had greater credibility and logic in her testimony, despite conflicting inconsistencies in her testimony;
- ♦ His Worship's focus was not directly relevant to determining fault for the accident.

The complainant was not requesting a change in the decision but rather that His Worship be disciplined and that he send an apology to his mother.

After careful review and consideration of the complaint and the enclosed transcript of the trial, the complaints committee concluded that the allegations raised by the complainant were not matters of conduct of the justice of the peace. Rather, the committee found that the proper way for the complainant to pursue his concerns would be through an appeal rather than through a complaint. The complainant's disagreement with the evidence that His Worship allowed a witness to give, His Worship's assessment of and findings of credibility, and His Worship's determinations of relevance of evidence are all matters of judicial discretion and are, without evidence of misconduct, outside the jurisdiction of the Council.

For the above reasons, the complaints committee dismissed the complaint as being outside of the jurisdiction of the Justices of the Peace Review Council.

APPENDIX B

POLICY ON EXTRA-REMUNERATIVE WORK AND APPLICATIONS CONSIDERED

Note:

This version of the procedures reflects decisions
of the Review Council up to December, 2010.

For current procedures, please see the Review Council's website at :

www.ontariocourts.ca/jprc/en/policy

Extra-Remunerative Work Applications

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

CRITERIA & PROCEDURE FOR APPROVAL

- 1) Effective January 1, 2007, all justices of the peace, whether presiding or non-presiding, are required to seek the written approval of the existing 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 amended January 1, 2007.

s. 19; subs. 8(2)(e)

- 2) All such applications to the Justices of the Peace Review Council will be considered by the Review Council at the earliest possible opportunity and the justice of the peace will be advised of its decision, in writing.

Application Procedure

- 3) An application for such approval must be made by the justice of the peace to the Justices of the Peace Review Council, in writing, prior to accepting or engaging in other extra-remunerative work and must set out a detailed explanation of the activity for which approval is sought, an estimate of the time commitment required and the amount of the remuneration. The applicant must also address in his or her letter each of the criteria indicated below that will be considered by the Review Council.
- 4) This application must be accompanied by a letter from the relevant Regional Senior Justice of the Peace providing his or her opinion with respect to any concerns about potential impacts related to scheduling and the applicant's assignment of duties.
- 5) The Council looks at two aspects in relation to remuneration associated with the work. Firstly, the Council considers whether the work gives rise to any remuneration to the applicant justice of the peace. Secondly, the Council considers that a justice of the peace is engaged in extra-remunerative work when that justice of the peace is a party to someone else's remunerative work. Once the Council has established whether there is any remuneration, the policy and criteria set out in the Council's Extra-Remunerative Policy are considered.

Extra-Remunerative Work Applications

- 6) The following are some of the criteria which should be addressed by the applicant in the letter of application and which will be considered by the Review 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;
(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.

The Council has noted that the criterion in paragraph c) above must be understood in the context of the public policy encapsulated in the legislative framework set out in the *Justices of the Peace Act* R.S.O. 1990, c. J.4, as amended and, in particular, in view of the amendments that resulted from the *Access to Justice Act*, 2006, S.O. 2006, c. 21. The amendments brought about a comprehensive reform intended to strengthen public confidence in a professional bench and in the justice system.

Having carefully considered the public policy underlying the current legislative framework, the objectives of the amendments underlying the *Access to Justice Act*, 2006, and the *Principles of Judicial Office of Justices of the Peace of the Ontario Court of Justice*, the Review Council has determined that it would in general be unseemly for full-time presiding justices of the peace to be engaged in commercial extra-remunerative work.

The Review Council has approved some applications to extra-remunerative work by full-time presiding justices of the peace on an exceptional basis in limited circumstances where the activity was primarily non-commercial and had other intrinsic value from an educational, patriotic, religious or creative standpoint. In accordance with the Council's procedures, an applicant who seeks approval to engage in commercial activity should address the issue of why the application for extra-remunerative work should be approved as an exception to the general policy that full-time presiding justices of the peace should not engage in extra-remunerative work that is commercial in nature.

