March 4, 2018

Attention; Police Ethics Commissioner c/o Deputy Commissioner, Helene Tremblay, Attorney Tel 418-643-7897, Fax 418-528-9473, 2535 Boulevard Laurier, Suite 1.06, Quebec, G1V 4M3

From: Ade Olumide, Tel 613 265 6360,fax 613 832 2051, email ade6035@gmail.com,

Request For Review Re File: 17-1672 AND 17-1635

I received the February 27, 2018 decision, there 3 categories of **dishonest** statements in the letter;

I. Neglect Of 6(2g),48, Oath Police Act "Honestly.. Prevent And Repress Crime" Is Not 7(1), 9 Code Of Ethics "Prevent Or Contribute To Preventing Justice" ["refusal to follow up on the complainant's request, if proven, ..are not .. a breach of ethics.. in this case"]

II. Prosecutor Lawful Act For Unlawful Obstruction of Justice Purpose Flagrant Impropriety Tests Are Not Applicable To Testing For Police Derogatory Acts ["unless there is evidence of derogatory acts, which is clearly not the case here"]

III. Criminal Code S22.2, S25.1(9)(11b), S139(1)(2)(3a) Public Court Organization Acting Without Jurisdiction To Obstruct Justice Is Not Police Jurisdiction ["neither .. police authorities have any jurisdiction on .. decisions ..by tribunals"]

New Grounds; s168, 193 Police Act Constitutional Question

Ochapowace First Nation v. Canada (Attorney General), [2008] 3 FCR 571, 2007 FC 920 [47] It should be clear by now that the discretion enjoyed by the Crown and the police in the enforcement of the criminal law is nevertheless **not absolute**. The Supreme Court has made it clear, in all those decisions already referred to, that judges should intervene in cases of **flagrant impropriety** or malicious prosecution. [52] … The only caveat is that police officers must justify their decisions rationally, that is, both subjectively and objectively. The discretion will be subjectively justified if it has been exercised **honestly** and transparently, and was not based on **favouritism**, …As to the objective assessment, it will be based on a determination of what a police officer acting reasonably would do in the same situation.

Please be advised that if Police Ethics Commissioner reasons does not provide rebuttal case law disproving these 3 false statements per R V R.E.M test for sufficiency of reasons, that is evidence of Police Ethics Commissioner bad faith, misfeasance, Criminal s380 "falsehood, deceit, other fraudulent means" to defraud s16 Canada Victims Bill of Rights to restitution of the proceeds of fraud. This is so because it would mean that the Police Ethics Commissioner is despite contrary case law and statutes deliberately making false statements in order to facilitate ongoing obstruction of fraud justice crimes.

"Path Through … Conflicting Evidence" That No Court Has Jurisdiction To Refuse S504 S507.1 Criminal Code Hearing, S784 Criminal Code Appeal Rights

R. v. R.E.M., 2008 SCC 51, [2008] 3 SCR 3, 1. [21] .. "the **path taken by the trial judge through** confused or **conflicting evidence**" ..it was not possible to conclude **why the trial judge** had arrived at what he concluded — the verdict..[31] .. The trial judge's reasons **failed to articulate the alternatives to be considered**. …The **Degree of Detail** Required, [42] .. faulted the trial judge principally for not giving **sufficiently precise reasons** for .. rejecting the accused's evidence, as well as for not stating

precisely what evidence he accepted and rejected .. the trial judge were criticized for failing to engage in a **detailed discussion** of the **process of assessing .. the issue was how much detail** the trial judge's reasons are required to provide …[48] .. appellate decision that had ruled that the trial **judge's reasons on credibility were deficient**. …[55] It must look at the reasons in their **entire context**. .. whether, ..trial judge appears to have seized the **substance of the critical issues** on the trial. If the evidence is … whether the trial judge appears to have **recognized and dealt with the contradictions …**

"Complete Disregard Of ..Evidence" That If Only Recourse To Criminal Code S139 Obstruction Of Justice Is An Appeal (It Is Not) Then Acting Without Jurisdiction To Defraud S784 Criminal Code Appeal Rights Engages Police Jurisdiction

R. v. R.E.M., 2008 SCC 51, [2008] 3 SCR 3, 4. [55] …As was established in Harper v. The Queen, 1982 CanLII 11 (SCC), [1982] 1 S.C.R. 2, at p. 14, "[a]n appellate tribunal has **neither the duty nor the right to reassess evidence** at trial for the purpose of determining guilt or innocence. .. record, including the reasons for judgment, discloses a lack of appreciation of relevant evidence and more particularly the **complete disregard of such evidence**, then it falls upon the reviewing tribunal to intercede."

"Failed To Disclose A Logical Connection Between; No Court has Criminal Code Immunity AND Common Law Civil Judicial Immunity Is Not Synonymous With Constitutional Judicial Independence AND Common Law Civil Judicial Immunity Is Subject To Attorney General Delegate (Police) Constitutional Duty To Enforce s139 Criminal Code Obstruction Of Justice Criminal Law AND Lack of Common Law Civil Judicial Immunity For Acts Without Jurisdiction

R. v. R.E.M., 2008 SCC 51, [2008] 3 SCR 3, .. It found the trial judge's **reasons to be deficient on the grounds** that the trial judge: (i) did not clearly **explain which of the offences were proved** by which of the 11 incidents; (ii) **failed to mention** some of the accused's **evidence**; (iii) **failed to** make general **comments** about the accused's **evidence**; (iv) **failed to reconcile** his generally positive findings on the complainant's evidence with the **rejection of some of her evidence**; and (v) **failed to explain why he rejected** the accused's plausible denial of the charges. … reasons serve three main functions: to explain the decision to the parties, to provide **public accountability** and to permit effective appellate review. .. . [11] ... However, the question is whether the reasons, considered in the context of the record and the live issues at trial, **failed to disclose a logical connection between the evidence and the verdict..**

Madadi v. B.C. (Ministry of Education), 2012 BCHRT 380 (CanLII) [71] …The difficulty ..is that ... In the words of the Supreme Court … Tribunal has **elevated a common law rule to constitutional status.**

"Deficiencies In The Reasons" Case Law Shwoing That Criminal Code S22.2, S25.1(9)(11b), S139(1)(2)(3a) Does Not Apply To Courts

R. v. R.E.M., 2008 SCC 51, [2008] 3 SCR 3, 4. [52] …"[I]f, in the opinion of the appeal court, the **deficiencies in the reasons** prevent meaningful appellate review of the correctness of the decision, then an **error of law [under s. 686 of the Criminal Code] has been committed**"...

