



# JUSTICES OF THE PEACE REVIEW COUNCIL

ONTARIO

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**ANNUAL REPORT  
2023**



***The Honourable Sharon M. Nicklas***

**CHIEF JUSTICE  
ONTARIO COURT OF JUSTICE  
Chair, Justices of the Peace Review Council**

June 26, 2024

The Honourable Doug Downey  
Attorney General for the Province of Ontario  
720 Bay Street, 11<sup>th</sup> Floor  
Toronto, Ontario  
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Dear Minister:

It is my pleasure to submit the Annual Report of the Justices of the Peace Review Council concerning its operations in 2023, in accordance with s. 9(7) of the *Justices of the Peace Act*.

The period of time covered by this Annual Report is from January 1 to December 31, 2023.

Respectfully submitted,



Sharon M. Nicklas  
*Chief Justice*  
*Ontario Court of Justice*

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# 1. INTRODUCTION

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The Justices of the Peace Review Council is an independent body established by the Province of Ontario under the *Justices of the Peace Act*, R.S.O. 1990, c. J.4. The Review Council's mandate is to receive and investigate complaints about the conduct of justices of the peace and to fulfill other functions as described in this Report.

The *Justices of the Peace Act* provisions establishing and governing the Council are available on the government's e-laws website at:

- <https://www.ontario.ca/laws/statute/90j04>

The Act requires the Council to submit an Annual Report to the Attorney General on its affairs, including [case summaries](#) about complaints. Unless a public hearing has occurred, the Report must not include information that identifies a justice of the peace, a complainant or a witness.

This Annual Report provides information on the Council's membership, its functions and procedures, and its work during the 2023 reporting year. During the period covered by this report, the Review Council had jurisdiction over approximately 331 provincially appointed justices of the peace, including those working full-time, part-time and *per diem*.

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. Justices of the peace preside over provincial offences matters, including routinely conducting trials under the *Provincial Offences Act*. Justices of the peace also preside over bail hearings and perform other important judicial functions, such as issuing search warrants and presiding in criminal case management court and intake court.

The Ontario Court of Justice is the busiest trial court in Canada. In an average year, judges of the Court deal with over 230,000 adult and youth criminal cases and approximately 8,300 new family law proceedings. The Court holds sittings at approximately 140 locations across Ontario, ranging from large courthouses in cities to fly-in locations in northern Ontario.

You may find out more about the Review Council by reading this Annual Report and by visiting its website at:

- <https://www.ontariocourts.ca/ocj/jprcl/>

The website contains:

- ◆ the Council's current policies and procedures
- ◆ updates about any public hearings that are in progress

- ◆ decisions made in public hearings
- ◆ the *Principles of Judicial Office of Justices of the Peace of the Ontario Court of Justice*
- ◆ the Justice of the Peace Education Plan

## 2. COMPOSITION AND TERMS OF APPOINTMENT

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The *Justices of the Peace Act* sets out the membership of the Justices of the Peace Review Council and terms of appointment:

- ◆ 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 licensee within the meaning of the *Law Society Act* appointed by the Attorney General from a list of three names submitted to the Attorney General by the Law Society of Ontario; and,
- ◆ four community representatives appointed by the Lieutenant Governor in Council on the recommendation of the Attorney General.

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

The Law Society licensee 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.

### 3. MEMBERS

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The membership of the Review Council in 2023 was as follows:

#### **Ontario Court of Justice Members:**

- ◆ The Honourable Lise Maisonneuve, Chief Justice of the Ontario Court of Justice (Chair) (Until May 31, 2023)
- ◆ The Honourable Sharon Nicklas, Chief Justice of the Ontario Court of Justice (Chair) (Effective June 1, 2023)
- ◆ The Honourable Sharon Nicklas, Associate Chief Justice Co-ordinator of Justices of the Peace of the Ontario Court of Justice (Until May 31, 2023)
- ◆ The Honourable Jeanine LeRoy, Associate Chief Justice Co-ordinator of Justices of the Peace of Ontario Court of Justice (Effective September 15, 2023)

#### **Two judges appointed by the Chief Justice of the Ontario Court of Justice:**

- ◆ The Honourable Justice Enzo Rondinelli (Toronto)
- ◆ The Honourable Justice Marlyse Dumel (Ottawa)

#### **Regional Senior Justice of the Peace appointed by the Chief Justice of the Ontario Court of Justice:**

- ◆ Regional Senior Justice of Peace Melanie Bremner (Toronto)

#### **Three justices of the peace appointed by the Chief Justice of the Ontario Court of Justice:**

- ◆ Justice of the Peace Kristine Diaz (London)
- ◆ Justice of the Peace Christine Smythe (Toronto)
- ◆ Justices of the Peace Serge Legault (Ottawa) (Until January 24, 2023)
- ◆ Justice of the Peace Sarah Keesmaat (Central West) (Effective January 25, 2023)

#### **Members appointed by the Attorney General:**

##### **Law Society Member**

- ◆ Bassam Azzi, Lawyer (Ottawa)

## Community Members

- ◆ Lauren Rakowski, Lawyer, Gardiner Roberts LLP (Toronto)
- ◆ John Tzanis, Paralegal, Continental Legal Services Professional Corporation (Markham)
- ◆ Naomi Solomon, Lawyer, BMO Financial Group (Toronto)
- ◆ George Nikolov, Professional Engineer (Toronto)

## Temporary Members:

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 to sit on a complaints committee or hearing panel when it is necessary in order to meet the requirements of the *Act*. During the period covered by this report, it was not necessary to appoint any temporary members to the Review Council.

## 4. COUNCIL ADMINISTRATION AND STAFF

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The Justices of the Peace Review Council and the Ontario Judicial Council share a five-member staff consisting of a Registrar, a Counsel/Deputy Registrar, two Assistant Registrars and an Administrative Assistant:

- Alison Warner – Registrar
- Shoshana Bentley-Jacobs – Counsel & Deputy Registrar (returned from leave as of August 2023)
- Lauren Binhammer – Acting Counsel & Deputy Registrar
- Philip Trieu – Assistant Registrar
- Lily Miranda – Assistant Registrar
- Astra Tantaló – Administrative Assistant

Council staff are responsible for service delivery in a number of areas including:

- responding to telephone and written inquiries from the public regarding the Council's mandate and procedures and providing requested assistance to members of the public who wish to make a complaint to the Council



- performing a preliminary review of new complaints received by the Council
- redirecting complainants who are not complaining about judicial conduct to the appropriate complaint body and/or to available legal resources
- supporting members of the Council in the investigation and review of complaints (e.g., ordering court records, retaining investigation counsel, preparing complaint-related correspondence, etc.)
- supporting meetings of the full Council, as well as numerous meetings of complaints committees of the Council held throughout the year
- supporting and attending hearings of the Council into complaints
- posting communications on the Council's website regarding public hearings and decisions
- facilitating the consideration of judicial requests for compensation of legal fees incurred in the complaints process
- retaining and instructing counsel in relation to judicial reviews and/or appeals of decisions of the Council
- onboarding new members of the Council and offboarding members of the Council after the expiry of their terms
- assisting with the preparation of the Annual Report of the Council

In 2023, Council staff provided ongoing support in relation to a 2-day public hearing before a hearing panel of the Justices of the Peace Review Council, as well as in relation to multiple judicial review applications.

In addition to supporting the work of the Justices of the Peace Review Council, Council staff also support the work of the Ontario Judicial Council.

## 5. FUNCTIONS OF THE REVIEW COUNCIL

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The *Justices of the Peace Act* sets out the functions of the Review Council:

- ◆ to establish complaints committees from amongst its members to receive and investigate complaints about justices of the peace, and decide upon dispositions under s. 11(15);
- ◆ to hold hearings under s. 11.1 when hearings are ordered by complaints committees pursuant to s. 11(15);
- ◆ to review and approve standards of conduct;
- ◆ to consider applications under s. 5.2 for the accommodation of needs;
- ◆ to address 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.

More information about each of the functions performed by the Review Council may be found in this Report.

The main function of the Review Council is to consider complaints about judicial conduct on the part of justices of the peace who preside on the Ontario Court of Justice. The Review Council's jurisdiction in this regard is limited to considering complaints about alleged judicial misconduct. Examples of judicial misconduct include inappropriate courtroom conduct (e.g., exhibiting a lack of restraint or civility in the courtroom, making discriminatory comments or engaging in discriminatory conduct towards any persons in the courtroom), or improper off-the-bench conduct.

The Review Council is not to be confused with an appellate court. The Review Council does not have the power to interfere with a court case or to 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 legal issue, they may pursue available legal remedies through the courts, such as an appeal.

The Review Council cannot provide legal advice or assistance to individuals, or intervene in litigation on behalf of a party.

The legislation that governs the Review Council establishes a judicial complaints process that is generally private and confidential in the investigation stages. If a hearing is ordered, the process becomes public, unless a hearing panel orders that there are exceptional circumstances to warrant a private hearing. The confidential and private nature of the complaint process required by the *Justices of the Peace Act* is intended to achieve a balance between the accountability of justices of the peace for their conduct and the constitutionally protected value of judicial independence.

## 6. COMMUNICATIONS

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The website of the Justices of the Peace Review Council includes information about the Council, including the most current version of its policies and procedures, as well as information about hearings that are underway or that have been completed. Information on ongoing hearings is available under the link “Public Hearings” at:

- [www.ontariocourts.ca/ocj/jprc/public-hearings/](http://www.ontariocourts.ca/ocj/jprc/public-hearings/)

Decisions made during hearings are posted under the link “Public Hearings Decisions” at:

- [www.ontariocourts.ca/ocj/jprc/public-hearings-decisions/](http://www.ontariocourts.ca/ocj/jprc/public-hearings-decisions/)

Each Annual Report of the Council is also available on the Council’s website no later than thirty days after it has been sent to the Attorney General at:

- <https://www.ontariocourts.ca/ocj/jprc/annual-report/>

## 7. EDUCATION PLAN

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The Associate Chief Justice Co-ordinator of Justices of the Peace of the Ontario Court of Justice is required by s. 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 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 included 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.

An Advisory Committee on Education of the Court reviews the education programs and may make recommendations to the Associate Chief Justice Co-ordinator of Justices of the Peace on changes and additions to existing programs, and on the content and format of new programs as they are being proposed and developed. Any proposed changes are submitted to the Review Council for review and approval.

In 2023, the Review Council approved a revised version of the Education Plan.

A copy of the current Education Plan can be found on the Council’s website under the link “Education Plan” at:

- [www.ontariocourts.ca/ocj/jprc/education-plan/](http://www.ontariocourts.ca/ocj/jprc/education-plan/)

## 8. STANDARDS OF CONDUCT

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The Associate Chief Justice Co-ordinator of Justices of the Peace may, under s. 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.

Further to s. 13(1), 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 should subscribe. These principles are not exhaustive. Intended to assist justices of the peace in addressing ethical and professional dilemmas, they also serve to assist the public in understanding the standards expected of justices of the peace in the performance of their judicial duties and in their conduct generally.

The principles are advisory in nature. A breach does not automatically lead to a conclusion that there has been misconduct. However, the principles set out a general framework of values and considerations that are relevant to evaluating allegations of improper conduct by a justice of the peace.

The *Principles of Judicial Office for Justices of the Peace of the Ontario Court of Justice* can be found on the Council's website under the link for "Principles of Judicial Office" at:

- <https://www.ontariocourts.ca/ocj/jprc/principles-of-judicial-office/>

In 2023, the Associate Chief Justice Co-ordinator of Justices of the Peace proposed to the Justices of the Peace Review Council that the Canadian Judicial Council's [Ethical Principles for Judges](#) (2021) form part of the ethical standards governing the conduct of justices of the peace. The Review Council agreed and they form part of the ethical standards governing the conduct of justices of the peace of the Ontario Court of Justice.