Extra-Remunerative Work Applications

Additional Information

- 7) If upon its review of the application, the Review Council is not satisfied that there is sufficient information, the Review Council may request such additional information as the Review Council may deem necessary and relevant, including information from the justice of the peace, the Regional Senior Justice of the Peace or any other person.

Approval of Application without Conditions

- 8) If, upon its review of the application and any additional material, the Review Council is satisfied that there is sufficient information to approve the application, without conditions, the Review Council will approve the application. The applicant justice of the peace will be advised in writing of the decision of the Review Council, including brief reasons for the decision.

Opportunity to Respond to Concerns

- 9) If, upon its review of the application and any additional information, the Review Council has concerns about granting the application, the Review Council will provide a letter to the applicant justice of the peace setting out its concerns. The Review Council may also suggest conditions of approval to address those concerns.
- 10) The justice of the peace will be given an opportunity to respond to the concerns of the Review Council and to respond to any suggested conditions by sending submissions in writing to the Review Council. If the justice of the peace agrees with the conditions, he or she should respond to the Review Council confirming his or her agreement with the approval being contingent upon the conditions.
- 11) The justice of the peace will be given thirty calendar days to respond from the date of the letter from the Review Council expressing its concerns. If a response is not received from the applicant justice of the peace within that time, the Review Council members considering the request will be notified and a reminder letter will be sent to the justice of the peace. If no response is received within ten calendar days from the date of the reminder letter, the Review Council will proceed in the absence of a response.

Extra-Remunerative Work Applications

Decision

- 12) The Review Council will consider the response of the justice of the peace, if any, in making its decision. The justice of the peace will be advised in writing of the Review Council's approval of the application and of the conditions, if any, upon which the approval is contingent. In the alternative, the justice of the peace will be advised in writing that the request has not been approved. Brief reasons will be provided for the decision.

No Authority to Order Compensation for Legal Costs

- 13) The Review Council does not have legislative authority to recommend or order compensation for costs of legal services incurred as a result of an application for extra-remunerative work.

Application Process in Private

- 14) Any meeting of the Review Council regarding applications for extra-remunerative work shall be conducted in private. Pursuant to section 8(18) of the *Justices of the Peace Act*, the Review Council has ordered that any information or documents relating to any meeting of the Review Council to consider an application to engage in extra-remunerative work are confidential and shall not be disclosed or made public.

subs. 8(18)

Quorum of Review Council

- 15) The usual rules for composition and quorum apply to meetings for the purposes of considering applications for extra-remunerative work. 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 considering applications for extra-remunerative work. Six members of the Review Council, including the chair, constitute a quorum for the purposes of dealing with an application for approval of extra-remunerative work. At least half of the members present must be judges or justices of the peace. The chair is entitled to vote, and may cast a second deciding vote if there is a tie.

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

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Extra-Remunerative Work Applications

Annual report

- 16) After the end of each year, the Review Council shall make an annual report to the Attorney General on its affairs including a summary of each application for approval of extra-remunerative work received or dealt with during the year and the decision of the Review Council, but the report shall not include information that might identify the justice of the peace or the Region in which he or she presides.

subs. 9(7)

Amended at Toronto, June 4, 2010.
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Extra-Remunerative Work Applications

APPLICATIONS FOR APPROVAL OF EXTRA-REMUNERATIVE WORK IN 2010

Applications for approval of extra-remunerative work are given File names starting with ER indicating the nature of the application, followed by a sequential file number and by two digits indicating the calendar year in which the file was opened (i.e., file no. ER-001/10 was the first application for approval in calendar year 2010).

Names of applicants are not included in the case summaries.

CASE NO. ER-20-001/09

The Review Council received an application from a justice of the peace seeking the approval to engage in extra-remunerative work in the field of real estate. In considering the application, the Council looked at two aspects in relation to remuneration associated with the work. Firstly, the Council considered whether the work gave rise to any remuneration to the applicant justice of the peace. Secondly, the Council determined that a justice of the peace is engaged in extra-remunerative work when that justice of the peace is a party to someone else's extra-remunerative work.