"Difficult.. Question Of Law" Lack Of Rebuttal To Interchangeable Lawful Act For Unlawful Obstruction of Justice Purpose Flagrant Impropriety Test For Setting Aside A Police Prosecutor Decision

R. v. R.E.M., 2008 SCC 51, [2008] 3 SCR 3, 4. [44] …More detail may be required where the trial judge is called upon "to address **troublesome principles of unsettled law,** or to resolve confused and

contradictory evidence on a key issue":.. [47] This said, the presumption that trial judges are presumed to know the law with which they work on a day-in day-out basis does not negate the need for **reasons to show that the law is correctly applied** in the particular case.. nor the need for **reasons to deal with "troublesome principles of unsettled law"** ..[55] ….If there is a **difficult or novel question of law, i**t should ask itself **if the trial judge has recognized and dealt with that issue**…

PROSECUTOR LAWFUL ACT FOR UNLAWFUL OBSTRUCTION OF JUSTICE PURPOSE FLAGRANT IMPROPRIETY TESTS ARE NOT APPLICABLE TO POLICE DEROGATORY ACTS - "unless there is evidence of derogatory acts, which is clearly not the case here"

The statement is deliberately false because of the following court decisions are evidence that there are limits to police (delegate of Attorney General) public power. Further, since Her Majesty the Queen is indivisible the police is also at liberty to charge the Quebec Attorney General for fraud. The **tests for flagrant impropriety** include the following tests which are all engaged in this case;

a) egregious (lying that a court has immunity from s139 obstruction of justice criminal prosecution despite the fact that Her Majesty The Queen retains the proceeds of fraud)

b) undermines the integrity of the judicial process / bias / prejudice / lacking objectivity / method by which the decision was reached / wrong opinion / non-discretionary legal duty, lack of jurisdiction to create two tier s504 s507.1 s540 s551.3(1g Charter) s774 s784 process;

Constitution Acts 1867 to 1982 91 '..exclusive Legislative Authority of the Parliament of Canada …27. The Criminal Law… including the Procedure in Criminal Matters'' jurisdiction

Criminal Code; 482 (1) .. may make rules of court **not inconsistent with this or any other Act of Parliament**, .. apply to any prosecution, proceeding, action or appeal, …, within the jurisdiction of that court, instituted in relation to **any matter of a criminal nature or arising from or incidental to any such prosecution, proceeding, action or appeal**.

774 This Part applies to proceedings in criminal matters by way of certiorari, habeas corpus, **mandamus**, procedendo and prohibition.

Appeal in mandamus, etc. 784 (1) An **appeal lies to the court of appeal** from a decision granting or refusing the relief sought in proceedings by way of mandamus, certiorari or prohibition.

c) arbitrarily / irrationally / capriciousness (deliberate false statements that have no relation to the without jurisdiction obstruction of justice evidence before them),

d) oppressively / constitutional issue / clearly unreasonable / community's sense of justice / incompatible with the Charter (s12 Charter of Rights, s2(b,e) Canadian Bill Of Rights, s4 s6 s12 s23 Quebec Charter of Rights),

e) corruption / improper motives / improper purpose / arbitrary as contrary to objects of enabling Act / inconsistent with the status of minister of justice / bad faith / lack of manifest good faith / contrary to well established principles /conflict of interest / malfide / flagrant misbehaviour / administration of justice into disrepute / malicious failure to prosecute, (using public power to help criminals retains the proceeds of fraud obstruction of justice crime),

f) violation of law (Constitution Acts, 1867 to 1982 52(1) / s296, 97.1 Excise Tax Act Prosecution On Indictment / 21b, 22.2, 25.1(9)(11b), s139(1)(2)(3a), s341, 362(1), s380(1a), Criminal Code / objects s16 Canada Victims Bill of Rights / s11, s12, s21, s34 Interpretation Act,

g) abuse of process / failure to provide reasons / oblique motive / fraud on the process (lack of evidence that common law civil judicial immunity can override Parliament of Canada exclusive jurisdiction to draft s139 Criminal Code without immunity for an court)

h) principles of fundamental justice (constitutional rule of law rights against criminals' revictimization of victim principle of fundamental justice in order to retain proceeds of crime),

i) perverted justice, obstruction of justice / abuse of office was codified in Criminal Code 25.1(9)(11b), s139(1)(2)(3a) proposed judicial proceeding resulting from police charges

R. v. Anderson, [2014] 2 SCR 167, 2014 SCC 41 (CanLII) Prosecutorial discretion is reviewable for **abuse of process**. The abuse of process doctrine is available where there is evidence that the Crown's conduct is **egregious and seriously compromises trial fairness or the integrity of the justice system** … [36] **All Crown decision making is reviewable for abuse of** process. However, as I will explain, exercises of prosecutorial discretion are only reviewable for abuse of process. In contrast, tactics and conduct before the court are subject to a wider range of review. … [40] .. prosecutorial discretion: whether to bring the prosecution of a charge laid by police; whether to enter a stay of proceedings in either a private or public prosecution; whether to accept a guilty plea to a lesser charge; whether to withdraw from criminal proceedings altogether; and whether to take control of a private prosecution … [49] The jurisprudence pertaining to the review of prosecutorial discretion has employed a range of terminology to describe the type of prosecutorial conduct that constitutes abuse of process. In Krieger, this Court used the term "**flagrant impropriety**" (para. 49). In Nixon, the Court held that the abuse of process doctrine is available where there is evidence that the Crown's decision "**undermines the integrity of the judicial process**" or "**results in trial unfairness**" (para. 64). The Court also referred to "**improper motive**[s]" and "**bad faith**" in its discussion (para. 68). [50] Regardless of the precise language used, the key point is this: abuse of process refers to Crown conduct that is **egregious and seriously compromises trial fairness and/or the integrity of the justice system**. Crown decisions motivated by **prejudice** against Aboriginal persons would certainly meet this standard.

R. v. Nixon, 2011 SCC 34 (CanLII), [2011] 2 S.C.R. 566 [63] … As everyone agrees, it is of **crucial importance to the proper and fair administration of criminal justice** that plea agreements be honoured. The repudiation of a plea agreement is a rare and exceptional event. In my view, evidence that a plea agreement was entered into with the Crown, and subsequently reneged by the Crown, provides the requisite evidentiary threshold to embark on a review of the decision for **abuse of process**. Further, to the extent that the Crown is the only party who is privy to the information, the **evidentiary burden shifts to the Crown** to enlighten the court on the circumstances and reasons behind its decision to resile from the agreement. .. However, if the Crown provides little or no explanation to the court, this factor should weigh heavily in favour of the applicant in successfully making out an abuse of process claim. [64] This approach is consistent with the principles set out in Krieger. Acts of prosecutorial discretion are not immune from judicial review. Rather, they are subject to **judicial review for abuse of process**. Depending on the circumstances, the repudiation of a plea agreement may well constitute an abuse of process, either because it results in trial unfairness or meets the narrow residual category of abuse that **undermines the integrity of the judicial process**. … Consider, for example, if the repudiation was made **arbitrarily**, without inquiry into the circumstances leading to the plea agreement,

and without regard to any resulting prejudice to the accused. … In my view, an application judge may well be persuaded in such circumstances that the Crown acted in **bad faith** or with **flagrant impropriety** to a degree sufficient to constitute an **abuse of process**. prosecution on the criminal charges. This can hardly be regarded as evidence of misconduct… [69] .. The **method by which the decision was reached** can itself reveal misconduct of a sufficient degree to amount to **abuse of process**. … Further, this is not a case where the repudiation was done "unfairly" or when the discretion of the Attorney General was exercised "**irrationally, unreasonably or oppressively**".

Thiessen v. The Queen, 2002 MBQB 149 (CanLII) The British Columbia Court of Appeal in Werring and the Alberta Court of Appeal in Kostuch both adopted the statement that a **flagrant impropriety** can only be established by proof of misconduct bordering on **corruption, violation of the law, bias** against or for a particular individual or offence.

Campbell v. Attorney-General of Ontario, 1987 CanLII 4268 (ON SC).:……, absent a **constitutional issue** to be reviewed, the action is not justiciable with the possible exception where it can be said that there was "**flagrant impropriety**" on the part of the Attorney-General in directing the stay. Here there can be no suggestion that the Attorney- General is **failing to uphold the law** or that he is acting out of **improper motives** or for an **improper purpose**. ..the article [s. 508] assumes that both the State and the citizen are equal before the law; this law being the same for both, the latter may institute criminal proceedings and the former may interrupt them. The inequality of the citizen will not materialize unless it originates from an **arbitrary exercise of the powers** which the legislation grants.