## 9. APPLICATIONS FOR ACCOMMODATION

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A justice of the peace who believes that they are unable, because of a disability, to perform the essential duties of the office unless their needs are accommodated may apply to the Council under s. 5.2 of the *Justices of the Peace Act* for an order that such needs be accommodated to enable them to perform their essential duties.

The Ministry of the Attorney General, with input from the Office of the Chief Justice, has a process that provides a consistent means for judicial officers to request accommodation of needs arising from disabilities. The Council recognizes that the Ministry has access to the expertise and resources to properly assess and address requests for accommodation of needs. For the Council to properly consider applications for accommodation, the applicant justice of the peace must first exhaust the accommodation of needs process that is available for judicial officers through the Ministry of the Attorney General. When that process has been completed, if the justice of the peace wishes to apply to the

Council, they must provide a copy of all documentation from the Ministry's application process, including medical evidence and decisions.

Rule 20 of the Review Council's Procedures sets out the policy governing applications for an order of accommodation:

- <https://www.ontariocourts.ca/ocj/files/jprc/procedures-EN.pdf>

No accommodation applications were considered by the Council in 2023.

## 10. OVERVIEW OF THE COMPLAINTS PROCESS

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### i. Who may file a complaint?

Any person may make a complaint to the Review Council about the conduct of a justice of the peace. The JPRC Procedures Document requires that complaints must be made in writing.

### ii. 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, they may have legal remedies through the courts, such as an appeal or application for judicial review. Only a court can change a decision or order of a justice of the peace.

All correspondence sent to the Review Council is reviewed to determine whether a complaint is within the jurisdiction of the Review Council. In 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.

If a complainant expresses dissatisfaction with a decision that has been made by a justice of the peace, a letter is sent advising the complainant that the Council has no power to change a decision made by a justice of the peace. In such cases, the complainant is advised that they may wish to consult legal counsel to determine what, if any, remedies may be available through the courts.

If an individual is complaining about a lawyer or paralegal, a police officer, a Crown Attorney, member of court staff, or about another office, the complainant is generally given the contact information of the appropriate body that may address their concerns.

If the complaint raises allegations of conduct about a justice of the peace arising from a court proceeding that is still ongoing, 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 is to ensure that any investigation by the Council does not interfere, and is not perceived to be interfering with, ongoing court matters.

### **iii. What happens in the complaints process?**

The *Justices of the Peace Act* and the procedures that have been established by the Council provide the 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.

#### **a) Preliminary Investigation and Review**

Once it is determined that the complaint does not raise allegations related to ongoing court proceedings, a complaints committee will be assigned to investigate the complaint. Each complaints committee is composed of a provincially appointed judge who acts as chair, a justice of the peace and either a community or Law Society member. Members of the Council serve on complaints committees on a rotating basis.

Complaints are not generally assigned to judicial members from the same region where the justice of the peace who is the subject of the complaint presides to avoid possible conflicts of interest.

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

Where a complaint involves allegations about a justice of the peace's conduct in the courtroom, the complaints committee will review the relevant court transcripts, documents, and/or the audio recording of the proceeding.

In some cases, the committee may find that it is necessary to conduct further investigation in the form of witness interviews. Section 8(15) of the Act permits the Council to retain external lawyers or investigators to assist the committee by interviewing witnesses who may have information concerning the allegations.

The complaints committee may also decide to invite the subject justice of the peace to submit a written response to the complaint. In such cases, a copy of the relevant materials considered by the complaints committee will be provided to the justice of the peace, together with a letter from the complaints committee of the Review Council inviting a response. The justice of the peace may seek independent legal advice to provide assistance in responding to the complaint.

#### **b) Interim Recommendations**

In the course of its investigation, the complaints committee may also consider whether the allegations warrant making an interim recommendation of non-assignment or reassignment of the justice of the peace pending the disposition of the complaint. Under s. 11(11) of the Act, the committee may make an interim recommendation to the Regional Senior Justice where the justice of the peace presides that the justice of the peace be

non-assigned work or reassigned to another court location pending the final disposition of the complaint.

A Regional Senior Justice has discretion to accept or reject a complaints committee's interim recommendation. If the Regional Senior Justice decides not to assign work to the justice of the peace pending the final disposition of the complaint, pursuant to the legislation, the justice of the peace will continue to be paid. If the Regional Senior Justice decides to reassign the justice of the peace, the legislation requires that the justice of the peace must consent to the reassignment.

In deciding whether to make an interim recommendation, a complaints committee shall consider whether any of the following factors are present:

- ◆ 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;
- ◆ allowing the justice of the peace to continue to preside would likely bring the administration of justice into disrepute;
- ◆ the complaint is of sufficient seriousness that there are reasonable grounds for investigation by law enforcement agencies;
- ◆ it is evident to the complaints committee that the justice of the peace is suffering from a mental or physical impairment that cannot be remedied or reasonably accommodated.

Where a complaints committee is considering making an interim recommendation, it may (but is not required to) provide the justice of the peace with an opportunity to make written submissions before making its decision.

Particulars of the factors upon which the complaints committee's interim recommendation is based are provided to both the Regional Senior Justice receiving the interim recommendation and to the justice of the peace.

The Procedures of the Review Council recognize that an exception to the general requirement of confidentiality in the complaints process is warranted where an interim recommendation of non-assignment or reassignment has been made and the complaint has been referred to a public hearing. In such circumstances, once the Notice of Hearing has been served on the justice of the peace and the complaints process has become public, the Review Council's website informs the public that the justice of the peace has been unassigned from work or has been reassigned to a different location as a result of an interim recommendation.

Of the files under consideration in 2023, one subject justice of the peace was non-assigned work pending the final disposition of the complaint.

### c) Dispositions by Complaints Committees

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

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

The Review Council has developed criteria in its Procedures to assist complaints committees in determining the appropriate disposition of a complaint:

- ◆ **Dismissal:** A complaints committee will dismiss a complaint after reviewing the complaint if the complaints committee believes: (i) it is frivolous or an abuse of process; (ii) it falls outside the Review Council's jurisdiction because it is a complaint about the exercise of judicial discretion and does not include an allegation of judicial misconduct; (iii) if it does include an allegation of judicial misconduct, the allegation is unproven or unfounded, or the conduct does not rise to the level of misconduct that requires further action on the part of the Review Council.
- ◆ **Provide advice:** A complaints committee may provide advice to a justice of the peace, in person or by letter, or both, in circumstances where the misconduct complained of does not warrant another disposition, there is some merit to the complaint and the disposition is, in the opinion of the complaints committee, a suitable means of informing the justice of the peace that his/her course of conduct was not appropriate in the circumstances that led to the complaint.
- ◆ **Referral to the Chief Justice:** A complaints committee may refer a complaint to the Chief Justice of the Ontario Court of Justice in circumstances where the conduct complained of does not warrant another disposition, there is some merit to the complaint and the disposition is, in the opinion of the complaints committee, a suitable means of informing the justice of the peace that his/her course of conduct was not appropriate in the circumstances that led to the complaint. A complaints committee may impose conditions on the referral to the Chief Justice if, in its opinion, there is some course of action or remedial training of which the subject justice of the peace could take advantage.



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

#### **d) Reporting the Disposition of Complaints**

After the complaints committee determines the appropriate disposition of a complaint, it communicates its decision to the complainant and, in most cases, to the justice of the peace. Justices of the peace may waive notice of complaints made about their conduct in circumstances where the justice of the peace is not invited to respond to the complaint and the complaint is dismissed.

In accordance with the Procedures, if the complaints committee decides to dismiss a complaint, brief reasons will be provided in a disposition letter sent to the complainant (and the justice of the peace, if notice is not waived) and in a case summary that appears in the Annual Report.

Because of the role of the Review Council in balancing judicial independence and accountability for judicial conduct, the legislation provides that proceedings, other than public hearings, are generally private and confidential. Through the Annual Report, complaints committees report to the Review Council and the public about complaints received and disposed of during the reporting year. In accordance with the governing legislation and procedures, except where a public hearing is ordered, the Annual Report does not identify the complainant or the justice of the peace who is the subject of the complaint.

#### **e) Public Hearings**

When the complaints committee orders a public hearing, under s. 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 of the Council who is a judge, a lawyer, or community member.

Complaints committee members who participated in the investigation of a complaint do not participate or form part of the hearing panel.

The legislation provides authority for the Chief Justice of the Ontario Court of Justice to appoint judicial members as “temporary members” of the Council where it is necessary to achieve quorum to meet the requirements of the Act. This also provides a means to ensure that none of the hearing panel members was involved in the investigation of the

complaint.

With some exceptions, the *Statutory Powers Procedure Act* applies to hearings into complaints. Persons may be required by summons to give evidence under oath or affirmation at the hearing and to produce in evidence any documents or things which are relevant to the subject matter of the hearing and admissible at the hearing.

A hearing under s. 11.1 of the Act is public unless the Review Council determines, in accordance with criteria established under the JPRC Procedures Document, that it should proceed in private. These criteria include whether the hearing involves matters of public or personal security that may be disclosed, or where intimate financial, personal or other matters may be disclosed of such a nature 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.

Where a complaint involves allegations of sexual misconduct or sexual harassment, the Review Council hearing panel has the power to prohibit publication of information that would disclose the identity of a complainant or a witness in accordance with s. 11.1(9) of the Act.

The Review Council engages legal counsel, called presenting counsel, for the purposes of preparing and presenting the case about the justice of the peace to the hearing panel. The legal counsel engaged by the Review Council operates independently of the Review Council. The duty of 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 may be represented by counsel or agent, or may act on their own behalf in any hearing before a hearing panel of the Review Council.

Under s. 11.1(10) of the Act, the hearing panel of the Review Council may dismiss the complaint, with or without a finding that it is unfounded or, if it upholds the complaint, it may impose one or more of the following sanctions:

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

up to 30 days.

Following the hearing, the hearing panel of the Review Council may make a recommendation to the Attorney General that the justice of the peace be removed from office. A recommendation to the Attorney General that the justice of the peace be removed from office cannot be combined with any other disposition.

A justice of the peace may be removed from office only if a hearing panel of the Review Council recommends to the Attorney General under s. 11.2 that the justice of the peace be removed on one or more the following grounds:

- ◆ they have become incapacitated or disabled from the execution of their office by reason of inability to perform the essential duties of the office because of a disability and, in the circumstances, accommodation of their needs would not remedy the inability, or could not be made because it would impose undue hardship to meet those needs;
- ◆ they have engaged in conduct that is incompatible with the execution of the office; or
- ◆ they have failed to perform the duties of their office.

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

## 11. COMPENSATION FOR LEGAL COSTS

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When a complaints committee has dealt with a complaint, s. 11(16) of the *Justices of the Peace Act* permits the committee to consider an application by the subject justice of the peace for compensation for legal costs incurred in connection with the investigation. The complaints committee may recommend to the Attorney General that the justice of the peace be compensated for all or part of the costs of legal services incurred in connection with the investigation.

Where a hearing into a complaint is ordered, s. 11.1(17) allows a hearing panel to consider an application by the subject justice of the peace for compensation for legal costs incurred in connection with both the investigation and the hearing. Where a recommendation for removal from office is made in response to a complaint received on or after July 8, 2020, a hearing panel shall not recommend compensation: s. 11.1(17.2).