The Council found that engaging in activities in the field of real estate does constitute extra-remunerative work. This includes sales, purchases, receiving commissions, or making referrals for sales, or other real estate transactions that could give rise to any remunerative benefit to the justice of the peace. In addition, the Council concluded that if a justice of the peace were to provide his or her licence to a real estate holding company or brokerage or any other person or body, real estate transactions could occur that could benefit the justice of the peace. Such transactions would be considered to be extra-remunerative activities.

The Council determined that working in the field of real estate is commercial in nature. The Council applied its general policy that it is not seemly or appropriate for full-time presiding justices of the peace to engage in extra-remunerative work that is commercial in nature, except under exceptional circumstances. In accordance with the Council's procedures, the justice of the peace was invited to respond with written submissions to the Council to address the issue of whether the application for extra-remunerative work should be approved as an exception to the general policy that full-time presiding justices of the peace should not engage in extra-remunerative work that is commercial in nature.

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The Review Council reviewed and took into account the submissions from His Worship and was not satisfied that there were exceptional circumstances that warranted making an exception to the general policy. The Council did not approve of the justice of the peace engaging in any activities or transactions in the field of real estate, including but not limited to sales, purchases, referrals or any other transaction that could generate income or remunerative benefit.

CASE NO. ER-20-005/09

The Council received an application by a *per diem* justice of the peace to engage in extra-remunerative work as a handyman. Although the Council found that the activity was commercial, the Council noted that the justice of the peace did not work full-time. The Council approved an application by a *per diem* justice of the peace to engage in extra-remunerative work as a handyman upon the conditions set out below:

- 1) The justice of the peace must refrain from knowingly conducting any handyman work or transactions with anyone directly involved with the justice system. He must demonstrate sensitivity in transactions related to the handyman activities, to ensure the avoidance of any real or perceived conflict of interest or bias. Of particular concern to Council was the occurrence of any work for known members of the justice community such as Crown Attorneys, police, agents, paralegals, lawyers, or others who may have the opportunity to appear before the justice of the peace in his decision-making capacity, or persons with whom justices of the peace have a relationship in the course of their duties, including court administration and court security staff.
- 2) Handyman activities provided for justices of the peace or for judges were exempt from the provisions of the first condition. Work could be done for justices of the peace or judges. However, the justice of the peace must refrain from using the Court's email network to promote, advertise, or sell the handyman business. His personal business in relation to the handyman business must not be conducted on the Court's resources, which are provided for purposes associated with official responsibilities.
- 3) The justice of the peace must maintain distance as a handyman from the role and responsibilities as a judicial officer, particularly in relation to avoiding any reference to the judicial position in advertising or informational materials related to the handyman business.
- 4) The justice of the peace could accept remuneration for these services, but such remuneration must be the same as that paid to other handyman businesses and be without regard to the position of a justice of the peace.

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- 5) Council approved the low-scale operation of a handyman business. Should the business increase beyond low-scale or should any other change in circumstances arise that affects the status at the time when the application was made, the justice of the peace must advise the Review Council in writing.
- 6) The Review Council reserved the right to revisit the request and its decision should any relevant circumstances change. It was the responsibility of the justice of the peace to notify the Council of any change of circumstances.

CASE NO. ER-20-006/09

The Review Council approved of an application to engage in extra-remunerative work as a musician contingent upon the conditions set out below:

- 1) The justice of the peace must refrain from knowingly conducting any extra-remunerative work activities as a musician with anyone directly involved with the justice system. He must demonstrate sensitivity in transactions related to the music activities to ensure the avoidance of any real or perceived conflict of interest or bias. Of particular concern to Council was the occurrence of any work in that capacity for known members of the justice community such as Crown Attorneys, police, agents, paralegals, lawyers, or others who may have the opportunity to appear before the justice of the peace in his decision-making capacity, or persons with whom justices of the peace have a relationship in the course of their duties, including court administration and court security staff.
- 2) Extra-remunerative music activities provided for justices of the peace or for judges would be exempt from the provisions of the first condition. The justice of the peace would be permitted to conduct such activities for justices of the peace or judges. However, he must refrain from using the Court's email network to promote or advertise the music activities. He must refrain from conducting his personal business in relation to the music activities on the Court's resources, which are provided for purposes associated with official responsibilities.
- 3) The justice of the peace must maintain distance as a musician from the role and responsibilities as a judicial officer, particularly in relation to avoiding any reference to the judicial position in advertising or informational materials related to the musician business.
- 4) The justice of the peace may accept remuneration for these services, but such remuneration must be the same as that paid to other musicians and be without regard to the position as a justice of the peace.

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- 5) Council approved the occasional engagement of musical performance services. Should the services increase beyond that level of frequency or should any other change in circumstances arise, the justice of the peace must advise the Review Council in writing.
- 6) The Review Council reserved the right to revisit the request and its decision should any relevant circumstances change.

CASE NO. ER-20-011/09

The justice of the peace applied for approval based on his interests in two companies. Before the Council made a decision on the application, the justice of the peace informed the Council that he had divested himself of his interests. His request to withdraw the application was granted by the Council.

CASE NO. ER-20-016/09

Given the nature of the justice of the peace's appointment as a part-time, non-presiding justice of the peace and the community in which she presided, the Review Council approved the request to have a role in an internet business contingent upon the conditions set out below:

- 1) The justice of the peace must demonstrate sensitivity in business transactions related to the other work activities, to ensure the avoidance of any real or perceived conflict of interest or bias. Of particular concern to Council is the need for sensitivity in relation to interactions with known members of the justice community such as Crown Attorneys, police, agents, paralegals, lawyers, or others who may have the opportunity to appear before the justice of the peace in her decision-making capacity.
- 2) The justice of the peace may accept remuneration for these services, but such remuneration must be the same as that paid to others doing the same work and be without regard to the position of a justice of the peace.
- 3) The Review Council reserved the right to revisit the request and its decision should any relevant circumstances change.

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CASE NO. ER-20-018/09

The justice of the peace applied for approval to perform in concerts and noted that his spouse received income from CD's of his performances. Some of the concerts were part of fund-raising events. Before the Council made a decision on the application, the justice of the peace informed the Council that he had discontinued performing concerts or fund-raising activities, and would no longer be performing at any future concerts and fund-raising activities anywhere.

The Review Council agreed to permit the justice of the peace to withdraw the application for approval on the basis that the justice of the peace confirmed that while he may occasionally be singing as part of a broader program of a church service, this will not be as part of a concert featuring his name, advertised or for the purpose of fund-raising. As well, the justice of the peace confirmed that the CD's of his music would not be sold and will not be sold directly or indirectly through his spouse, but the remaining CD's will only be given as gifts to friends and family.

CASE NO. ER-20-019/09

The justice of the peace applied for approval to continue to engage in extra-remunerative work in relation to the family farm, including co-managing the local farmers' market. In considering applications to engage in extra-remunerative work, the Council looks at two aspects in relation to remuneration associated with the work. Firstly, the Council considers whether the work gives rise to any remuneration to the applicant justice of the peace. Secondly, the Council considers that a justice of the peace is engaged in extra-remunerative work when that justice of the peace is a party to someone else's remunerative work. The Council found that as a minority shareholder in the farm, and as a spouse of a minority shareholder, Her Worship's involvement directly and as a party to her husband's engagement with the farm constitutes extra-remunerative work that would be commercial in nature.

The Council applied its general policy that it is not seemly or appropriate for full-time presiding justices of the peace to engage in extra-remunerative work that is commercial in nature, except under exceptional circumstances. In accordance with the Council's procedures, the justice of the peace was invited to respond with written submissions to the Council to address the issue of whether the application for extra-remunerative work should be approved as an exception to the general policy that full-time presiding justices of the peace should not engage in extra-remunerative work that is commercial in nature.