Blackmore v. British Columbia (Attorney General), 2009 BCSC 1299 …. A **valid criminal law is and should be enforced**. To do so is appropriate and is not unfair…

R. v. Bain, 2003 CanLII 45780 (ON SC), [6] There is authority for the proposition that a **wrong opinion** is both unreasonable and capable of constituting a flagrant impropriety. See: Re A.G. of Quebec and Chartrand 1987 CanLII 751 (QC CA), (1987) 40 C.C.C. (3d) 270 (Que C.A.). … I am not persuaded that the conclusion of the Crown in this instance was necessarily wrong. It was based on relevant facts and made reference to the relevant cases of Regina v. Feeney, 1997 CanLII 342 (SCC), [1997] 2 S.C.R. 13 and Regina v. Macooh 82 C.C.C. (3d) 481 (S.C.C.).

R. v. Guimond, 2003 CanLII 52299 (QC CS)…..[19] …. the basis for intervention has undergone a progressive change, largely through the influence of emerging Charter values, from a truly exceptional remedy to a much more supple one. Reduced to its lowest common denominator he argues that the litmus test for judicial intervention has evolved from " **flagrant impropriety**" to that which is "**clearly unreasonable**". He may very will be correct. …..[21]… the Attorney General or his delegate does not exercise this discretionary power on a whim. It is a power which must be exercised, as I have suggested above, in **manifest good faith** and **according to well established principles**.

Kostuch v. Alberta, 1995 CanLII 6244 (AB CA), Faced with possible allegations of **conflict of interest**, the Attorney General of Alberta instructed that the file be directed to the Federal Department of Justice, in the event that Department wished to exercise its discretion and take over the prosecution. He also directed that the file be referred to the Manitoba Attorney General's Department for decision. The Manitoba Attorney General's Department had authority to decide whether to prosecute or to stay proceedings. …The Attorney General of Alberta acted appropriately in referring the decision on the prosecution to experienced prosecutors from another province.

Thiessen v. The Queen, 2002 MBQB 149 (CanLII)... In order to ask the court to delve into the circumstances surrounding the exercise of the Crown's discretion, or to inquire into the motivation of the Crown officers responsible for advising the Attorney-General, the accused bears the burden of making a tenable allegation of **mala fides** on the part of the Crown. Such an allegation must be supportable by the record before the court, or if the record is lacking or insufficient, by an offer of proof.

Werring v. British Columbia (Attorney General), 1997 CanLII 4080 (BC CA) [16] I do not say that there could not be circumstances in which it would be right to allow cross-examination. But assuming for the present that **flagrant misbehaviour** is the correct statement of the test for setting aside a stay, I do say that there would have to be clear indications that cross-examination would likely be productive of some useful elucidation of the facts that could support such a test.

Krieger v. Law Society of Alberta, 2002 SCC 65, [2002] 3 SCR 372…The prosecutor exercises a public function involving much discretion and power and must act fairly and dispassionately. Because the exercise of prosecutorial discretion is, within broad limits, effectively non−reviewable by the courts, it is all the more imperative that the discretion be exercised in a fair and objective way. Where **objectivity is** shown to be lacking, corrective action may be necessary (as here) to protect what O'Connor referred to as "the **integrity" of the criminal justice system**.

G.C. v. Ontario (Attorney General), 2014 ONSC 455 (CanLII) 46. The independence of the Attorney General is so fundamental to the integrity and efficiency of the criminal justice system that it is constitutionally entrenched. The principle of independence requires that the Attorney General act independently of political pressures from government and sets the Crown's exercise of prosecutorial discretion beyond the reach of judicial review, subject only to the doctrine of a**buse of process**.

United States of America v. Sagarra, 2002 CanLII 20870 (NL SCTD) At p. 616 L'Heureux-Dubé J. discussed the relationship between the Attorney General and the courts: . . . The Attorney General's role in this regard is not only to protect the public, but also to honour and express the **community's sense of justice**.… Where there is conspicuous evidence of **improper motives** or of **bad faith** or of an act so wrong that it violates the conscience of the community, such that it would genuinely be unfair and indecent to proceed, then, and only then, should courts intervene to prevent an **abuse of process** which could bring the **administration of justice into disrepute**. Cases of this nature will be extremely rare.

Paquette v. Desrochers, 2000 CanLII 22729 (ON SC) They affirm that prosecutorial discretion is exempted from judicial review based on sound principles of public policy and common sense. They hold that liability will result only in relation to the improper exercise of Crown discretion, sometimes referred to as "**arbitrariness**" or "**capriciousness**" or "**oblique motive**" or "**bad faith**" or "**improper motive**" or "**flagrant impropriety**".

G.C. v. Ontario (Attorney General), 2014 ONSC 455 (CanLII) [51]…In other words, the public law doctrine of abuse of **process encompasses** the core prosecutorial discretion, which is the sole focus of **malicious prosecution**, but also the non-core aspects of prosecutorial discretion, which is outside the ambit of the tort and private law remedy of malicious prosecution.

Krieger v. Law Society of Alberta, 2002 SCC 65, [2002] 3 SCR 372 Because Crown prosecutors must be members of the Law Society, they are subject to the Law Society's code of professional conduct, and all conduct that is not protected by the doctrine of prosecutorial discretion is subject to the conduct review process. As the disclosure of relevant evidence is not a matter of prosecutorial discretion but

rather a **legal duty**…

G.C. v. Ontario (Attorney General), 2014 ONSC 455 (CanLII) [20] Pausing here, it will be important to note for the discussion below, that Justice Molloy concluded that the Attorney General's conduct was an **abuse of process** because his **failure to provide reasons** for his decision was a denial of procedural fairness and the decision was inconsistent with the principles and objectives underlying the Youth Criminal Justice Act.

R. v. Guimond, 2003 CanLII 52299 (QC CS)….. [29] In the present case the Petitioner has established the facts upon which be relies. While the Attorney General may be under no duty or obligation to answer nothing prevented him from doing so. In the face of evidence which points clearly to an "**oblique motive**" the Court may draw the appropriate conclusion from his silence. In the light of the content of the affidavit of Me Gauthier there can subsist no presumption that the Attorney-General acted judiciously within the parameters established by the case law or for that matter by his own guidelines.

Paquette v. Desrochers, 2000 CanLII 22729 (ON SC)…Fundamental justice is a legal term that signifies a dynamic concept of fairness underlying the administration of justice and its operation, whereas **principles of fundamental justice** are specific legal principles that command "significant societal consensus" as "fundamental to the way in which the legal system ought fairly to operate."

Werring v. British Columbia (Attorney General), 1997 CanLII 4080 (BC CA) [15] One of the cases in which that matter was considered was Patrick et al. v. Attorney General of Canada, 1986 CanLII 1167 (BC SC), (1986) 28 C.C.C. (3d) 417. Mr. Justice Cumming said this at p.426: The decision of the Attorney-General under s. 507(3)(b) is reviewable to determine whether it infringes upon a Charter protected right of an accused person, or is otherwise **incompatible with the Charter**, but the decision-making process, i.e., what goes on in the mind and the office of the Attorney-General and what passes between him and his advisers, or, as O'Sullivan J.A. put it, "...the act of an Attorney-General in deciding to prosecute...by way of direct indictment" is not. I agree.