The amount of compensation recommended by a complaints committee or hearing panel is based on a rate for legal services that does not exceed the maximum rate normally paid by the Government of Ontario for similar services, in accordance with s. 11(17) and s. 11.1(18) of the Act. Compensation requests are submitted to the Council after the complaints process has concluded, along with a copy of the lawyer's statement of account(s).

In 2023, no recommendations for compensation for legal costs were made to the Attorney General by complaints committees or hearing panels.

## 12. COUNCIL PROCEDURES

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Under s. 10(1) of the *Justices of the Peace Act*, the Review Council may establish rules of procedure for complaints committees and hearing panels, and the Review Council must make the rules available to the public. The Review Council has established procedures governing the complaints process which are posted on its website under the link, “Policies and Procedures” at:

- [www.ontariocourts.ca/ocj/jprc/policies-and-procedures/](http://www.ontariocourts.ca/ocj/jprc/policies-and-procedures/)

In 2023, the Council continued to refine and develop its procedures and policies. The following amendments to the Review Council’s Procedures Document were adopted by the Council:

- ◆ Rule 5.1 of the JPRC Procedures was amended to make it permissible, but not mandatory, for the Review Council to confirm or deny that a particular complaint has been made to the Review Council, in accordance with s. 10.2(4) of the *Justices of the Peace Act*.

The Council’s current procedures that incorporate the amendments made in 2023 are posted on the Review Council’s website at this link:

- [www.ontariocourts.ca/ocj/jprc/policies-and-procedures/](http://www.ontariocourts.ca/ocj/jprc/policies-and-procedures/)

## 13. OVERVIEW OF COMPLAINT CASELOAD IN 2023

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The Justices of the Peace Review Council works hard to administer an efficient and timely process to review complaints against justices of the peace that fall within its jurisdiction.

In 2023, the Review Council received, reviewed and responded to over 55 letters of complaint. In addition, Council staff responded to several hundred phone calls from complainants and members of the public.

Many complaints received by the Review Council involve matters that are outside of its jurisdiction. For example, the Council receives a number of complaints that are about the decisions of justices of the peace rather than about their conduct. In addition, the Council receives complaints about federally appointed judges, police, lawyers or Crown Attorneys, and complaints concerning administrative law proceedings. Council staff provide written responses to complainants advising them of the appropriate body to which they may wish to direct their complaints. Depending on the nature of the complaint, Council staff may provide information about legal resources that could assist.

When the Council receives a complaint raising allegations that may be within its jurisdiction to investigate, a complaint file is opened and the complaint is assigned to a three-member complaints committee of the Council for review and investigation.

During the reporting period, 23 new complaint files were opened and assigned to complaints committees of the Council. In addition, 8 complaint files were carried forward from 2022, 1 was carried over from 2021, and 1 was carried over from 2017. There was a total of 33 open complaint files under consideration by the Council during 2023.

In 2023, the Review Council closed 18 complaint files. Of the 18 files that were closed, 1 file was opened in 2017, 8 complaint files were opened in 2022, and 9 complaint files were opened in 2023. Each of these complaints was dismissed by the Review Council under s. 11(15)(a) of the *Justices of the Peace Act* on the basis that the allegations in the complaint letter were outside the jurisdiction of the Council, or were unsubstantiated or unfounded, or the behaviour in question did not amount to judicial misconduct requiring further action by the Council.

**COMPLAINT OUTCOMES FOR FILES CLOSED IN 2023**

Disposition	Number of Cases
Dismissed – Frivolous or an abuse of process; outside jurisdiction; unsubstantiated or did not amount to judicial misconduct <sup>1</sup>	18
Advice Letter	0
Advice – In Person	0
Referred to Chief Justice	0
Loss of Jurisdiction	0
Hearing	0
<b>TOTAL</b>	<b>18</b>

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<sup>1</sup> In annual reports prior to 2022, the Review Council reported separately on the number of complaints that were dismissed as outside the Review Council’s jurisdiction and the number of complaints that were dismissed as frivolous, an abuse of process, unsubstantiated, or did not amount to judicial misconduct. Complaints dismissed by the Review Council often contain a combination of allegations, some of which are outside the Review Council’s jurisdiction and some of which are frivolous, an abuse of process, unsubstantiated, or do not amount to judicial misconduct. Accordingly, for the 2023 Annual Report, these two categories have been consolidated.

**TYPES OF COMPLAINT FILES CLOSED IN 2023**

Types of Cases Closed	Number of Cases	% of Caseload
Provincial Offences Court	4	22.2%
Intake Court	6	33.3%
Case Management Court	5	27.8%
Bail Court	0	N/A
Peace bond application	0	N/A
Pre-enquête	2	11.1%
Outside of Court	1	5.6%
<b>TOTAL</b>	<b>18</b>	<b>100%</b>

## COMPLAINT FILE CASELOAD

	2018	2019	2020*	2021*	2022*	2023
Files opened during year	43	39	17	9	10	23
Files continued from previous year	35	33	29	16	11	10
Total open files during year	78	72	46	25	21	33
Files closed during year	45	43	30	14	11	18
Files remaining at year end	33	29	16	11	10	15

\*The lower number of new complaints received in 2020-2022 may in part be due to the impact of the COVID-19 pandemic on court proceedings including proceedings involving provincial offences. Court proceedings were adjourned due to health risks associated with the pandemic. Most complaints arise from proceedings in court.



## FORMAL HEARINGS

A public hearing may be ordered pursuant to s. 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.

Hearing decisions are posted on the Review Council's website on the webpage "Public Hearings Decisions" at:

- <https://www.ontariocourts.ca/ocj/jprc/public-hearings-decisions/>

### Hearing about the conduct of Justice of the Peace Margot McLeod

In 2023, a public hearing was held into a complaint about the conduct of Justice of the Peace Margot McLeod. On November 20, 2023, the Hearing Panel released Reasons for Decision dismissing the complaint against Justice of the Peace McLeod. In its unanimous decision, the Hearing Panel dismissed the complaint on the basis that the first allegation did not support a finding of judicial misconduct and the remaining allegations had not been proven on a balance of probabilities. The decision of the Hearing Panel is found on the Review Council's website at:

- <https://www.ontariocourts.ca/ocj/files/jprc/decisions/2023-mcleod-reasons-EN.docx>

## JUDICIAL REVIEW APPLICATIONS AND RELATED APPEALS

Decisions of JPRC hearing panels may be judicially reviewed in accordance with the procedures outlined in the *Judicial Review Procedures Act*, R.S.O. 1990, c. J.1.

### i) Former Justice of the Peace Dianne Ballam

On July 19, 2022, Justice of the Peace Dianne Ballam filed an application for judicial review in Divisional Court seeking an order in the nature of *certiorari* quashing a decision of the JPRC hearing panel on the grounds that the hearing was procedurally unfair and that the hearing panel's recommendation to the Attorney General that Her Worship be removed from office was unreasonable.

On April 25, 2023, the Divisional Court released reasons dismissing former Justice of the Peace Ballam's application for judicial review. In its unanimous decision, the Divisional Court (Stewart, Baltman and Lococo JJ.) concluded that the hearing was procedurally fair and that the JPRC hearing panel's recommendation for removal from office was reasonable.

The Divisional Court's reasons are reported as *Ballam v. Justices of the Peace Review Council*, 2023 ONSC 2502, and are available on CanLII at <https://canlii.ca/t/jwv58>.

## **ii) Former Justice of the Peace Anna Gibbon**

On September 23, 2022, Justice of the Peace Anna Gibbon filed an application for judicial review in Divisional Court of the majority of the JPRC hearing panel's recommendation to the Attorney General that she be removed from office.

On October 18, 2023, the Divisional Court released reasons dismissing the application for judicial review. In its unanimous decision, the Divisional Court (Sachs, Corbett and Ramsay JJ.) concluded that the majority of the JPRC hearing panel's recommendation was reasonable.

The Divisional Court's reasons are reported as *Gibbon v. Justices of the Peace Review Council*, 2023 ONSC 5797, and are available on CanLII at <https://canlii.ca/t/k0nrr>.

## **iii) Justice of the Peace Julie Lauzon**

As noted in the Annual Reports of 2020 and 2021, following a hearing into three complaints about the conduct of Justice of the Peace Julie Lauzon, a majority of the hearing panel recommended to the Attorney General that Her Worship be removed from office. Her Worship filed an application for judicial review, which was dismissed by the Divisional Court in reasons reported as *Lauzon v. Justices of the Peace Review Council*, 2021 ONSC 6174, and are available on CanLII at <https://canlii.ca/t/jj90l>. The Court of Appeal for Ontario granted an application for leave to appeal, and the appeal was heard on September 27, 2022.

On June 15, 2023, the Court of Appeal dismissed Justice of the Peace Lauzon's appeal from the hearing panel's misconduct decision, and allowed her appeal from the majority of the JPRC hearing panel's disposition decision. The Court of Appeal's reasons are reported as *Lauzon v. Ontario (Justices of the Peace Review Council)*, 2023 ONCA 425, and are available on CanLII at <https://canlii.ca/t/jxnwq>.

On September 14, 2023, the JPRC filed an application for leave to appeal the Court of Appeal's decision to the Supreme Court of Canada. At the time this report was written, the leave application was pending.

## 14. CASE SUMMARIES

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Except where a public hearing was ordered, a summary of each complaint for which the complaints process was completed, with identifying information for the subject justice of the peace, the complainant and witnesses removed as required by the legislation, are provided below. Decisions on public hearings are posted on the Review Council's website.

### **28-037/17**

The Review Council received a letter of complaint from a member of the legal profession alleging that the subject justice of the peace made inappropriate comments in various proceedings in case management court.

A complaints committee of the Review Council, composed of a judge, a justice of the peace, and a lawyer or community member, reviewed the complainant's letter and the transcripts of the court proceedings described in the letter. The committee invited the justice of the peace to respond to the complaint. The justice of the peace provided a response sincerely apologizing for the alleged conduct and provided medical evidence of their present condition. The justice of the peace subsequently provided updated medical evidence to the Review Council on an ongoing basis, as requested by the complaints committee.

A complaints committee of the Council concluded that, having regard to the circumstances and the medical evidence received, the conduct in question did not rise to the level of misconduct that requires further action on the part of the Review Council. Accordingly, the complaint was dismissed and the file was closed.

### **JPRC-003-22 & JPRC-004-22**

The complainant sustained a workplace injury and appealed a denial of his claim for benefits to the Workplace Safety and Insurance Board (WSIB). In his complaint letter to the Council, the complainant alleged that a nurse case manager falsified the answers he provided to her about his medical condition and, as a result, his appeal from the denial of his benefits was dismissed. The complaint alleged that he was advised that his complaint to the College of Nurses of Ontario against the nurse case manager was outside their purview.

The complainant sought to lay a private information charging the nurse case manager with the offence of Breach of Trust contrary to s. 336 of the *Criminal Code*. Section 336 states:

**336** Every one who, being a trustee of anything for the use or benefit, whether in whole or in part, of another person, or for a public or charitable purpose, converts, with intent to defraud and in contravention of his trust, that thing or any part of it to a use that is

not authorized by the trust is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

The complainant attended at the courthouse and filed information in support of the charge.

The justice of the peace reviewed the complainant's application for a private information and gave written reasons for refusing his application. The reasons for refusal included that the private information appeared vexatious as a result of the denial of an appeal to a different tribunal.

The complainant re-attended at the courthouse to file additional material addressed to initial justice of the peace, objecting to her reasons. This material was presented to another justice of the peace. The second justice of the peace refused to issue process after noting that a decision in the matter had already been made by another justice of the peace.