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Having reviewed the application and the subsequent information received, the Review Council was satisfied that there were exceptional circumstances and approved the application to continue extra-remunerative work in relation to the family farm subject to the following conditions:

- 1) The justice of the peace may continue to be a minority shareholder in the farm and do all of the paperwork referenced by her, including financial, animal registration, professional memberships, government programme requirements, inventory management etc. However, the justice of the peace must refrain from submitting the paperwork under her name; rather, the paperwork must be signed by and submitted under the name of another representative of the farm, such as the husband of the justice of the peace, except for documents that by law must be signed by all partners and any documents that she was required to sign to transfer her current signing authorities to others.
- 2) The justice of the peace may continue to participate in the day-to-day activities of the farm business that occur on the farm and outside of the public eye, specifically, working with the animals, crop production activities, etc.
- 3) She must not participate in the commercial sale of products of the farm, including but not limited to working at or managing any farm markets. Such activities would result in her connection to the farm being visible to the public, and would result in the justice of the peace conducting sales or transactions with persons who may be involved in or could become involved in the justice system.
- 4) Sales to justices of the peace or to judges are exempt from the provisions of the third condition. She is permitted to conduct sales with justices of the peace or judges. However, she must refrain from using the Court's email network or work functions to promote, sell or advertise products. She must also refrain from conducting personal business in relation to the farm using the Court's resources, which are provided for purposes associated with the official responsibilities of office.
- 5) The justice of the peace must refrain from any reference to or posting of her name or picture in any advertising or informational materials, publications or website posting, including contact information, related to the farm and any historical references on the farm's website must be removed.
- 6) The justice of the peace must refrain from active participation at public events, including but not limited to acting as host or master of ceremonies at public events hosted at the farm, that could be construed as active involvement in the management of the farm.
- 7) Should there be any change in circumstances, the justice of the peace must advise the Review Council in writing.

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- 8) The Review Council reserved the right to revisit the request and its decision should any relevant circumstances change.

CASE NO. ER-20-023/09

The Council approved an application by a justice of the peace to engage in extra-remunerative work of publication of photography books contingent upon the conditions set out below:

- 1) The justice of the peace must refrain from knowingly conducting any sales or transactions with anyone directly involved with the justice system. He must demonstrate sensitivity in transactions related to his photography books, to ensure the avoidance of any real or perceived conflict of interest or bias. Of particular concern to Council is the occurrence of any sales to known members of the justice community such as Crown Attorneys, police, agents, paralegals, lawyers, or others who may have the opportunity to appear before the justice of the peace in his decision-making capacity, or persons with whom justices of the peace have a relationship in the course of their duties, including court administration and court security staff.
- 2) Sales to justices of the peace or to judges are exempt from the provisions of the first condition. The justice of the peace was permitted to conduct sales with justices of the peace or judges. However, he must refrain from using the Court's email network to promote, advertise, or sell his photography books. He must also refrain from conducting personal business in relation to his photography books on the Court's resources, which are provided for purposes associated with the official responsibilities of office.
- 3) He must maintain distance with respect to his published books 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 books.
- 4) The justice of the peace may accept remuneration for these services, but such remuneration must be the same as that paid to other persons who publish books and be without regard to the position of a justice of the peace.
- 5) Council approved the occasional publication of new books of photography or revisions of previously published books of photography. Should his sales increase beyond occasional or should any other change in circumstances arise, the justice of the peace must advise the Review Council in writing.

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- 6) Council cautioned the justice of the peace respecting the donation of any of his books 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. Council recognized this was not an issue of extra remuneration, but could be an issue for Council to address should a complaint regarding the ethics of such involvement arise.
- 7) The Review Council reserved the right to revisit his request and its decision should any relevant circumstances change. It is the responsibility of the justice of the peace to notify the Council of any change of circumstances.

CASE NO. ER-21-001/10

The Council received a request for approval to engage in extra-remunerative work as a Director of a family-owned company. The justice of the peace held shares, confirmed that in some years there are dividends that are paid to her and indicated that if the business or its assets were to be sold, as a shareholder she might benefit, depending on the financial arrangements in that situation.