Paquette v. Desrochers, 2000 CanLII 22729 (ON SC)…[15] In the seminal case of Nelles v. Ontario, 1989 CanLII 77 (SCC), [1989] 2 S.C.R. 170, 60 D.L.R. (4th) 609, the Supreme Court of Canada ... The Supreme Court concluded that the traditional common law immunity did not apply to civil actions for malicious prosecution. ..**absolute immunity for the Attorney General and his agents, the Crown Attorneys, is not justified in the interests of public policy**…. There is no doubt that the policy considerations in favour of absolute immunity have some merit. But in my view those considerations must give way to the right of a private citizen to seek a remedy when the prosecutor acts maliciously in fraud of his duties with the result that he causes damage to the victim…. [16] The operative word is malicious. It seems to me that if the malicious initiation and continuation of prosecutions is an actionable tort, its corollary must also be available, namely a malicious failure to prosecute. **One can contemplate a situation where, as a result of proven malice, an accused is not prosecuted for a vicious attack upon a victim. Subsequently, the same individual viciously attacks the same victim, once again** occasioning severe bodily harm. Surely, if malice can be proved, the failure to prosecute may well be alleged as a cause giving rise to the subsequent damage. I conclude that such a cause of action could be maintained and would accord with the public policy considerations …

G.C. v. Ontario (Attorney General), 2014 ONSC 455 (CanLII) [42] In Nelles v. Ontario, supra at pp. 193-94, Justice Lamer explained the meaning of **improper purpose** as follows: To succeed in an action for malicious prosecution against the Attorney General or Crown Attorney, the plaintiff would have to

prove both the absence of reasonable and probable cause in commencing the prosecution, and malice in the form of a deliberate and improper use of the office of the Attorney General or Crown Attorney, a use **inconsistent with the status of "minister of justice"**. In my view this burden on the plaintiff amounts to a requirement that the Attorney General or Crown Attorney perpetrated a **fraud on the process** of criminal justice and in doing so has **perverted or abused his office and the process** of criminal justice.

CRIMINAL CODE S22.2, S25.1(9)(11B), S139(1)(2)(3A) PUBLIC COURT ORGANIZATION ACTING WITHOUT JURISDICTION TO OBSTRUCT JUSTICE IS NOT POLICE JURISDICTION - "neither .. police authorities have any jurisdiction on .. decisions ..by tribunals"

The Court of Quebec lied that without even the opportunity to present s507.1 witness evidence, there was legal grounds for the s504 s507.1 fraud prosecution, but that is a question that Parliament has decided cannot be answered until after the s504 s507.1 oral hearing. The Quebec Court of Appeal knows this to be true that is why for the first time in the history of that Court, they acted without jurisdiction to remove s784 Criminal Code mandatory appeal rights.

You cannot provide any case law where the Court of Quebec or the Quebec Court of Appeal has ever in their entire history done this, I have provided case law proving that they lack jurisdiction to do so, therefore the police jurisdiction is engaged. Therefore dismissing this complaint without rebuttal case law is evidence of Police Ethics Commissioner bad faith. This statement is deliberately false because based on the following statutes and case law, no court, not even Quebec Parliament has jurisdiction to before an s507.1 oral hearing defraud the following criminal code mandatory services.

Criminal Code s2 "prosecutor …..where the Attorney General does not intervene, ..person who institutes proceedings to which this Act applies", s482(1)"rules of court not inconsistent with this or any other Act of Parliament, … within the jurisdiction of that court," s482(3) "Purpose of rules … to attain the ends of justice", s504 "justice shall receive the information", s507.1 "shall … heard and considered .. informant…witnesses", 683(2).. Parties entitled to adduce evidence and be heard, 802(1) "prosecutor is entitled personally to conduct his case..", 507.1(2)(3)(8) "cause the evidence to be taken in accordance with section 540 in so far as that section is capable of being applied" s551.2 "ensuring that the evidence on the merits is presented …. without interruption", s551.3(1g Charter),

Compromising the integrity of the criminal justice system by acting **without jurisdiction** to create a two tier s504 s507.1 s540 s551.1(1g Charter) s774 s784 criminal code process, does indirectly what cannot be done directly (abuse of process), further, bad faith by making several false statements, with conflict of interest motive of enabling Her Majesty the Queen to retain the proceeds of fraud, engages police jurisdiction. In the history of Quebec, this has never happened, I dare you to provide

R. v. Regan, 2002 SCC 12 (CanLII), [2002] 1 S.C.R. 297 168 Because the exercise of prosecutorial discretion is, within broad limits, effectively non-reviewable by the courts, it is all the more imperative that the discretion be exercised in a fair and objective way. Where **objectivity is shown to be lacking**, corrective action may be necessary (as here) to protect what O'Connor referred to as "the **integrity" of the criminal justice system**. 169 Wilson J., in R. v. Keyowski, 1988 CanLII 74 (SCC), [1988] 1 S.C.R. 657, developed the notion that **abuse of process** in this regard **does not require a demonstration of prosecutorial bad faith**. She wrote that courts should look at all relevant factors. "To define 'oppressive' as requiring misconduct or an **improper motive** would, in my view, unduly restrict the operation of the doctrine. . . . Prosecutorial misconduct and improper motivation are but two of many factors to be taken into account . . ." (p. 659).

This statement is deliberately false because pursuant to s2 Criminal Code `prosecutor` I have the same right to private prosecute a crime, as a public prosecutor Attorney general, you are saying that it is legally impossible for police to do a **lawful act for an unlawful obstruction of justice so an ongoing fraud crime can continue purpose**, this is false because the rule of law against arbitrary (contrary to objects of enabling act) application of public power is part of the Canadian Constitution.

R. v. Barros, 2007 ABQB 428 (CanLII [21] Although the Alberta Court of Appeal may, in Kotch, be considered by some to have stated that the "manner", or act, referred to in s. 139(2) must be corrupt, in my view it is not necessary to adopt that position to decide the current application. Rather, relying on the opening words of s. 139(3) which indicate that what follows does not constitute a restriction of the generality of s. 139(2), I am prepared to apply, for the purposes of this application, the more severe English standard, as referred to in Kotch as being found in Kellett, which holds that **even a lawful act, if done with the wrong intent, can constitute an obstruction of justice**: see also, Toney. Following the latter line of reasoning, even though taking investigative steps to identify a confidential police source is a lawful act, in the right circumstances, that lawful act could become an obstruction of justice.

Canadian Broadcasting Corporation v The Queen, 1983 CanLII 50 (SCC), [1983] 1 S.C.R. 339 the Supreme Court upheld the decision of the Ontario Court of Appeal that CBC could be prosecuted under Criminal Code, "it is not enough ..that the purpose … is an authorized purpose; **the Court must also determine that the means which the agent uses to accomplish the purpose are expressly or impliedly" … I am quite satisfied that it never entered the mind of Parliament that C.B.C. could not be reached by the statute…** R. v. Eldorado Nuclear Ltd.; R. v. Uranium Canada Ltd., [1983] 2 SCR 551 **"**I have serious **doubts that Parliament ever intended…carte blanche to engage in illegal activities on behalf of the Crown and to encourage other citizens to do likewise"** "We might ask in this case whether Parliament ever contemplated that the respondents would go about the implementation of their statutory purposes by means of an illegal conspiracy with others, counting on the protection of their Crown immunity**"**

NEGLECT OF 6(2G),48, OATH POLICE ACT "HONESTLY..PREVENT AND REPRESS CRIME" IS NOT 7(1), 9 CODE OF ETHICS "PREVENT OR CONTRIBUTE TO PREVENTING JUSTICE" -"refusal to follow up on the complainant's request, if proven, ..are not .. a breach of ethics.. in this case"

Police Act; 135. The Commissioner, the deputy commissioner and the members of their staff, the investigators and the police ethics conciliators cannot be sued by reason of any official act done in good faith in the performance of their duties. 168. The Commissioner may refuse to hold an investigation or may terminate an investigation if, in his opinion, (1) the complaint is frivolous, vexatious or made in bad faith; (2) the complainant without valid reasons refuses to participate in the conciliation procedure or refuses to cooperate in the investigation; (3) having regard to all circumstances, investigation or further investigation is not necessary. 193. Except on a question of jurisdiction, no application for judicial review under the Code of Civil Procedure (chapter C-25.01) may be exercised, nor any other provisional remedy taken against any person acting in his official capacity for the purposes of this title.