In his letter to the Review Council, the complainant alleged that the first justice of the peace declared him vexatious without providing reasons and made nonsensical statements about not being able to provide legal advice or conduct an investigation – neither of which he had requested. He also alleged that this justice of the peace failed to understand the gravamen of the offence of Breach of Trust, and that dismissing his complaint as “vexatious” was a huge slap in the face.

The complainant alleged that, on his request for review, the second justice of the peace did not want to overrule another justice of the peace and “dismissed [his] complaint lest she rock the boat”.

The complainant alleged that the conduct of both justices of the peace in denying his private criminal complaint application and in denying his review is “not only an affront to the rule of law, but a denial of natural justice and brings the administration of justice into disrepute in the most severe fashion.” The complainant requested the Council to order his criminal complaint to a pre-enquête hearing in front of an out-of-town justice of the peace.

The complaints against the two justices of the peace were assigned to a three-member complaints committee of the Review Council consisting of a judge, a justice of the peace, and a Law Society or community member, for review and investigation.

The complaints committee reviewed the complaint letter, the application materials submitted by the complainant to the court, and the decisions of the justices of the peace.

The committee found no evidence of judicial misconduct on the part of either justice of the peace. The committee noted that the decision of the first justice of the peace to refuse the application for a private information, and the reasons for that decision, involve matters of judicial discretion and judicial decision-making, which are outside the Council's jurisdiction to consider. The decision of the second justice of the peace not to interfere

with the first justice of the peace's decision also involved a matter of judicial discretion and decision-making outside the jurisdiction of the Council to review.

Justices of the peace have decision-making independence in accordance with the *Constitution Act, 1867*. It is outside the authority of the Council to scrutinize the correctness or sufficiency of the reasons for decision given by a justice of the peace, or to review their evidentiary findings or legal conclusions. If a person is of the view that a justice of the peace erred in their findings or decisions, a higher level court is the body with jurisdiction to determine whether there was reviewable error and, if so, to change the decision.

The complaints committee further noted that the Council does not have authority to direct that a pre-enquête hearing be held, as requested by the complainant.

The committee dismissed the two complaints on the basis that there was no evidence of judicial misconduct, and the allegations in the complaints were otherwise outside the jurisdiction of the Council. The two complaint files were closed.

#### ***JPRC-005-22, JPRC-006-22, JPRC-007-22 and JPRC-008-22***

The complainant was a self-represented defendant who was charged with assault, assaulting a peace officer, and failing to comply with an undertaking. After several appearances in bail court and criminal case management court, the criminal charges against the complainant were stayed at the request of the Crown.

The self-represented complainant then attempted to lay private criminal charges against the person who was the subject of the assault charge. This person was the complainant's former landlord. The complainant's application to lay private criminal charges against her former landlord was dismissed by a justice of the peace.

The complainant wrote a letter of complaint to the Justices of the Peace Review Council in which she referred to a number of justices of the peace before whom she had appeared in bail and case management court, as well as the justice of the peace who dismissed her application to lay private criminal charges.

The Review Council sought clarification from the complainant regarding whether she wished to bring a complaint against each justice of the peace named in her correspondence. In a written response, the complainant confirmed that she wished to make a complaint against four of the justices of the peace whom she had named in her letter and provided further allegations against the justices of the peace.

The four complaints were assigned to the same three-member complaints committee of the Review Council consisting of a judge, a justice of the peace, and a Law Society or community member, for review and investigation.

The complaints committee reviewed the various items of correspondence that the complainant submitted to the Review Council, including follow-up correspondence in which she sought a status update from the Council. In addition, the complaints committee

obtained the audio and transcript of each court appearance in which the complainant appeared before the justices of the peace who were the subjects of the complaints. The complaints committee also reviewed the relevant documentary, photographic and video exhibits that the complainant submitted in support of her complaints.

The complaints committee dealt with each of the four complaints as follows.

### ***JPRC-005-22***

The complainant appeared before the subject justice of the peace at a pre-enquête hearing, seeking to lay a private information against her former landlord.

In her letter to the Review Council, the complainant alleged that the justice of the peace:

- failed to comply with s. 504 of the *Criminal Code*;
- was biased against the complainant due to her being self-represented;
- refused to consult any of the evidence she had compiled;
- engaged in “sheer gaslighting sophistry” in the excuses for his refusal to comply with s. 504 of the *Criminal Code*;
- bullied her into taking her complaint to the police;
- demanded that the complainant’s witness/assistant recuse himself from the courtroom;
- tried to compel her to summarize an extremely complex case in a mere half hour, constantly interrupting her in the process and refusing to review any of the supporting evidence;
- demanded proof that the landlord had forged a landlord and tenant form;
- declared that the fact that the criminal charges against the complainant were stayed and not dropped meant that the complainant was neither “guilty nor innocent”;
- shockingly and falsely declared to the complainant that he didn’t think she had recourse to take the matter to the Attorney General, although there was posted signage in the court advising otherwise;
- made the “disgusting” claim that her action to submit a private prosecution was retaliatory in nature. The complainant asserted she felt so bullied by the justice of the peace that she did not point how badly he misused the word “retaliatory”;

- was extremely biased against her because she was not a lawyer or police officer;
- was unfamiliar with s. 504 of the *Criminal Code*, which violates the ethical duty of professionalism expected of a justice of the peace;
- was “pigheaded” in his refusal to review the complainant’s evidence and information that she put before the court and in demanding that she summarize it, which amounts to a refusal to follow the law, contrary to the ethical duty required of justices of the peace;
- failed to provide the complainant with his full name;
- vetoed his fellow justice of the peace’s recommendations [allegedly advising her to lay 8 criminal charges] and dismissed them out of hand.

Upon review of the audio and transcript of the proceeding, the committee verified that the complainant’s description of some of the statements made by the justice of the peace was largely accurate. However, as explained below, the committee concluded that the statements did not amount to judicial misconduct.

The complaints committee observed that the allegations that the justice of the peace failed to comply with s. 504 of the *Criminal Code*, that he vetoed the recommendations of another justice of the peace, that he improperly ordered the exclusion of a witness, and that he demanded proof that the landlord had forged a landlord and tenant eviction notice purporting to evict the complainant, were matters of judicial decision-making that are outside the jurisdiction of the Review Council to address or remedy. Conclusions reached by a justice of the peace about the evidence or merits of an application to lay private criminal charges may be subject to judicial review, but the Review Council has no jurisdiction to review or interfere with judicial decision-making of this nature. If a person believes that a justice of the peace erred in their findings or decisions, a higher level of court is the body with jurisdiction to determine whether there was reviewable error and, if so, to change the decision.

The committee determined that the complainant’s allegation that the justice of the peace commented that her actions in trying to lay a private information were “retaliatory in nature” did not raise an issue of judicial conduct warranting intervention by the Review Council. This observation reflected the justice of the peace’s evaluation of the evidence presented and was not uttered in an aggressive or belittling fashion.

The complaints committee also found that there was no evidence in the record to support the allegation that the justice of the peace was biased against the complainant as a self-represented litigant. At the opening of the proceeding, the justice of the peace took care to explain to the complainant that an *in-camera* hearing is conducted in private and that the name of the person against whom the complainant wished to lay charges is not a matter of public record unless the information is laid. It was for this reason that the justice of the peace excluded the complainant’s witness/assistant from the courtroom. In

addition, the justice of the peace asked the complainant if she understood the meaning of staying the charges, and clarified that when charges are stayed, there is no determination of guilt or innocence. The justice of the peace was acting appropriately in attempting to ensure that the complainant understood the applicable procedures and legal terminology.

The complaints committee also found that there was no evidence in the record to support the allegation that the justice of the peace refused to consult any of the evidence. The justice of the peace listened without interruption to the complainant's evidence describing the basis for the charges she was seeking to lay against her former landlord. After reviewing the audio of the proceeding, the complaints committee found that the justice of the peace was firm in his tone. However, the justice of the peace was attempting to elicit evidence from the complainant that could be capable of supporting the charges the complainant wished to lay.

The committee further found there was no basis for the allegation that the justice of the peace bullied the complainant about taking her complaint to the police. The justice of the peace indicated that some events require a police investigation, and the police will then determine if charges are warranted, and the Crown Attorney will decide if it is reasonable to prosecute the matter. The record shows the complainant asked how she could submit her evidence to the police, and the justice of the peace explained the process.

The committee also determined that the justice of the peace did not act improperly in only providing his last name. His last name was sufficient to readily identify him.

The complainant asked the justice of the peace if she could appeal his decision to the Attorney General and the justice of the peace replied, "I don't believe you can". This was an accurate response to the question. The justice of the peace went on to clarify that his decision was not final.

The committee dismissed the complaint on the basis that there was no evidence to support the allegations of misconduct, and that the additional allegations raised matters of judicial decision-making outside the jurisdiction of the Review Council.

### ***JPRC-006-22***

In her letters to the Review Council, the complainant alleged that a justice of the peace who presided at a case management appearance in relation to criminal charges against her, "slapped my wrist for having been agitated".

The complainant also alleged that the subject justice of the peace "routinely silenced [her] without allowing [her] to complete a single sentence", "was extremely rude and acted in an extremely prejudicial manner against [her]" and chided her for being extremely upset with the Crown for misinforming her as to the time and nature of the hearing, thereby exposing her to a warrant of arrest. The complainant further alleged that the justice of the peace displayed "extreme bias" in refusing to chide the Crown Attorneys for committing an "egregious error" and instead chided the complainant.



The complainant further alleged that the justice of the peace “displayed an inexplicable and deeply prejudicial unwillingness to address her by her earned honorific title”.

The complaints committee found that there was no evidence to support the allegation that the justice of the peace slapped the complainant’s wrist, routinely silenced her, or acted rudely or in a prejudicial manner towards the complainant. The complaints committee found that the justice of the peace’s tone was firm and polite. The justice of the peace asked the complainant to stop speaking for a minute so that the justice of the peace could get answers to some of the complainant’s questions, which the justice of the peace then did. The justice of the peace was managing a heavy case management list and was attempting to ensure that the complainant’s matter was dealt with efficiently and effectively.

The complaints committee also found there was no evidence to substantiate the allegation that the justice of the peace showed an unwillingness to address the complainant by her honorific title. The complaints committee observed that when the complainant requested not to be addressed as “Miss”, the justice of the peace apologized and addressed the complainant by her honorific title.

The committee dismissed the complaint on the basis that there was no evidence to support the allegations of misconduct and the allegations were otherwise outside the jurisdiction of the Review Council.

### ***JPRC-007-22***

In her letter to the Review Council, the complainant alleged that in a case management appearance before the subject justice of the peace, her accommodation request for more time to prepare her case based on a well-documented disability was improperly refused. She also alleged that the justice of the peace was unwilling to address her by her earned honorific title.

The complaints committee observed there was no evidence to support the allegation that the justice of the peace refused to grant the complainant’s request for more time to prepare her case based on her accommodation needs. The committee noted that in making a request for a later return date, the complainant pointed to her recent move and to her contention that she had a “very complex defense”, rather than her need for an accommodation due to a disability. The committee observed that the justice of the peace set the next appearance date and explained that the only thing required on that date was for the complainant to pick up the disclosure and screening form. The complaints committee noted that the complainant had indicated to the justice of the peace that she was fine with the return date so long as it was a case management appearance and not a judicial pre-trial.