In the particular circumstances, the Council has found that engaging in the activities of being a Director of the company while holding shares in the company, would constitute extra-remunerative work that would be commercial in nature, since the value of the shares and the value of any dividends could be affected by the justice of the peace's activities as a Director.

The Council applied its general policy that it is not seemly or appropriate for full-time presiding justices of the peace to engage in extra-remunerative work that is commercial in nature, except under exceptional circumstances. In accordance with the Council's procedures, the justice of the peace was invited to respond with written submissions to the Council to address the issue of whether the application for extra-remunerative work should be approved as an exception to the general policy that full-time presiding justices of the peace should not engage in extra-remunerative work that is commercial in nature.

After reviewing her response, the Council concluded that there were not exceptional circumstances that warranted making an exception to the general policy in this case. Therefore, the Council did not approve of the justice of the peace taking on the position of Director of the company while she was a shareholder in the company.

The Council advised that there are circumstances in which it would be permissible for the justice of the peace to do this, without requiring the approval of the Council. If the justice of the peace

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were to fully divest herself of her shares and her interest in the company during her tenure as a Director, and accept no remuneration, then the activities would be non-remunerative and approval of the Council would not be required. The divestment of shares would need to be through an arms length transaction that brings an end to all financial interest in the company and ensures that she obtain no direct or indirect pecuniary benefit as a result of her activities as a Director.

The Council noted from the correspondence of the justice of the peace that she was not being sought as a Director because of her position of judicial office and assumed that, should she divest herself of her shares and take on the position of Director, she would not be referred to as a justice of the peace in meetings, minutes or other corporate documents. It is essential that a justice of the peace maintain distance with respect to his or her role and responsibilities as a judicial officer and any activities other than the responsibilities of office, particularly in relation to avoiding any reference to his or her judicial position.

CASE NO. ER-21-002/10

The justice of the peace applied for approval to engage in extra-remunerative work providing consulting services for a company that will be distributing video and other internet services. He sought to undertake this work while he holding the office of a full-time justice of the peace.

The Council considered the application, the nature and circumstances of the request. As well, the Council considered his position as a justice of the peace, the nature of that office and the faith and trust that society places in the men and women who have agreed to accept the responsibilities of judicial office.

The Council concluded that the company was engaged in commercial activity even though it was in its infancy. The Council found that it was involved in a commercial venture whether or not the income has started to flow.

The Council applied its general policy that it is not seemly or appropriate for full-time presiding justices of the peace to engage in extra-remunerative work that is commercial in nature, except under exceptional circumstances. In accordance with the Council's procedures, the justice of the peace was invited to respond with written submissions to the Council to address the issue of whether the application for extra-remunerative work should be approved as an exception to the general policy that full-time presiding justices of the peace should not engage in extra-remunerative work that is commercial in nature

After reviewing the response, the Council concluded that there were not exceptional circumstances that warranted making an exception to the general policy in this case. In considering the

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application, the Council considered the nature of the proposed consulting work, the intended purpose, and the benefits to the community. The Council did not approve the application to engage in consulting activities while holding the office of a full-time justice of the peace.

CASE NO. ER-21-003/10

The Council received a request from a justice of the peace to teach a law course at a university for one semester. The Council confirmed with the Regional Senior Justice of the Peace that Council's approval of the request would present no difficulties in fulfilling judicial assignments during the period of teaching. The Council approved the request subject to the following conditions:

- 1) Any remuneration accepted for these services be the same as that paid to other instructors without regard to the position as a justice of the peace.
- 2) The availability of the justice of the peace to instruct must not impact upon the availability to fulfill his primary responsibilities as a Justice of the Peace during assigned hours. As such, the availability to instruct had to be undertaken at times when he was not otherwise assigned to judicial duties and had requested either vacation or compensating time off. Council concluded that non-presiding days should not be used for such purposes.
- 3) The Review Council reserved the right to revisit the request and its decision should any relevant circumstances change.