Pursuant to 2003 SCC 54, 2016 FC 236, 2002 SCC 84, 1986 SCR 573, 1959 SCR 121, 2013 FC 1065, s1, 2, 4, 5, 6, 8, 9, 10 Act Respecting Administrative Justice, I hereby challenge the constitutionality of s168, 193 Police Act, it is unconstitutionally overbroad, is should read in subject to s12 Charter of Rights, s2(b,e) Canadian Bill Of Rights, s4 s6 s12 s23 Quebec Charter of Rights, s16 Canada Victims

Bill of Right to “restitution of the proceeds of crime”.

Nova Scotia (Workers' Compensation Board) v. Martin; Nova Scotia (Workers' Compensation Board) v. Laseur, [2003] 2 SCR 504, 2003 SCC 54 (CanLII) The Constitution is the supreme law of Canada and, by virtue of s. 52(1) of the Constitution Act, 1982, the question of constitutional validity inheres in every **legislative enactment**. From this principle of constitutional supremacy flows, as a practical corollary, the idea that Canadians should be entitled to assert the rights and freedoms that the Constitution guarantees them in the most accessible forum available,. … Administrative tribunals which have jurisdiction, explicit or implied, to decide questions of law arising under a **legislative provision** are presumed to have concomitant jurisdiction to decide the constitutional validity of that provision.

Allard v. Canada, 2016-02-24, 2016 FC 236, T-2030-13….principles of fundamental justice …overbreadth… gross disproportionality …a law that takes away rights in a way that generally supports the object of the law, **goes too far by denying the rights of some individuals in a way that bears no relation to the object**…grossly disproportionate effect on one person is sufficient to violate the norm… effect actually undermines the objective”

RWDSU v. Dolphin Delivery Ltd., [1986] 2 SCR 573, 1986 CanLII 5 (SCC) The Charter will apply to any rule of the common law that …directs an abridgement of a guaranteed right…**if an…order would infringe a** Charter **right, the** Charter **will apply to preclude the order, and, by necessary implication, to modify the common law rule**

Gosselin v. Québec (Attorney General), [2002] 4 SCR 429, 2002 SCC 84…state can properly be held accountable for the claimants’ inability to exercise their s. 7 rights... The claimants **need not establish** that the state can be held **causally responsible** for the socio−economic environment in which their s. 7 rights were threatened, **nor do they need to establish that the government’s inaction worsened their plight**.… Finally, decisions like Schachter v. Canada, 1992 CanLII 74 (SCC), [1992] 2 S.C.R. 679, and Vriend, supra, confirm that “[i]n some contexts it will be proper to characterize s. 15 as providing **positive rights**”…. a situation might arise in which, in order to make a fundamental freedom meaningful, a posture of restraint would not be enough, and **positive governmental action might be required**”. [360] … Most obviously, they stand for the proposition that the Charter’s fundamental freedoms can be infringed **even absent overt state action**. Mere restraint on the part of government from actively interfering with protected freedoms is not always enough to ensure Charter compliance; sometimes **government inaction can effectively constitute such interference**.

Roncarelli v. Duplessis 1959 CanLII 50 (SCC), [1959] S.C.R. 121, ….**there is no such thing as absolute and untrammeled "discretion"**, that is that action can be taken on **any ground or for any reason** …; no legislative Act can… be taken to contemplate an unlimited arbitrary power exercisable for any purpose, however capricious or irrelevant, regardless of the nature or purpose of the statute. … "Discretion" necessarily implies good faith in discharging public duty; … **any clear departure from its lines or objects is just as objectionable as fraud or corruption**.

Freeman v. Canada (Citizenship and Immigration), 2013-10-23, 2013 FC 1065, IMM-6304-12, ….. “good faith” means “… **carrying out the statute according to its intent and for its purpose**; … not with an **improper intent** … “good faith” does not mean … **punishing a person for exercising an unchallengeable right**” and “**it does not mean arbitrarily and illegally attempting to divest a citizen of an incident of his civil status**”… “**acts that are so … inconsistent with … legislative context that a court cannot …conclude that they were performed in good faith**”. … evidence of bad faith is not

required. It can… be inferred from the **surrounding circumstances**…. that **absence of good faith can be deduced and bad faith presumed**":

The proceeds of fraud is still with the criminal, you cannot provide any case law showing police jurisdiction to refuse to comply with;

1) The Police Ethics Commissioner, Police, Quebec Parliament, Quebec Courts have no jurisdiction to change s12 Charter of Rights, s2(b,e) Canadian Bill Of Rights. The R. v. Smith (Edward Dewey), [1987] 1 SCR 1045 / Canadian Doctors for Refugee Care v. Canada (Attorney general), 2014 FC 651 s12 Charter test; s21b s22.2 Criminal Code party to ongoing fraud / Canada Elections Act career destruction / loss of job / loss of home / $100,000 costs reprisals fraud (treatment) to revictimize a victim; goes beyond what is necessary to achieve a legitimate Interpretations Act objective, is unacceptable to a large segment of the population, does not have any social purpose such as reformation, rehabilitation or deterrence, does not accord with public standards of decency or propriety, of such a character as to shock general conscience, is unusually severe, degrading to dignity and worth

2) The Police Ethics Commissioner, Police, Quebec Parliament, Quebec Courts have no jurisdiction to change (s41 Quebec Interpretations Act) s12 Interpretations Act; "12 Every enactment is deemed remedial, and shall be given such fair, large and liberal construction and interpretation as best ensures the **attainment of its objects (criminal should not be permitted to keep the proceeds of his crime)**" of the Criminal Code as described in "Garland v. Consumers' Gas Co., [2004] 1 S.C.R. 629, 2004 SCC 25, 52… public policy, **a criminal should not be permitted to keep the proceeds of his crime**.".

3) The Police Ethics Commissioner, Police, Quebec Parliament, Quebec Courts have no jurisdiction to change constitutional rule of law right to Criminal Code **ongoing fraud crime self-defence objects** which is codified in Bill C-26 Citizen's Arrest Self-Defence Act Criminal Code 34, 35, AND 2 `prosecutor`, 139 s504 s507.1 s540 s551.3(1g Charter) s774 s784

4) The Police Ethics Commissioner, Police, Quebec Parliament, Quebec Courts have no jurisdiction to change Quebec Act Respecting The Director of Criminal & Penal Prosecutions "15(3) …. interests of crime victims are taken into account …" s2 objects, s16 Victims Bill of Rights; "..Whereas crime has a harmful impact on victims and on society; Whereas victims of crime and their families deserve to be treated with **courtesy, compassion and respect, including respect for their dignity**; Whereas it is important that **victims' rights be considered throughout the criminal justice system**; Whereas victims of crime have **rights that are guaranteed by the Canadian Charter of Rights** and Freedoms; Whereas consideration of the rights of victims of crime is in the interest of the **proper administration of justice**; 5 For the purpose of this Act, the criminal justice system consists of the **investigation** and prosecution of offences in Canada; … and the **proceedings of courts**…Restitution order 16 Every victim has the **right to have the court consider making a restitution order** against the offender,"

5) The Police Ethics Commissioner and Police and Quebec Courts have no jurisdiction to change s4 s6, s12, s23 Quebec Charter of Rights; 4. Every person has a right to the safeguard of his dignity, honour and reputation. 6. Every person has a right to the peaceful enjoyment and free disposition of his property, except to the extent provided by law. 12. No one may, through discrimination, refuse to make a juridical act concerning goods or services ordinarily offered to the public. Judicial Rights 23. Every person has a right to a full and equal, public and fair hearing by an independent and impartial tribunal, for the determination of his rights and obligations or of the merits of any charge brought against him.