The complaints committee also found there was no evidence to suggest that the justice of the peace was rude or acted inappropriately in the conduct of the brief case management appearance. The justice of the peace used the complainant’s honorific title. On the occasion when the justice of the peace referred to the complainant as “Miss” and

the complainant objected, the justice of the peace replied using the complainant's honorific title.

The committee dismissed the complaint on the basis that there was no evidence to support the allegations of misconduct and the allegations were otherwise outside the jurisdiction of the Review Council.

### **JPRC-008-22**

The complainant appeared before the subject justice of the peace in case management court. The Crown stayed the criminal charges against the complainant at this appearance.

In her letter to the Review Council, the complainant alleged that it was egregious that the charges were stayed and not dismissed. She further alleged that the justice of the peace refused to address her using her honorific title, but "she was at least polite and respectful enough to address her as "Madam" instead of as "Ms.". The complainant alleged that the justice of the peace cut her off during the hearing when she attempted to make an accommodation request.

The complaints committee found that the transcript of the proceeding confirmed the complainant's allegation that the justice of the peace interrupted her attempt to make an accommodation request. However, the complaints committee noted that the justice of the peace did so to explain to the complainant that the purpose of the appearance was only to pick another date for the complainant to return with an update.

After the justice of the peace advised the complainant about the purpose of the appearance, the assistant Crown Attorney informed the justice of the peace that he had been instructed to direct a stay on the informations before the court. The justice of the peace explained to the complainant that the Crown was not pursuing the charges at this time. The complaints committee observed that the justice of the peace had no jurisdiction to dismiss charges that the Crown was staying.

The complaints committee further observed from the court record of the proceeding that when the complainant indicated she wanted to prosecute the person who she was alleged to have assaulted as well as the investigating officer, the justice of the peace politely explained to her the process for laying an information.

The committee dismissed the complaint on the basis that there was no evidence to support the allegations of misconduct and the allegations were otherwise outside the jurisdiction of the Review Council.

### **JPRC-009-22**

The complainant was a self-represented defendant who appeared before the subject justice of the peace for a *Provincial Offences Act* trial on three driving-related charges. The trial was conducted via Zoom. The justice of the peace convicted the complainant of two of the three charges and imposed significant fines with a six-month period to pay.

In his letter to the Review Council, the complainant alleged that the justice of the peace made derogatory comments, muted him for most of the proceeding and mocked him about the death of his father during the pandemic. The complainant alleged that the justice of the peace's words "were filled with prejudice and bias". The complainant added that the court lacked compassion and sympathy for an individual going through a hard time.

The complaint was assigned to a three-member complaints committee of the Review Council consisting of a judge, a justice of the peace, and a Law Society or community member.

The complaints committee reviewed the complaint letter and the transcript and audio recording of the trial proceeding. In addition, based on inquiries to Court Services Division of the Ministry of the Attorney General, the complaints committee determined that the sentencing decision of the justice of the peace was appealed to a judge of the Ontario Court of Justice. The complaints committee reviewed the audio and transcript of the appeal proceeding, including the reasons for decision of the appeal judge.

Based on the review of the transcript and audio of the trial proceeding, the complaints committee made the following observations:

- The complainant interrupted the proceedings several times despite the justice of the peace directing him not to do so on several occasions.
- During the sentencing portion of the proceedings, the justice of the peace directed several times that the complainant be put on mute. This occurred after the complainant attempted to speak despite the justice of the peace having directed him not to interrupt and telling him it was not his turn to speak.
- During the sentencing portion of the proceedings, the complainant attempted to speak about the impact of losing his father to COVID and being responsible for his younger siblings. The justice of the peace stated that he was refusing to listen to this. The justice of the peace proceeded to strongly criticize the complainant for refusing to resolve the matter with the Crown and for forcing the court to convene numerous court appearances.
- The justice of the peace refused to allow the complainant to raise concerns about the effect of a license suspension on his employment.

The complaints committee made the following observations based on the review of the transcript and audio of the appeal proceeding:

- The complainant's counsel argued on appeal that the complainant had attempted to seek a reduced fine based on financial hardship as a student sending money home to his mother after the death of his father. Counsel commented that, as the court had put the complainant

on mute, he was unable to tell the court about these circumstances before a sentence was imposed.

- The appeal judge allowed the complainant's sentence appeal and varied the sentence to reduce the quantum of the fines and to provide an additional six months to pay the fines. In the reasons for allowing the sentence appeal, the appeal judge commented that although the complainant's expression of disappointment with the result led to the court putting him on mute, the presiding justice of the peace was obliged to seek submissions on penalty from him, including on issues such as hardship.

As part of its investigation, the complaints committee invited the justice of the peace to respond to the complainant's allegations and to the concerns of the committee arising from the committee's review of the transcript and audio of the trial. The justice of the peace provided a detailed response addressing the allegations and the concerns of the committee.

Based on its review of the materials gathered in its investigation, the committee considered that the appeal judge had afforded an appellate remedy in respect of the justice of the peace's failure to afford the complainant a proper opportunity to make submissions on sentence. The appeal judge referred to this error in reducing the fines imposed at trial and in extending the length of time to pay the fines.

The complaints committee noted the challenges associated with maintaining order and decorum in Zoom proceedings while at the same time exercising patience, dignity and courteousness towards participants including self-represented litigants who may be unfamiliar with the court process. The committee observed that in the justice of the peace's response to the complaint, he referred to such challenges and he expressly acknowledged that he had not exercised sufficient patience, dignity or courteousness towards the complainant in responding to the complainant's interruptions during the proceedings. The committee also observed that the justice of the peace expressly acknowledged that his efforts to maintain court decorum may have appeared abusive towards the complainant, and that his efforts fell short of the expectations of fairness owed to the complainant as a self-represented defendant.

The complaints committee found it significant that, in his response, the justice of the peace expressly apologized for not giving the complainant an opportunity to comment on the penalty and his ability to pay a fine, and for having managed the complainant's repeated interruptions by muting him and thereby preventing him from making sentencing submissions. In addition, the justice of the peace acknowledged that his critical comments to the complainant were wrong. He respectfully asked the committee to offer an apology to the complainant for his conduct.

The complaints committee could see from the response provided that the justice of the peace took full responsibility for his words and conduct and acknowledged that his conduct was not appropriate and fell short of the high expectations on the judiciary to

exercise patience and decorum. The response made it clear that the justice of the peace recognized the importance of demonstrating respectfulness, courteousness and fairness towards a self-represented defendant. The response further showed that the justice of the peace genuinely regretted that his conduct fell short of the expectations on him, and that he regretted the impression his conduct left with the complainant.

The committee was satisfied that the justice of the peace had taken the complainant's allegations and its concerns very seriously. The committee could see that the justice of the peace had found the complaints process to be a learning experience and that he intended to use the experience to do better in exercising patience, dignity and courteousness while at the same time ensuring the proper administration of justice.

The complaints process through the Review Council is remedial in nature and through the review of and reflection upon one's conduct, improvements are made as to how situations are handled and individuals are treated in the future.

The committee noted that the complainant would be informed of the justice of the peace's acknowledgement that his conduct was inappropriate, and of his desire to provide an apology to the complainant for his conduct. The committee concluded that no further remedial action was required in the circumstances, dismissed the complaint and closed its file.

### ***JPRC-010-22***

In his letter to the Council, the complainant alleged that the subject justice of the peace did not fulfill her duty as a justice of the peace by signing a search warrant authorizing the search of his uncle's residence and his vehicle. The complainant alleged that the Information to Obtain provided by a police officer in support of the warrant contained inadequate information to justify issuing the search warrant. According to the complainant, the search warrant resulted in his cousin and himself being unlawfully detained, and a family member being tasered and receiving a bloody head, in addition to his elderly uncle being thrown to the ground.

After being informed by the Review Council that the Council does not have jurisdiction to review judicial decision-making or the exercise of judicial discretion, the complainant submitted further correspondence indicating that, because there was no evidence to support the issuance of the warrant, the Council should review his complaint.

The complaint was assigned to a three-member complaints committee of the Review Council consisting of a judge, a justice of the peace, and a Law Society or community member, for review and consideration.

The complaints committee reviewed the complaint letter and the subsequent correspondence received from the complainant. The committee observed that the Justices of the Peace Review Council's legislative authority extends only to the review and consideration of the conduct of justices of the peace. The review of matters of judicial

discretion, such as decisions on issuing or refusing to issue a search warrant, needs to be pursued through legal proceedings in the courts.

Pursuant to s. 11(15)(a) of the *Justices of the Peace Act*, the committee dismissed the complaint on the basis that it was outside of the jurisdiction of the Justices of the Peace Review Council and the file was closed.

### **JPRC-001-23**

The complainant is a criminal defence lawyer who appeared before the subject justice of the peace in case management court to address several matters.

In the complaint letter to the Review Council, the complainant described an exchange in relation to one matter. According to the complainant, on the appearance in question, she explained to the justice of the peace that she had not had any contact with her client in several months. In her last appearance in case management court related to the same matter, the Crown had taken the position that they would ask for a warrant if the complainant still had not connected with the client.

The complainant alleged that the justice of the peace stated in a rude and condescending tone that counsel should “know what to do” and that a formal application to be removed from the record should be put before a judge. According to the complainant, the justice of the peace “scolded” her “like a child” and told her to “keep my inappropriate comments to myself”. The complainant contends that there was no basis for the justice of the peace to force her to bring an application for removal from the record.

The complainant further alleged that when she suggested scheduling the matter in judge’s court was agreeable and that the same situation would play out on that date and a warrant would be issued, the justice of the peace told the complainant to “calm down” and to “collect [her]self”. When the complainant informed the court that she was calm, the justice of the peace allegedly ordered the court staff to mute the complainant “like a child being placed in a time out”. The complainant alleged that she was eventually unmuted and invited back to complete her matters.

The complainant wrote: “I have never been so humiliated and disrespected by any judicial officer, and I have consistently born witness to this type of rude and intimidating behaviour towards junior counsel for almost three years. Unfortunately, this is just one of countless incidents where Her Worship insults others with impunity, and something needs to be done about it.”

The complainant indicated that she received correspondence from court staff and counsel who witnessed this interaction and communicated their sympathies for how she was treated.

The complaint was assigned to a three-member complaints committee of the Review Council consisting of a judge, a justice of the peace, and a Law Society or community member, for review and investigation.

The complaints committee reviewed the complaint letter, the transcript and the audio recording of the tier of proceedings before the justice of the peace on the day in question.

Based on the review of the audio recording and the transcript of the relevant proceedings, the committee concluded there was no need for further investigation. The court record largely confirmed the complainant's summary of what was said in court. The record confirmed that the justice of the peace advised the complainant that she would need to bring a motion to be removed from the record in judge's court, that she asked the complainant to keep her "inappropriate comments" to herself, and that she asked the court clerk to put the complainant on mute until she gathered herself.

However, after reviewing the audio recording, the complaints committee observed that there was no basis in the record to support the complainant's allegations that the justice of the peace used a disrespectful, condescending or rude tone in her interactions with the complainant. To the extent the complainant raised concerns about the justice of the peace's decision to require that she appear before a judge or her direction that she follow certain procedures, the complaints committee observed that the Council has no jurisdiction over judicial decision-making, including procedural decision-making. The justice of the peace was managing a busy court docket and was obliged to ensure that the proceedings were conducted in an orderly and efficient manner.

The complaints committee found that the complainant's reaction to the justice of the peace's directions regarding the applicable procedures for a recusal motion appeared disrespectful to the justice of the peace. In particular, the justice of the peace asked the complainant to keep her inappropriate comments to herself only after the complainant commented that following the procedures as described by the justice of the peace was "a complete waste of time".