CASE NO. ER-21-004/10

The justice of the peace applied for approval to teach a law course at a community college for one semester. The Council confirmed with the Regional Senior Justice of the Peace that Council's approval of the request would present no difficulties in fulfilling judicial assignments during the period of teaching. The Council approved the application subject to the following conditions:

- 1) Any remuneration accepted for these services be the same as that paid to other instructors without regard to the position as a justice of the peace.
- 2) The availability of the justice of the peace to instruct must not impact upon his availability to fulfill the primary responsibilities as a justice of the peace during assigned hours. It is the view and preference of Council that educational teachings by justices of

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the peace be engaged in during the evenings, so as not to present any potential impact on judicial responsibilities or pose issues relating to fulfilling scheduling obligations at a base court location. The availability to instruct must be subject to primary responsibilities as a justice of the peace and as such must be undertaken at times when the justice of the peace is not otherwise assigned to judicial duties and where he has requested either vacation or compensating time off. Council was of the view that non-presiding days should not be used for such purposes.

- 3) The Review Council reserved the right to revisit the request and its decision should any relevant circumstances change.

CASE NO. ER-21-005/10

The Council received an application for approval to engage in extra-remunerative work teaching and supervising student field education seminars and practicums for a university for a semester. The Council confirmed with the Regional Senior Justice of the Peace that Council's approval of the request would present no difficulties in fulfilling judicial assignments during the period of teaching and supervision at the university. The Council approved the application subject to the following conditions:

- 1) It is the view and preference of Council that educational teachings by justices of the peace should be engaged in during the evenings rather than during weekdays, so as not to present any potential impact on judicial responsibilities or pose issues relating to fulfilling scheduling obligations at a base court location.
- 2) The availability of the justice of the peace to instruct must be subject to the primary responsibilities as a justice of the peace and as such must be undertaken at times when she is not otherwise assigned to judicial duties and where she has requested either vacation or compensating time off. The Council is of the view that non-presiding days should not be used for such purposes.
- 3) The justice of the peace must ensure that teaching the course does not interfere with the obligations in relation to the Educational Program for justices of the peace, and must re-schedule or make alternate teaching and supervision arrangements to allow for full participation in the requisite educational programs being held for justices of the peace.
- 4) The justice of the peace must maintain distance in the teaching of the course from the role and responsibilities as a judicial officer, particularly in relation to avoiding any reference to the judicial position in her extra remunerative work activities.

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- 5) The justice of the peace may accept remuneration for these services, but such remuneration must be the same as that paid to others and be without regard to the position as a justice of the peace.
- 6) The Review Council reserved the right to revisit the request and its decision should any relevant circumstances change.

APPENDIX C

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

APPENDIX C

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.”*

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

APPENDIX C

Principles of Judicial Office of Justices of the Peace of the Ontario Court of Justice

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

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.

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Principles of Judicial Office of Justices of the Peace of the Ontario Court of Justice

- 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 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.

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 D

POLICY ON ACCESSIBILITY AND ACCOMMODATION – ACCESS TO SERVICES

Note:

This version reflects decisions of the Review Council up to December, 2010. For the current version, please see the Review Council's website at www.ontariocourts.ca/jprc/en/policy/accessibility

APPENDIX D

Policy on Accessibility and Accommodation – Access to Services

POLICY ON ACCESSIBILITY AND ACCOMMODATION – ACCESS TO SERVICES

*This policy is available on
THE REVIEW COUNCIL'S WEBSITE at www.ontariocourts.on.ca/jprc/en/.*

The Council is committed to providing an inclusive and accessible environment in which all members of the public have equal access to its services and are treated with dignity and respect.

The Council is committed to providing accommodation for needs related to disability, unless to do so would cause undue hardship. Disability includes physical disabilities, sensory disabilities, mental health disabilities, and “invisible” disabilities such as learning disabilities or environmental sensitivities.

This policy sets out a process for persons to let the Council know about situations where accommodation is needed so that it can work with individuals to make its services accessible to them.