6) The Police Ethics Commissioner, Police, Quebec Courts have no jurisdiction to refuse to comply with Police Act; 6(2)(g), 48, Schedule A Oath; 6(2)(g) Investigations…(g) **judicial … corruption,** 48. … maintain peace, order …**prevent and repress crime** … ensure the safety of … property, safeguard rights and … needs of victims" duty to respond to my report of ongoing crime; Schedule A (Sections 60, 84, 107 And 108) Oath Of Office; .. I will fulfill the duties of my office of ....., **honestly** and fairly and in compliance with the Code of ethics of Québec police officers …

7) The Police Ethics Commissioner, Police, Quebec Courts have no jurisdiction to refuse to comply with Code of ethics of Québec police officers**;** 7. A police officer must not:(1) **prevent or contribute to preventing justice** from taking its course; 9. A police officer must perform his duties disinterestedly and **impartially**

8) The Police Ethics Commissioner, Police, Quebec Courts have no jurisdiction to refuse Regulation respecting the police services that municipal police forces ..; 6.(2) Investigations (g) judicial or municipal civil servant corruption;

9) Montreal Police has no jurisdiction to refuse By-Law Respecting The Internal Discipline Of Police Officers Of Ville De Montréal; **1.**.. **duties and standards of conduct** to ensure the effectiveness and **quality of the services** provided .. **4.** Police officers must perform their **duties conscientiously, diligently** and efficiently. Police officers must, in particular, (4) refrain from being **negligent, careless or improper** while performing their duties; **5.** Police officers must perform their duties with probity. ….(9) .. **ethics** affecting the **enforcement of rights** .. may constitute a **criminal offence**; **6.** . refrain from any behaviour that may **jeopardize the confidence** or consideration required for their duties… (7) **refrain from assisting**, inciting, advising, **encouraging, allowing**, authorizing or ordering another **police officer to commit an offence under any law** or by-law.

Act Respecting Administrative Justice
1. The purpose of this Act is to affirm the specific character of administrative justice, to ensure its **quality, promptness** and accessibility and to **safeguard the fundamental rights** of citizens. This Act establishes the general rules of procedure applicable to individual decisions made in respect of a citizen. Such rules of procedure differ according to whether a decision is made in the exercise of an administrative or adjudicative function, and are, if necessary, supplemented by special rules established by law or under its authority.

2. The procedures leading to an individual decision to be made by the Administration, pursuant to **norms or standards prescribed by law**, in respect of a citizen shall be conducted in keeping with the duty to act fairly.

4. The Administration shall take appropriate measures to ensure (1) that procedures are conducted in accordance with legislative and administrative norms or standards and with other **applicable rules of law**, according to simple and flexible rules devoid of formalism, with respect, prudence and promptness, in accordance with the norms and **standards of ethics** and discipline governing its agents and with the requirements of **good faith**; (2) that the citizen is **given the opportunity** to provide any information useful for the making of the decision and, where necessary, to complete his file; (3) that decisions are made with **diligence**, are communicated to the person concerned in clear and concise terms and contain the information required to enable the person to communicate with the Administration;

5. An administrative authority may not issue an order to do or not do something or make an

unfavourable decision concerning a permit or licence or other authorization of like nature without first having (1) informed the citizen of **its intention and the reasons therefor**; (2) informed the citizen of the substance of any complaints or objections that concern him; (3) given the citizen the **opportunity to present observations** and, where necessary, **to produce documents** to complete his file.

6. An administrative authority that is about to make a decision in relation to an indemnity or a benefit which is unfavourable to a citizen must ensure that the citizen has received the information enabling him to communicate with the authority and that the citizen's file contains all information useful for the making of the decision. If the authority ascertains that such is not the case or that the file is incomplete, it **shall postpone its decision for as long as is required to communicate with the citizen and to give the citizen the opportunity to provide the pertinent information or documents** to complete his file. In communicating the decision, the administrative authority must inform the citizen that he has the right to apply, within the time indicated, to have the decision reviewed by the administrative authority.

8. An administrative authority shall **give reasons for all unfavourable decisions** it makes, and shall indicate any non-judicial proceeding available under the law and the time limits applicable.

9. The procedures leading to a decision to be made by the Administrative Tribunal of Québec or by another body of the administrative branch charged with settling disputes between a citizen and an administrative authority or a decentralized authority must, so as to ensure a fair process, be conducted in keeping with the **duty to act impartially**.

10. The body is required to give the parties the **opportunity to be heard**.The hearings shall be held in public. The body may, however, even of its own initiative, order hearings to be held in camera where necessary to maintain public order.

11. The body has, within the scope of the law, full authority over the conduct of the hearing. It shall, in conducting the proceedings, be flexible and **ensure that the substantive law is rendered effective and is carried out**. It shall rule on the admissibility of evidence and means of proof and may, for that purpose, follow the **ordinary rules of evidence applicable in civil matters**.

12. The body is required to(1) take measures to circumscribe the issue and, where expedient, to promote reconciliation between the parties; (2) **give the parties the opportunity to prove the facts** in support of their allegations and to present arguments; (3) provide, if necessary, fair and impartial assistance to each party during the hearing; (4) allow each party to be assisted or represented by persons empowered by law to do so.

13. Every decision rendered by the body must be communicated in clear and concise terms to the parties and to every other person that the law indicates. Every decision terminating a matter, even a decision communicated orally to the parties, **must be in writing together with the reasons** on which it is based.

EVIDENCE THAT DEFRAUDING S504 S507.1 ORAL HEARING IS A CRIME

Ambrosi v. British Columbia (Attorney General), 2014 BCCA 123 (CanLII) [23] **Section 507.1 requires that the referral be heard by a judge or a designated justice; that the informant lead evidence of his or her allegations on each essential element of the offence** (see also, McHale at para. 74); and that notice be given to the Attorney General, and that the Attorney General be permitted to participate, cross-examine and call witnesses, and present evidence. [24] These additional safeguards ensure that "spurious allegations, vexatious claims, and frivolous complaints barren of evidentiary

support or legal validity will not carry forward into a prosecution" (McHale at para. 74).