In addition, the complaints committee observed that the justice of the peace asked the clerk to mute the complainant only after the complainant exclaimed in reaction to the subject justice of the peace's directions:

"Oh, my God. I'll put this into a judge's court, and I'll explain to a judge that a justice of the peace insisted that it go before...".

The complaints committee found that the justice of the peace's direction to mute the complainant was reasonable given the complainant's comments and also given the need for the presiding judicial officer to efficiently manage a lengthy docket in case management court.

The complaints committee further observed that, in the same tier of proceedings, an articling student appeared before the justice of the peace. Having regard to this interaction, the complaints committee found there was no evidence capable of supporting the complainant's allegation that the justice of the peace routinely treats junior counsel inappropriately or disrespectfully. On the contrary, the justice of the peace acted entirely respectfully towards the articling student.

Having regard to the full record of the proceedings, including the audio recording of the exchange referenced by the complainant, the complaints committee concluded that the allegations were unfounded and dismissed the complaint.

### **JPRC-003-23**

The complainant appeared before the subject justice of the peace in intake court to lay a private information.

In the complaint letter to the Review Council, the complainant made the following allegations:

- the justice of the peace allegedly told the complainant that she could not help her determine what charge she wished to lay – harassment or stalking – and told her she could go to the library to determine the appropriate charge;
- the justice of the peace allegedly told the complainant to come back before 2:00 p.m. so that the clerk could get her work done before 4:30 p.m.; meanwhile the hours of operation for the justice of the peace are until 4 p.m. and the complainant should not be expected to help a government employee get their work done on time;
- the justice of the peace does not know manners or boundaries, acted in a controlling manner, and was “completely unprofessional” towards the complainant.

The complaint was assigned to a three-member complaints committee of the Review Council consisting of a judge, a justice of the peace, and a Law Society or community member, for consideration.

The complaints committee reviewed the complaint letter and the transcript and audio recording of the proceeding before the justice of the peace.

Based on its review, the committee made the following observations:

- The justice of the peace asked the complainant if she was familiar with the process for laying an information. When the complainant said she was not, the justice of the peace explained that she could not provide legal advice to the complainant about which charge she should try to lay, but she could describe the steps involved in laying a private information.
- The justice of the peace then explained the steps involved in a professional and respectful manner.
- When the complainant asked the justice of the peace how she would determine what charge to try to lay, the justice of the peace suggested



that she review the *Criminal Code of Canada*, which she could find at the library.

- After referring the complainant to the library, the justice of the peace suggested to the complainant that she should try to return to the courthouse by around 1 p.m., so that there would be sufficient time for court staff to prepare the necessary paperwork. The complainant stated that she was on a tight schedule, to which the justice of the peace politely responded: “Well try your best.”

Based on these observations, the committee concluded that there was nothing inappropriate or abusive in the manner in which the justice of the peace conducted the proceeding. In particular, there was nothing inappropriate with the justice of the peace advising the complainant that she could not provide her with legal advice on what charge she should try to lay and in referring the complainant to the resources available at the library. The committee also found it was not inappropriate or abusive for the justice of the peace to suggest that the complainant allow time for court staff to process the paperwork associated with her private prosecution application.

The committee concluded that the justice of the peace’s manner was professional and respectful throughout, and found no evidence of misconduct in her demeanour, behaviour, or handling of the proceeding. The committee thus dismissed the complaint on the basis that the allegations were unfounded and there was no evidence of judicial misconduct, and the file was closed.

### **JPRC-005-23**

The complainant was a self-represented defendant in a *Highway Traffic Act* trial before the subject justice of the peace.

In a letter to the Review Council, the complainant alleged that before the trial began, he was told to turn on his video or his matter would not proceed and would be adjourned to another day. The complainant alleged that he was “blackmailed” by the presiding justice of the peace to turn on his video despite this not being a requirement in previous courthouses. The complainant asserted that the behaviour of the presiding justice of the peace was not in the interests of justice and was an abuse of power.

The complaint was assigned to a three-member complaints committee of the Review Council consisting of a judge, a justice of the peace, and a Law Society or community member, for review and investigation.

The complaints committee reviewed the complaint letter and listened to the audio recording of the proceeding before the justice of the peace.

The complaints committee observed that there is statutory authority for a judicial officer to require a defendant in a *Highway Traffic Act* trial to appear by video. Section 83.1(6) of the *Provincial Offences Act* provides that a justice may specify which of the available electronic methods for participating in a proceeding must be used by a trial participant.

The justice of the peace was exercising her authority under this section in directing that the complainant appear by video at his trial. The Review Council does not have the jurisdiction to consider complaints about judicial decision-making or the exercise of judicial discretion.

To the extent the complaint included allegations of judicial misconduct on the part of the justice of the peace, the complaints committee determined that the allegations were unsubstantiated. Based on its review of the audio of the court proceeding, the complaints committee concluded that the justice of the peace had done nothing that could be construed as having “blackmailed” the complainant.

On the contrary, the complaints committee found that the justice of the peace was courteous, patient and polite throughout the proceeding. The justice of the peace provided clear explanations about trial procedure and the rules of evidence to the complainant, and took steps to ensure that the complainant could effectively participate in the trial process as a self-represented defendant.

The complaints committee concluded that the complainant’s allegation that the justice of the peace acted improperly in requiring him to appear at his trial by video relates to the justice of the peace’s decision-making authority and does not raise an issue of judicial conduct. To the extent the allegations are that the justice of the peace abused her power or otherwise acted improperly, the complaints committee determined that the allegations were unfounded.

Given that the allegations were either outside the jurisdiction of the Council to consider as involving an exercise of judicial discretion, or were otherwise unsubstantiated by the record, the complaints committee dismissed the complaint pursuant to s. 11(15)(a) of the *Justices of the Peace Act* and the file was closed.

### **JPRC-006-23**

The complainant applied to the Ontario Court of Justice to lay private informations charging multiple individuals with various criminal offences. The allegations related to a property dispute between the complainant, her son, and the owner and occupants of a neighbouring property. The complainant was self-represented at the pre-enquête hearing before the subject justice of the peace. The Crown intervened in the hearing and stayed the proceeding.

In a letter to the Review Council, the complainant alleged the justice of the peace:

- said that the Crown could stop the hearing at any time and, accompanied by an “undisclosed woman took herself out [of] the courtroom”;
- did not allow the complainant to speak a word, violating the complainant’s *Charter* rights and “fundamental law of justice” to be heard in the court;

- acted contrary to the obligations of a presiding justice of the peace to hear and consider the allegations of the complainant and the witness, who was the complainant's son;
- denied the private information without hearing from the complainant and "most likely was not involved in the case"; and
- together with the Crown, "performed low farce" instead of conducting a hearing.

The complaint was assigned to a three-member complaints committee of the Review Council consisting of a judge, a justice of the peace, and a Law Society or community member.

The complaints committee reviewed the complaint letter and the audio recording of the proceeding before the justice of the peace.

After a thorough review of the court record, the committee concluded that the complainant's main grievance was her disagreement with the outcome of the pre-enquête hearing before the justice of the peace. The committee found that the complainant's concerns about the outcome of the hearing did not raise an issue of judicial conduct. As the justice of the peace explained to the complainant during the hearing, the Crown was legally entitled to stay the proceeding, at which point the hearing ended.

To the extent that the complainant alleged that the justice of the peace should have continued the hearing after the Crown stayed the proceeding, the committee concluded that this raised an issue of judicial decision-making and did not raise an issue of judicial conduct. The Review Council has no legislative authority to review the correctness of court decisions or to make orders in relation to legal remedies or proceedings. If a person seeks a determination as to whether a decision made by a judicial officer was correct, the proper way to proceed is through legal remedies in the courts. The committee also noted that the justice of the peace had no statutory authority to proceed with the pre-enquête hearing after the Crown had stayed the proceeding.

The committee further found no evidence of misconduct in the justice of the peace's demeanour, behaviour and handling of the complainant's matter. After reviewing the audio recording of the proceeding, the committee found there was no evidence to support the allegation that the complainant was not allowed to speak in court. The audio revealed that after the Crown told the court that she was staying the proceeding, the justice of the peace explained to the complainant and her son that the Crown had a right to stay the proceeding. The justice of the peace then allowed the complainant an opportunity to make submissions in response. The complainant's son made submissions, apparently on the complainant's behalf. At the conclusion of the complainant's son's comments, the justice of the peace explained again that the Crown was legally entitled to stay the proceeding. The justice of the peace also explained to the complainant and her son that if they were dissatisfied, they could apply to the Superior Court for judicial review.

The committee dismissed the complaint on the basis that the allegations were unfounded or were otherwise outside the jurisdiction of the Review Council, and the file was closed.

### **JPRC-007-23**

The complainants wrote to the Review Council to raise concerns about the competence of a justice of the peace.

In a letter to the Review Council, the complainants alleged that the subject justice of the peace failed to properly discharge their judicial duties by not noticing that there was a problem with a court document that was signed by the justice of the peace. The complainants asked the Review Council to assess the justice of the peace's competence and to hold the justice of the peace accountable for their incompetence.

The complaint was assigned to a three-member complaints committee of the Review Council, consisting of a judge, a justice of the peace, and a Law Society or community member, for review and consideration.

The complaints committee reviewed the complaint letter, the court document in issue and the transcripts and audio of all court proceedings in relation to the matter.

Based on this review, the committee observed that the complaint in question appeared to raise issues involving a legal and/or procedural error on the part of the justice of the peace, rather than raising any ethical issue involving judicial misconduct. There was no suggestion that the justice of the peace was engaging in a systematic pattern of incompetence, or demonstrating bad faith or otherwise intending to subvert the trial process.

The complaints committee noted that the Review Council's role is not to determine if a justice of the peace made a procedural or substantive error in failing to notice a deficiency in a court document. Nor does the Council have authority to remedy a legal or procedural error that may have been made by a justice of the peace. The role of the Review Council is to consider complaints about the behaviour or capacity of a justice of the peace.

The committee dismissed the complaint on the basis that the allegations were outside the jurisdiction of the Review Council, and the file was closed.

### **JPRC-008-23**

The complainant was a self-represented defendant in a *Provincial Offences Act* trial before the subject justice of the peace.

In his letter to the Review Council, the complainant alleged that:

- Before his trial, the justice of the peace asked the complainant and the prosecutor to meet with him in his office. The justice of the peace tried to advise the complainant that he should "contract" with him. The complainant declined and told the justice of the peace that he (the

complainant) was not under his jurisdiction and that the justice of the peace had no right to continue with his trial. The justice of the peace became upset with the complainant.

- The complainant then showed the justice of the peace his “declaration of Status as a Man” and asked the justice of the peace for his “Indemnity insurance Company name and policy number”. The justice of the peace became more upset and “shoved” his business card in the complainant’s face.
- After the complainant left and returned to the courtroom, he saw the prosecutor entering the justice of the peace’s office. He could hear the prosecutor and the justice of the peace discussing him and his case.
- The justice of the peace questioned the complainant before his trial started. The complainant had never seen this procedure before.
- The justice of the peace and the prosecutor committed fraud and colluded against him by proceeding with his trial knowing that they did not have jurisdiction.
- The justice of the peace made multiple false statements and accepted false evidence. He ruled for the prosecutor even though the prosecutor failed to prove his case.

The complaint was assigned to a three-member complaints committee of the Review Council, consisting of a judge, a justice of the peace and a Law Society or community member, for consideration.

The complaints committee reviewed the complaint letter, the audio recording and transcript of the complainant’s trial, and the audio recording and transcript of the proceedings before the justice of the peace from the time court opened on the day of the complainant’s trial until the complainant’s trial began.

