

Ade Olumide
RPO 93, 2808 Dunrobin Road
Ottawa, ON, K0A 3M0
T: 613 265 6360 F: 613 832 2051
E-mail: ade6035@gmail.com

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Open Letter to All Members of Parliament
House of Commons
Ottawa, Ontario K1A 0A6

Re: Request for quote in support of changing Judges Act Criminal complaints procedure

Thank you for your public service to our great nation of Canada. As you know, judicial independence is a constitutional doctrine, but the Parliament has exclusive constitutional jurisdiction over the criminal law and procedure in criminal matters.

Judges cannot do indirectly (change the criminal code) what they lack jurisdiction to do directly. I hereby recommend that Parliament legislate that Council must refer all allegations of criminal misconduct to the RCMP who would submit a "record of investigation" within 90 days back to Council, upon receipt of the "record of investigation", the Council would retain the power to decide whether to recommend a reprimand or removal of the judge.

In order to campaign for this Judges Act change, **can you please send me a quote re your personal position on creating a separate path for dealing with Judges Act criminal misconduct complaints against a judge?**

Judges are claiming judicial immunity for criminal offences like assault, extortion, obstruction of justice, fraud etc. Although judicial immunity is not a constitutional principle, the police are unable to investigate due to the common law principle of judicial immunity, therefore Council that must be required to request an RCMP investigation of any criminal complaint. Surely, the time has come for MPs to take a position on the Judges Act criminal complaints procedure.

The status quo has created a situation where judges who are subject of criminal misconduct complaints are the same judges deciding not to request a record of the investigation, the same judges return to the court to assault and extort mandatory criminal code procedures for presenting evidence to meet the test for each element of the charge for a criminal prosecution of the Canadian Judicial Council, the same judges return to courts of appeal to defraud mandatory criminal code appeal procedures, which triggers new criminal misconduct complaints to the Canadian Judicial Council, the same judges decide not to request a record of the investigation and the cycle repeats itself.

The courts have found that since the Canadian Judicial Council is implementing government policy on criminal misconduct complaints, and Council is not a court, judicial independence does not apply to judges to the Canadian Judicial Council.

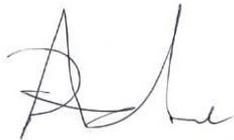
Madadi v. B.C. (Ministry of Education), 2012 BCHRT 380 (CanLII) [71] ...The difficulty with these decisions is that ... In the words of the Supreme Court in Ocean Port, the Tribunal has elevated a common law rule to constitutional status. .. [73] It could be argued that the

constitutional guarantee of independence extends to certain tribunals and may be inconsistent with the application of the human rights legislation to certain Court-like functions carried out by those tribunals ...Conclusion Respecting Judicial Immunity [74] While ..there are sound reasons for immunizing judicial and quasi-judicial decision makers from civil suit: promoting finality of decision-making and the public interest in the integrity of the justice system, a key element of which is impartial and independent decision makers, constitutional judicial immunity does not apply to the hearing process of the TRB. As expressed in Ocean Port, "While tribunals may sometimes attract Charter requirements of independence, as a general rule they do not". Certainly it is clear that the TRB was created for the primary purpose of implementing government policy respecting education. It therefore does not attract constitutional guarantees of independence in my view. I am driven to the conclusion that judicial immunity does not apply to the processes of the TRB whether they be those functions that may be performed interchangeably by Courts or tribunals, such as the discipline hearing in this case or responsibilities related to the sort of policy-driven adjudicative responsibilities that could not be performed by the Courts.

For more information please visit: www.adeolumide.ca, [Part1](#) and [Part2](#)

I look forward to your response.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ade Olumide', with a stylized, cursive script.

Ade Olumide