Waskowec v. Ontario, 2014 ONSC 1646 (CanLII) [11] …The former power was described by Lamer J., as he then was, in R. v. Dowson (1983), 1983 CanLII 59 (SCC), 7 C.C.C. (3d) 527 at 536 (S.C.C.) as "the citizen's fundamental and **historical right to inform under oath a justice of the peace of the commission of a crime**". Or as Rothman J. put it in R. v. Jean Talon Fashion Centre Inc. (1975), 1975 CanLII 1184 (QC CS), 22 C.C.C. (2d) 223 at 229 (Que. Q.B.), "**Every citizen has the right to inform the Crown that a crime has been committed**". In other words, the **s. 504 power belongs to the citizen and not to the justice of the peace or the Crown**. Indeed, the justice is obliged to "receive the Information" under s. 504 as that section is framed in mandatory statutory terms. …. [12] The s. 507 (or **s.507.1) power, on the other hand, belongs to the justice.** In Dowson, supra at 536-7, Lamer J. referred to it as "**an obligation to 'hear and consider' the allegation and make a determination**". He held that the justice "**plays the same role as the grand jury, as regards the finding of grounds to issue a process**". In Jean Talon Fashion, supra at 227-8, Rothman J. held that "It is only after the information is received that the Justice's judicial function begins". He described the s. 507 "judicial function" in the following terms: On receiving the information, therefore, the **Justice must hear and consider the allegations of the informant** and, if he considers it desirable or necessary, **he may also hear evidence of other witnesses so that he can decide whether or not a case has been made out** for the issuance of a summons or a warrant. …[17] There is no doubt that a justice has a limited jurisdiction under s. 504, to refuse to "receive the information". As Evans J.A. put it in Southwick Ex Parte Gilbert Steel, supra at 358: I am of the view that in s. 439 [now s. 504] the word "receive" means that the **Justice shall not reject a complaint which is in writing and which complies with the conditions set out in that section**. [Emphasis added.] More recently, in McHale v. Ontario, supra at paras. 7 and 43, Watt J.A. described the inquiry under s. 504 in the following terms: The justice reviews the portion of the form that the private informant has completed to determine whether the allegations made satisfy the Criminal Code requirements and oblige the justice to receive the information. Where the justice is satisfied that the Criminal Code requirements have been met, she or he will direct the preparation of an information and have the private informant swear an oath or affirm the truth of its contents. Where the allegations of the private informant do not meet the demands of s. 504, the justice is not entitled to receive the information. … Receipt of the information is a ministerial act. **Provided the information alleges an offence known to law and is facially compliant with the requirements of the Criminal Code, the justice must receive the information**. The justice takes the information under oath and affixes his or her signature to the jurat on the written Form 2. [18] ……Before a lay justice of the peace can receive or accept the information in the sense of swearing the informant, the justice of the peace has certain matters of a ministerial nature to determine. The justice must determine that the **information is in writing and that the information sufficiently describes the accused "person"** so as to be identifiable. An information cannot be laid against an unknown person: Re Buchbinder and The Queen (1985), 20 C.C.C. (3d) 481 (Ont. C.A.). The information presented to the justice must also allege an indictable offence, i.e., an offence known to law in the sense that the offence alleged in the information must be an indictable offence in force as of the date of its alleged commission. … In other words, the justice of the peace must be satisfied that the information is valid on its face. Provided that the information complies with the basic requirement of s. 455 [now s. 504], **the justice then has no choice but to permit it to be sworn before him**. His function at this stage is merely ministerial and he must receive it: Casey v. Automobiles Renault Canada Ltd., 1963 CanLII 601 (NS CA), [1964] 3 C.C.C. 208, (N.S.S.C. in banco), per MacDonald J. at p. 222; reversed on other grounds 1966 CanLII 6 (SCC), [1966] 2 C.C.C. 289 (S.C.C.). [19] … **The citizen has an absolute right to swear an Information**, provided he/she alleges an offence known to law committed by an identifiable accused within Ontario. It is only by swearing such an Information that the citizen then becomes entitled to a s.

507.1 hearing where the sufficiency of his/her allegations will be tested. There will be cases where the informant alleges an offence that is unknown to our law and where the justice can decline to "receive the information" under s. 504… [20] In my view, Justice of the Peace Cremiscio **committed a jurisdictional error** by declining to receive Waskowec's Information.

R. v. Vasarhelyi, 2011 ONCA 397 (CanLII) Evidence at the Pre-enquete [39] Section 507.1(3)(a) distinguishes between "the *allegations* of the informant", on the one hand, and "the *evidence* of witnesses", on the other. Unlike s. 507(1)(a)(ii), applicable to informations laid by law enforcement officers, where the introduction of the *evidence* of witnesses is only required where the justice "considers it desirable or necessary to do so", s**. 507.1(3)(a) appears to make the introduction of "evidence of witnesses" essential**. Such a requirement serves as an important control over invocation of the criminal process to further the fevered imaginings of a private informant. [40] Despite this apparent requirement of "the evidence of witnesses" at the pre-enquete under s. 507.1(3), the section **does *not* specify or otherwise describe, in express words, the substance or kind of evidence that must or may be introduced on the inquiry**. For example, nothing like s. 518(1), which sets the boundaries of the justice's inquiry and delineates the nature and scope of evidence that may be received at a judicial interim release hearing, appears in s. 507.1. [41] The absence of express provisions governing the evidence of witnesses at the pre-enquete is alleviated by the provisions of s. 507.1(8), which incorporate by reference ss. 507(2)-(8). Among the incorporated provisions of ss. 507(2)-(8) is s. 507(3)(b), **which requires a justice who hears the evidence of a witness** under s. 507(1), a provision like ss. 507.1(2) and (3), to "**cause the evidence to be taken in accordance with section 540 in so far as that section is capable of being applied**". [42] Section 540 is one of several provisions that appear under the heading, *Taking Evidence of Witnesses*, under Part XVIII that deals with the procedure on the preliminary inquiry. [43] Sections 540(1) – (5) have appeared in one form or another, since the *Criminal Code* of 1892. With the more recent addition of subsection (6), these provisions describe the mechanics of recording evidence received in the proceedings. They do not concern themselves with what may be given in evidence, only with how it is to be recorded once received. [44] Sections 540(7) – (9) entered service on June 1, 2004, as part of a comprehensive series of amendments intended to expedite the hearing and circumscribe the scope of the preliminary inquiry. The current regime for private prosecutions, including the procedure to be followed at the pre-enquete, came into force on July 23, 2002. The referential incorporation of the provisions of s. 540 by what is now s. 507(3) continues provisions to the same effect that have been in force since prior to the 1955 revision of the *Criminal Code*. [45] Sections 540(7)-(9) and sections 540(1)-(6) serve entirely different functions. [46] The *admissibility* of evidence at a preliminary inquiry is the focus of ss. 540(7)- (9). In other words, these provisions have to do with *what* the justice may receive as evidence at the inquiry. Sections 540(7)-(9) **expand the scope of what may be received as evidence beyond what the traditional rules of admissibility would permit**. Provided the information tendered for reception is **credible and trustworthy**, and the opposite party has received reasonable notice of the intention to introduce it, together with disclosure, the **justice may admit the information as evidence even though the traditional rules of evidence would exclude it**. [47] In contrast, ss. 540(1)-(6) have nothing to do with *what* may be admitted as evidence at the preliminary inquiry. Their focus is on *how* what is admitted as evidence is to be recorded, not on the evidentiary composition of the record.
[48] In combination, **ss. 507.1(8) and 507(3)(b) appear to incorporate s. 540 in its entirety "in so far as that section is capable of being applied" to the pre-enquete**. By contrast, s. 646,[2] the marginal heading of which is also "taking evidence", expressly excludes ss. 540(7)-(9) from its incorporation of the evidence taking provisions of Part XVIII. [49]Unlike a preliminary inquiry to which s. 540 applies directly, a pre-enquete is not an adversarial proceeding. The person against whom the informant seeks to have process issued is not present and is not represented by counsel. **The Attorney**

General is entitled to notice of the hearing, an opportunity to attend, to cross-examine and call witnesses and to present any relevant evidence at the pre-enquete without being deemed to intervene in the proceeding… [55]The task set for the justice of the peace by s. 507.1 was to determine whether he considered that the appellant had made out a case for the issuance of process to compel the appearance of the prospective accused to answer allegations of three historical indictable offences. The justice's decision, according to s. 507.1(3)(a), **was to be based upon a hearing and consideration of the *allegations* of the informant and the *evidence* of witnesses**. Unlike the provisions of s. 507(1)(a)(ii), applicable to informants associated with law enforcement, **s. 507.1(3)(a) appears to *require* the evidence of witnesses**. The only "witness" here was the appellant. [56] Section 507.1 contains no express provisions about what is admissible as evidence at the pre-enquete. Such a lacuna is scarcely remarkable. As a matter of general principle, however, it would seem logical to conclude that, at the very least, **evidence that showed or tended to show the commission of the listed offences by the prospective accused would be relevant and material at the pre-enquete**:*R.v. Grinshpun* (2004), 2004 BCCA 579 (CanLII), 190 C.C.C. (3d) 483 (B.C.C.A.), at para. 33, leave to appeal to S.C.C. refused, [2004] S.C.C.A. No. 579. [57] **No principled reason would exclude from the evidentiary mélange at the pre-enquete, evidence that would be relevant, material and admissible** (under the traditional rules of evidence) in support of committal at the preliminary inquiry or in proof of guilt at trial.