Based on this review, the committee found no evidence of misconduct in the justice of the peace’s demeanour, behaviour, or handling of the complainant’s matter. On the contrary, the justice of the peace was respectful and patient with the complainant.

The committee observed that the allegation that the justice of the peace required the complainant to meet with him and the prosecutor in his office was inconsistent with the audio recording and transcript of the proceedings before the justice of the peace prior to the complainant’s trial, which indicated that the justice of the peace was presiding in court at the time the complainant alleged this meeting occurred. Shortly after court began, the complainant introduced himself on the record. The prosecutor advised that the complainant’s matter was scheduled for trial later that morning. The justice of the peace suggested to the complainant that he speak to the prosecutor before his trial began. The court then dealt with other matters until the complainant’s trial.

The committee similarly concluded that the allegation that the justice of the peace met with the prosecutor alone in his office before the complainant's trial, so they could discuss the case, was inconsistent with the audio recording and transcript of the proceedings before the justice of the peace prior to the complainant's trial. The justice of the peace was presiding in court at the time the complainant alleged this meeting occurred.

The committee noted that there was no evidence to support the allegation that the justice of the peace became upset with the complainant at any point during his trial. Immediately before the complainant's trial, the complainant stated that he had spoken to the prosecutor and was not interested in resolving his charges. The justice of the peace confirmed that this was fine. The complainant then argued that the court did not have jurisdiction over his trial. The justice of the peace explained to the complainant that his argument did not have any merit. The justice of the peace did not become upset at that time, nor did he become upset when the complainant showed him his "Declaration of Status as a Man". There was no support in the recording for the allegation that the complainant asked for the justice of the peace's insurance information or that the justice of the peace "shoved" his business card in the complainant's face.

The committee observed that while the justice of the peace asked the complainant questions before his trial began, there was nothing inappropriate about the questions he asked. When the justice of the peace asked the complainant to confirm his name, the complainant gave confusing answers. The justice of the peace asked him about his answers until the complainant confirmed his identity. The complainant then asked the justice of the peace questions about the trial process and his rights. The justice of the peace answered these questions and asked the complainant about his readiness for trial. The justice of the peace acted entirely appropriately in these exchanges.

In relation to the allegation that the justice of the peace made multiple false statements, the committee observed that the complainant did not provide any examples of false statements made by the justice of the peace, nor were any such statements apparent based on a review of the record of the proceeding.

The committee observed that the remaining allegations related to the justice of the peace's application of the law, assessment of the evidence, and decisions made in the complainant's case. In particular, the allegations that the justice of the peace had no jurisdiction over the trial, accepted false witness statements, and ruled in favour of the prosecutor all raised matters of judicial decision-making. The committee noted that the complaints process must respect constitutionally-protected judicial independence. If a person believes that a justice of the peace made a legal error in his or her decision-making, the proper way to proceed is through legal remedies in the courts, such as an appeal. The Review Council has no legislative authority to review the correctness of court decisions.

The committee dismissed the complaint on the basis that the allegations were unfounded and were otherwise outside the jurisdiction of the Review Council, and the file was closed.

### **JPRC-012-23**

The complainant appeared before the subject justice of the peace to lay a private information against her landlord. The justice of the peace refused to receive the information and dismissed the application.

In her letter to the Review Council, the complainant alleged the justice of the peace:

- Was disrespectful in saying, “If I was to charge everyone who was slandered and harassed in this country it would be the whole country”;
- Was angry when reviewing the private prosecution;
- Said there was not enough evidence to lay a private prosecution;
- Spoke sharply to the complainant saying, “What does that tell you then?” in response to the complainant saying no one would help her;
- Was dismissive towards the complainant;
- Prevented the complainant from getting reparations and protecting her insurance, housing and safety;
- Told the complainant that she did not know what would happen with the private prosecution application if the clerk kept it and that it would probably be discarded in the garbage; and
- Said “good, good, go do it” in response to the complainant saying that she would be going to the news and making a complaint.

The complaint was assigned to a three-member complaints committee of the Review Council consisting of a judge, a justice of the peace, and a Law Society or community member, for consideration.

The complaints committee reviewed the complaint letter, the private prosecution application, and the transcript and audio recording of the proceeding before the justice of the peace.

The committee observed that the justice of the peace’s decision not to issue process was a matter of judicial discretion and decision-making outside the jurisdiction of the Council. The Review Council does not have authority to review the correctness of decisions made by justices of the peace, including their evidentiary findings or legal conclusions. If a person believes that a justice of the peace erred in their findings or decisions, a higher level of court is the body with jurisdiction to determine if the justice of the peace made a reviewable error, and if so, to change the decision.

Similarly, the committee found that the allegation that the justice of the peace prevented the complainant from “getting reparations and protecting her insurance, housing and

safety” did not raise an issue of judicial conduct. The implications of the justice of the peace’s decision to deny the application to lay a private prosecution does not raise an issue of judicial conduct.

In addition, the committee found no evidence of misconduct in the justice of the peace’s demeanour, behaviour or handling of the matter. Based on its review of the record, the committee observed that the justice of the peace’s manner toward the complainant was direct but was not inappropriate.

Further, the committee determined that there was no evidence in the audio recording or transcript to support the allegations that the justice of the peace made many of the statements attributed to her by the complainant. In particular, there was no support for the allegations that the subject justice of the peace said anything along the lines of “If I was to charge everyone who was slandered and harassed in this country it would be the whole country”, that the complainant’s application would be put in the garbage, or that the justice of the peace said “good, good, go do it” when the complainant said that she would be going to the news.

The committee noted that the justice of the peace tried to explain to the complainant the reasons why the private prosecution could not proceed. During this explanation, the complainant told the justice of the peace that she had already contacted the police and the insurance company and that they would not help her. The justice of the peace then explained that this should tell the complainant something, adding that if the police had come to her with the same request, she would have made the same decision based on the evidence provided. The committee found that the justice of the peace was attempting to explain her decision to the complainant, and that in this context, her remarks were not inappropriate.

The committee dismissed the complaint on the basis that the allegations were unfounded and were otherwise outside the jurisdiction of the Review Council to consider.

### ***JPRC-013-23***

The complainant is a paralegal. He complained to the Review Council about two appearances before the subject justice of the peace at which his clients were given 60 days to pay their fines. The complainant made the following allegations:

- Another paralegal who appeared before the justice of the peace on the same day requested 90 days for their client to pay a fine. The justice of the peace told this paralegal that he was giving everybody an extended time of 120 days to pay their fines that day, and that to be consistent, he would also give her client 120 days. The complainant’s matter was called next. The complainant requested 90 days for his client to pay his fine. The justice of the peace ordered the fine be paid within 60 days.



- The complainant appeared before the same justice of the peace on another matter approximately 6 weeks later. Again, the justice of the peace ordered that the complainant's client have 60 days to pay the fine.
- The complainant alleges that the justice of the peace was not consistent in deciding his cases and questions whether he would get fair decisions from the justice of the peace.

The complaint was assigned to a three-member complaints committee of the Review Council consisting of a judge, a justice of the peace, and a Law Society or community member, for consideration.

The complaints committee reviewed the complaint letter and the transcript of the proceedings before the justice of the peace on the two dates. Based on this review, the committee observed:

- At the beginning of the proceedings, the justice of the peace explained to people in the courtroom that he would ask about how much time they needed to pay their fines and would decide on a case-by-case basis.
- Contrary to the complainant's allegation, on the first court date, the justice of the peace did not state that he would be giving everyone that day an extended time of 120 days to pay. Rather, in response to another paralegal's comment that he had been kind in giving her client additional time to pay, he said that he recognized that the amount of her client's fine was significant and said that he "may have to be kind all through the day but that's going to be tough." The paralegal responded that she did not think it would be difficult for the justice of the peace to be kind.
- The justice of the peace gave the other paralegal's client 120 days to pay, when the paralegal had only requested 90 days. However, the fine in that case was \$200, while the fine in the case of the complainant's client was \$60.
- On the two dates complained about, the justice of the peace generally granted 60 days to pay \$60 fines. The justice of the peace did not grant anyone 90 days to pay a \$60 fine, including in other instances where the accused or a legal representative had asked for more time to pay.

Based on these observations, the committee concluded that there was no basis for the complainant's allegation that the justice of the peace was biased against him or had singled him out by refusing to give his clients 90 days to pay. The committee further concluded that there was no evidentiary basis for the complainant's concern that the justice of the peace would not give him a fair hearing.

To the extent that the complaint concerned the justice of the peace's decision to give the complainant's clients 60 days to pay their fines, the committee observed that it is outside the jurisdiction of the Review Council to scrutinize the correctness of decisions made by judicial officers. If a person is of the view that a justice of the peace erred in their findings or decisions, a higher level court is the body with jurisdiction to determine whether there was reviewable error and, if so, to change the decision.

The committee therefore dismissed the complaint on the basis that the allegations were unfounded and were otherwise outside the jurisdiction of the Review Council, and the file was closed.

### **JPRC-017-23**

In a letter to the Review Council, the complainant asserted that, while she was an Assistant Crown Attorney, the subject justice of the peace made "baseless and unfounded allegations" about her to her manager. The complainant enclosed a copy of an email from the justice of the peace to her manager that raised concerns about the complainant's conduct during criminal case management proceedings presided over by the justice of the peace on a particular day.

The complainant alleged that in the justice of the peace's email to her manager, the justice of the peace accused the complainant of creating a hostile court environment. The complainant also referred to other allegedly unfounded criticisms by the justice of the peace of her courtroom conduct, including a criticism of the complainant's light-hearted remark about defence counsel's poor penmanship and a "spurious" allegation that the complainant had questioned the integrity of defence counsel by declining to make an election in the absence of a note from the assigned Crown. The complainant further alleged that, "in a stunning display of hyperbole", the justice of the peace suggested that she did not understand the presumption of innocence.

The complainant confirmed that her managers did not find anything in the audio recording of the proceedings to substantiate the justice of the peace's allegations, and that her employer did not act on the justice of the peace's complaint. The complainant asserted that the only unprofessional conduct in court that day was committed by the justice of the peace, who raised her voice while chastising an unrepresented accused.

The complaint was assigned to a three-member complaints committee of the Review Council, consisting of a judge, a justice of the peace, and a Law Society or community member, for consideration. The complaints committee reviewed the letter of complaint and the email from the justice of the peace provided by the complainant. The committee also reviewed the audio recording and transcript of the proceedings on the day in question.

The committee observed that the email from the justice of the peace to the complainant's manager raised concerns about the complainant's manner and tone towards others in the courtroom, including defence counsel and self-represented accused. The committee concluded that the justice of the peace's decision to write to the manager to express the

concerns articulated in her correspondence, and the manner in which those concerns were articulated, did not raise ethical issues warranting remedial action by the Review Council. The committee observed that there was no suggestion in the justice of the peace's correspondence that the complainant's conduct warranted any type of disciplinary sanction, nor was there any suggestion that disciplinary action was required.

With respect to the complainant's assertion that the justice of the peace raised her voice and chastised an unrepresented accused during one of the proceedings, the committee observed from the audio recording that the justice of the peace did raise her voice in frustration during a particular exchange with a self-represented accused. The committee noted that the justice of the peace was attempting to maintain order over the proceeding as the accused and the complainant were interrupting one another as well as interrupting the justice of the peace.