PRINCIPLES

The following principles will guide the Council in making its processes accessible:

- ♦ Services should be provided in a manner that respects the dignity and independence of members of the public.
- ♦ Services should be provided in a manner that fosters physical and functional access to the Council's processes.
- ♦ All persons should be given equal opportunity to obtain, use and benefit from the Council's services. Where required, individualized accommodation will be provided, short of undue hardship.

The Council will be sensitive to the privacy concerns of those who seek accommodation.

APPENDIX D

Policy on Accessibility and Accommodation – Access to Services

APPLICATION OF THE POLICY

This policy applies to all of the Council's services. The Council will promote equal access for all individuals including complainants, subjects of complaints, witnesses and representatives, to fully participate in its processes, short of undue hardship. This policy applies to the Council's office, hearing rooms used to conduct public hearings, and all Council staff and members.

PROCESS

Requests for accommodation will be considered on an individualized case-by-case basis. Please see the section **Requests for Accommodation** for information on how to make a request.

THE COUNCIL'S COMMITMENT TO ACCESSIBILITY

The Council will conduct meetings and hearings in barrier-free environments. These are in addition to specific accommodations that may be requested on a case-by-case basis.

The Council may be contacted by mail, email, facsimile, telephone and TTY line. The phone line has a toll free number. Bell Relay services may be requested.

Letters inviting persons to meetings, public notices and summons will include a notice to persons to advise them of the Council's commitment to accommodation for needs related to disability, unless to do so would cause undue hardship. The notice will also advise persons who require accommodation how to make a request for accommodation.

When requested to accommodate needs, the Council will arrange for the provision of visual interpretation services, such as American Sign Language (ASL) or real time captioning.

The Council recognizes that some individuals require the use of support services to assist with daily needs including communication, mobility, personal care or medical needs. The Council will work to accommodate such services but will not generally arrange for them.

The Council further recognizes that some individuals may require the use of a service animal or assistive device to participate in the Council's proceedings. The Registrar should be contacted in advance of the proceedings if any special arrangements are required for the animal or device.

Where an accessibility or accommodation measure provided by the Council becomes unavailable, the Council will provide notice as soon as practicable and make reasonable arrangements to make alternate arrangements or reschedule a proceeding to ensure that it is accessible.

APPENDIX D

Policy on Accessibility and Accommodation – Access to Services

REQUESTS FOR ACCOMMODATION

The Council's Registrar and Assistant Registrars are fully informed of this policy and will receive and respond to inquiries and requests for accommodation. If you require accommodation from the Council, contact the Registrar:

Marilyn King
Registrar, Justices of the Peace Review Council
P.O. Box 914
Adelaide Street Postal Station
31 Adelaide Street East
Toronto, Ontario M5C 2K3
Telephone (416) 327-5672
Toll free 1-800-695-1118
Fax (416) 327-2339
Email: marilyn.king@ontario.ca

The Registrar and Assistant Registrars will work with you to make the Council accessible in relation to your needs. Information necessary to understand the basis for an accommodation request and to allow the Council to respond appropriately should be provided.

The Council recognizes that accommodation needs may arise during any aspect of the process. If an accommodation issue comes to the attention of Council staff, it will be directed to the Registrar. During Council proceedings, a Council member may directly address a request, as appropriate, or refer the request to the Registrar.

TRAINING

Training will be provided for Council staff as appropriate. Training will ensure that Council employees and members understand this policy, and understand how to undertake accessibility and accommodation measures in accordance with this policy, and the Accessibility Standards for Customer Service.

APPENDIX D

Policy on Accessibility and Accommodation – Access to Services

FEEDBACK

Comments or complaints about the accessibility of the Council or about accommodation provided by the Council may be provided by contacting the Registrar or the Council at:

Justices of the Peace Review Council
P.O. Box 914
Adelaide Street Postal Station
31 Adelaide Street East
Toronto, Ontario M5C 2K3
Telephone (416) 327-5672
Toll free 1-800-695-1118
Fax (416) 327-2339