The committee observed that it is the responsibility and duty of a justice of the peace to maintain control over the proceedings to ensure an effective and efficient use of court time and a fair hearing. In doing so, they must sometimes exercise an appropriate degree of firmness. The committee concluded that the justice of the peace's conduct toward the self-represented accused in this instance did not warrant remedial action by the Review Council.

For these reasons, the committee dismissed the complaint on the basis that the concerns raised by the complainant about the justice of the peace's conduct did not raise ethical issues capable of supporting a finding of judicial misconduct.

## 15. EXTRA-REMUNERATIVE WORK APPLICATIONS

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Under s. 19 of the *Justices of the Peace Act*, all justices of the peace are required to seek the written approval of the Review Council before accepting or engaging in any extra-remunerative work.

Applications received from justices of the peace to engage in extra-remunerative work are considered in accordance with the Council's Policy on Extra-Remunerative Work, which is found on the Review Council's website at:

- <https://www.ontariocourts.ca/ocj/jprc/policies-and-procedures/extra-remunerative-work/>

The policy sets out criteria that are used in assessing applications, including:

- ◆ whether there is an actual or perceived conflict of interest between the judicial 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 their ability to properly perform the judicial duties assigned; and,
- ◆ whether the activity for which the justice of the peace seeks approval is a fitting or appropriate activity in which a judicial officer should engage, having regard to public perceptions of judicial demeanour, independence and impartiality.

The Council considers two factors in determining whether non-judicial work is “remunerative”. First, the Council considers whether the work gives rise to any remuneration to the applicant justice of the peace directly. Second, the Council considers whether a justice of the peace is a party to someone else’s remunerative work. The Review Council has determined that there are circumstances, such as where a justice of the peace’s spouse is receiving remuneration, where a justice of the peace may be engaged in extra-remunerative work even though they are not receiving remuneration directly. If the Council determines that the justice of the peace is engaged in extra-remunerative work, the policy and criteria set out by the Council for considering applications is considered.

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 seemly or appropriate activity in which a judicial officer should engage, having regard to public perceptions of judicial demeanour, independence and impartiality (paragraph 6(c) of the Policy Re Extra-Remunerative Work). The Council has determined that this criterion must be understood in the context of the public policy encapsulated in the legislative framework set out in the *Justices of the Peace Act* and, in particular, in view of the amendments that resulted from

the *Access to Justice Act*, 2006, S.O. 2006, c. 21. 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, generally, it would 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 by full-time justices of the peace to engage in extra-remunerative work on an exceptional basis 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.

In 2022, the Review Council adopted an application form for justices of the peace to complete when applying for approval to engage in extra-remunerative work. The form is found on the Review Council's website at:

- <https://www.ontariocourts.ca/ocj/files/jprc/form-remunerative-work-EN.docx>

In this reporting year, the Council considered and decided four applications from justices of the peace for approval to engage in extra-remunerative work. One application was not pursued by the justice of the peace and the file was administratively closed.

The following are summaries of the extra-remunerative work applications that were dealt with in 2023.

### **ER-001-23**

The Review Council received an application from a full-time justice of the peace for approval to provide training and education in the area of equity, diversity and inclusion (EDI) to school leaders, businesses and law enforcement agencies.

In response to a request for clarification from the Review Council, the applicant confirmed that he was a co-owner, shareholder and director of the EDI provider at the time of the application. The applicant also confirmed that the EDI provider conducts audits, policy reviews, and organizational change strategies including for law enforcement agencies.

Based on the clarification received, the Review Council invited the applicant to respond to several concerns regarding the application. The Council's concerns included that it appeared that the applicant had an ongoing role in the EDI provider as a co-owner, shareholder and director; that it appeared that the proposed teaching activity would involve providing EDI training and education for multiple clients, which would create a greater risk of conflicts of interest; and that the proposed teaching may give rise to ethical issues related to judicial impartiality.

The response received from the applicant justice of the peace confirmed that he was in the process of completely divesting his ownership and directorship of the EDI provider. In addition, the applicant confirmed that he would be working with only one client within the educational field.

Based on the response received, the Council decided to approve the application, subject to the following conditions, which were agreed to by the applicant:

- 1) The Council's approval of the request must present no difficulties in fulfilling judicial assignments or other judicial duties.
- 2) His Worship's availability to provide EDI training and education must not impact on his availability to fulfill his primary responsibilities as a justice of the peace during assigned hours. His Worship's availability to carry out any tasks related to EDI training and education must be undertaken at times when he is not otherwise assigned to judicial duties (e.g., on weekends), or on days he has requested as vacation, or on earned lieu days. The Council is of the view that non-presiding days should not be used for such purpose.
- 3) His Worship may accept remuneration for providing EDI training and education in the form of an hourly rate, but such remuneration must be the same as that paid to other similar educators without regard to his position as a justice of the peace. However, His Worship must agree not to obtain any additional financial benefit as a shareholder, officer or director of the EDI provider. In

addition, before providing any EDI training and education for remuneration, His Worship must provide confirmation in writing to the Council that he has divested his shares in the EDI provider in an arm's length transaction. This condition is intended to avoid a potential conflict of interest, or a bias allegation arising from the fact that the EDI provider may receive remuneration from law enforcement agencies, e.g., in performing equity audits.

- 4) Before providing any EDI training and education for remuneration, His Worship must provide confirmation in writing to the Council that he has ceased to serve in the role of a director and/or officer of the EDI provider.
- 5) His Worship agrees that he will provide EDI training and education to only one client in the educational field, and not to law enforcement agencies.
- 6) His Worship must agree not to participate in the services offered by the EDI provider of performing inclusion audits, policy reviews, and/or organizational change strategies.
- 7) The EDI provider's website and promotional materials and His Worship's LinkedIn profile and any profile in other social media platforms shall not refer to his former role as an owner, director or officer of the EDI provider. His Worship's name and photo should not be included on the EDI provider's website or other promotional material, except in the capacity as an educator. Any such reference should not refer to His Worship's title as a justice of the peace.
- 8) The Council requires His Worship's understanding and commitment to his ethical obligations as a justice of the peace to avoid any real or perceived conflict of interest or bias arising from his work as an EDI trainer and educator.
- 9) His Worship must maintain appropriate distance as an EDI trainer and educator from his role and responsibilities as a judicial officer, particularly in relation to avoiding any reference to his position or title as a justice of the peace in his extra-remunerative work activities. For greater clarity, His Worship must ensure that any promotional and other course materials, resumes, and other course-related documents do not refer to his judicial position or title.
- 10) His Worship must not use the Court's email network, computer or other resources for any purpose related to his educational

activities, as those resources are provided for purposes associated with his official responsibilities.

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

### **ER-002-23**

The Review Council approved an application to lead jiu jitsu classes at a martial arts school on an occasional basis, subject to the following conditions which were agreed to by the Justice of the Peace:

- 1) The Council's approval of the request must present no ethical difficulties in fulfilling His Worship's judicial assignments or other judicial duties.
- 2) His Worship's availability to lead jiu jitsu classes must not impact upon his availability to fulfill his primary responsibilities as a justice of the peace during assigned hours. His Worship has indicated that leading jiu jitsu classes would occur outside of working hours.
- 3) His Worship must maintain appropriate distance in leading jiu jitsu classes from his role and responsibilities as a judicial officer, including in any promotional and other materials for the martial arts school.
- 4) His Worship may accept remuneration for leading jiu jitsu classes in the form of an honorarium, or in the form of an equivalent reduction to his monthly membership fee at the martial arts school. Any remuneration His Worship receives must be without regard to his position as a justice of the peace.
- 5) His Worship must refrain from using the Court's email network, computer or other resources for any purpose related to leading jiu jitsu classes, as those resources are provided for purposes associated with his official responsibilities.
- 6) The Review Council reserves the right to revisit His Worship's request and its decision should any relevant circumstances change.

### **ER-003-23**

A justice of the peace submitted an application for approval to engage in extra-remunerative work in the form of teaching a course at a community college, however, the application was not pursued and the file was administratively closed.



### **ER-004-23**

The Review Council approved a request by a justice of the peace to engage in activities as a member of the priesthood of the Ukrainian Catholic Eparchy of Toronto and Eastern Canada, subject to the following conditions:

- 1) The Council's approval of the request to serve as a priest and to engage in activities related to that role must not impact on the scheduling and assignment of His Worship's judicial duties.
- 2) In His Worship's capacity as a priest, he must maintain distance from the role and responsibilities as a judicial officer, particularly in relation to avoiding any reference to His Worship's position as a justice of the peace in any activities or information related to his role as a priest.
- 3) His Worship must refrain from knowingly carrying out any activities or providing any services in His Worship's role as a priest with anyone directly involved with the justice system. His Worship must demonstrate sensitivity in interactions with persons in His Worship's capacity as a priest, to ensure the avoidance of any real or perceived conflict of interest or bias. Of particular concern to Council is any service provided 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 His Worship in his decision-making capacity as a justice of the peace, or persons with whom he has a relationship in the course of His Worship's duties, including court administration and court security staff. The Council notes that it would be incumbent upon His Worship to recuse himself from presiding over a proceeding involving a person or persons to whom His Worship has provided any services in his capacity as a priest.
- 4) His Worship is permitted, in his role as a priest, to provide services for justices of the peace or judges. However, His Worship must refrain from using the Court's email network for any purpose related to his role as a priest. His Worship must also refrain from conducting personal business in relation to his role as a priest on the Court's resources, which are provided for purposes associated with his official responsibilities.
- 5) Any remuneration for services which His Worship receives as a priest must be the same as for any other priest, established without reference to His Worship's position as a justice of the peace and administered by the parish.

- 6) His Worship must decline any payments, donations or offerings, including reasonable amounts for expenses, unless the amounts are minimal, paid through the parish in accordance with its by-laws and policies, recorded by the Treasurer, and are subject to the oversight of the Finance Council of the parish. If a person seeks to make an offering or donation in relation to his services, His Worship must inform the person that any payment of monies, including amounts meant to cover reasonable expenses, must be made to the parish. His Worship may not accept funds for delivery to the parish. His Worship agrees that if Eparchial by-laws or policies change, he will advise the Review Council and seek additional guidance.
- 7) In the capacity as a priest, His Worship may perform a marriage only after obtaining a separate license in his capacity as clergy.
- 8) In the capacity as a priest, His Worship must not engage in any fundraising activities on behalf of the Church, or solicit any funds or donations or allow His Worship's name to solicit funds or donations, or lend the prestige of judicial office to any fundraising efforts.
- 9) The Council reserves the right to revisit the request and its decision should the Council become aware of any new information or any relevant circumstances change.

### **ER-005-23**

The Review Council approved an application to teach a course at a community college.

The Council noted that educational teachings by justices of the peace should not present any potential negative impacts on judicial responsibilities or pose issues relating to fulfilling judicial scheduling obligations.

The approval of the Council was granted, subject to the following conditions:

- 1) The Council's approval of the request must present no difficulties in fulfilling judicial assignments during the period of teaching.
- 2) His Worship's availability to instruct must not impact upon his availability to fulfill his primary responsibilities as a justice of the peace during assigned hours. As such, his availability to instruct must be undertaken at times when he is not otherwise assigned to judicial duties and where he 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) His Worship must maintain appropriate distance in the completion of the teaching of this course from his role and responsibilities as a judicial officer.
- 4) His Worship may accept remuneration for the teaching, but such remuneration must be the same as that paid to other instructors without regard to his position as a justice of the peace.
- 5) His Worship must refrain from using the Court's email network, computer or other resources for any purpose related to his teaching activities, as those resources are provided for purposes associated with his official responsibilities.
- 6) The Review Council reserves the right to revisit this request and its decision should any relevant circumstances change.