R. v. McHale, 2010 ONCA 361 (CanLII) [69] The structure and language of s. 507.1(3)(a) differs from the former s. 455.3 applicable in *Dowson*. Under the former provision, the justice was required to hear and consider *ex parte*, the allegations of the informant. The justice was only required to hear and consider, *ex parte*, the evidence of witnesses, where the justice considered it desirable or necessary to do so. Section 507.1(3) is of a different construction. It eschews the direct statement of a duty in favour of a **list of prerequisites** that must be met before the justice may exercise his or her discretion to issue process. The prerequisites include the **requirement that the justice hear and consider the allegations of the informant and the evidence of witnesses**. The effect of s. 507.1(3)(a) is to **impose a duty on the justice to hear and consider the allegations of the informant and the evidence of witnesses** at the pre-enquete…

[73] The *Criminal Code* permits private prosecutions. A private informant may lay an information in conformity with s. 504. Receipt of the information commences criminal proceedings. Parliament enacted, more accurately continued, a procedure aimed at the determination by a judicial officer of whether the informant has made out a case for prosecution. **This procedure is the pre-enquete, a hearing that provides the private informant** the opportunity to present her or his case for prosecution.

[74] Conduct of the pre-enquete **vindicates the interest of the private informant** who seeks prosecution of another for an alleged crime. The pre-enquete assures the private informant that an **independent judicial officer will hear the informant's allegations, listen to the evidence of the informant's witnesses, and decide whether there this is evidence of each essential element of the offence** charged in the information. The pre-enquete also ensures that spurious allegations, vexatious claims, and frivolous complaints barren of evidentiary support or legal validity will not carry forward into a prosecution. To insist that the withdrawal power **await the determination about issuance of process also reduces the risk** that the *Criminal Code's* provisions for private prosecution will **to begin and end with the right to lay a private information**…

[76] The nexus between the decision to issue process and the withdrawal authority of the Attorney General **also ensures that the decision to withdraw is informed by knowledge of the substance of the case** the private prosecutor proposes to pursue. **The fuller evidentiary record** also establishes the basis upon which the withdrawal decision is grounded should **accountability concerns** later surface.

[77] It is for those reasons that I agree in the result with the application judge that the purported withdrawal of the informations here, **before the pre-enquete had begun, was premature**. The

withdrawal authority requires the commencement of a prosecution, a point that coincides temporally with the determination by the justice that process shall issue. Withdrawal then is permissible while the *in camera* proceedings remain extant. Those named in the original information need not appear.

EVIDENCE NO COURT HAS CRIMINAL CODE IUMMUNITY, EVIDENCE COMMON LAW COURT CIVIL IMMUNITY IS SUBJECT TO AG DELEGATE (POLICE) CONSTITUTIONAL JURISDICTION TO ENFORCE CRIMINAL LAW, EVIDENCE OF LACK OF COMMON LAW CVIL IMMUNITY FOR COURT ACTS WITHOUT JURISDICTION OR IN BAD FAITH

According to s38 of the Constitution Act, 1982 and amendment to the Constitution can be adopted by the House of Commons, Senate and two thirds or more of the provincial legislative assemblies representing at least 50 percent of the national population. All the judges in the world lack the power or jurisdiction to change the Criminal Code without reading down any provision that violates the Constitution. They cannot read down provisions that allow a criminal prosecution of Court of Quebec or Quebec Court of Appeal, with mens rae conflict of interest escape liability for obstruction of justice, they defrauded inalienable and constitutional rule of law and s12 Charter s2(b,e) Canadian Bill of rights to self-defence against an ongoing crime.

Criminal Code;
every one, person and owner, and similar expressions, include **Her Majesty and an organization**;

organization means a public body, body corporate, society, company, firm, partnership, trade union or municipality, or an association of persons that is created for a common purpose, (ii) has an **operational structu**re, and (iii) **holds itself out to the public as an association of persons**;

Parties to offence. 21 (1) Every one is a party to an offence who. (b) **does or omits to do anything** for the purpose of aiding any person to commit it;.

22.2 …**an organization is a party to the offence** if, with the intent **at least in part to benefit the organization**, one of its senior officers (a) acting within the scope of their authority, is a party to the offence; (b) having the mental state required to be a party to the offence and acting within the scope of their authority, directs the work of other representatives of the organization so that they do the act or make the omission specified in the offence; or (c) knowing that a representative of the organization is or is about to be a party to the offence, **does not take all reasonable measures to stop them from being a party to the offence**.

Protection of Persons Administering and Enforcing the Law 25.1 Principle (2) It is **in the public interest to ensure that public officers may effectively carry out their law enforcement duties in accordance with the rule of law** and, …. Requirements for certain acts (9) **No public officer is justified in committing an act or omission that would otherwise constitute an offence and that would be likely to result in loss of or serious damage to property**….
Limitation (11) Nothing in this section justifies…(b) **the wilful attempt in any manner to obstruct, pervert or defeat the course of justice**; or

Bourbonnais v. Canada (Attorney General), [2006] 4 FCR 170, 2006 FCA 62 (CanLII) [26]…. Sexton J.A., after reviewing the Canadian authorities on this point and, in particular, the decision of the Supreme Court of Canada in Morier et al. v. Rivard, 1985 CanLII 26 (SCC), [1985] 2 S.C.R. 716, and the decisions of the Quebec Court of Appeal in Royer v. Mignault (1998), 1988 CanLII 445 (QC CA),

50 D.L.R. (4th) 345 (Que. C.A.) leave to appeal to the Supreme Court refused, [1988] 1 S.C.R. xiii, and Proulx v. Quebec (Attorney General) (1997), 1997 CanLII 10286 (QC CA), 145 D.L.R. (4th) 394 (Que. C.A.), in which the Court of Appeal adopted the bad faith exception formulated by Lord Denning in Sirros, concluded as follows at paragraph 41: … judicial immunity does not apply where it is shown that a judge **knowingly acts beyond his jurisdiction**.…[28]In the case at bar, the **appellant does not contend that he is entitled to judicial immunity in regard to the criminal prosecution** that has been brought against him. In my opinion, **there would be no merit whatsoever to any such claim**. As Lord Denning stated in Sirros, at page 782: "Of course, if the judge has …**has perverted the course of justice, he can be punished in the criminal courts**." …[30] ….It is clear from some of the cases discussed above, however, that the **immunity of judges from criminal liability is not total**. In this respect the law of England is the same as that of the USA. Excepting the general principles of immunity discussed above, **any judicial officer who violates the criminal law would be as liable therefore as any other private person**. According to Woodhouse J. of the New Zealand Court of Appeal, "a judge can, of course, be made to answer, and in a proper case, pay dearly, for any criminal misconduct. Like any other citizen criminal proceedings may be brought against him." **This is because "criminal conduct is not part of the necessary functions performed by public official**"… **The defence of judicial immunity from indictment was rightly rejected** in both Braatelein v. United States and United States v. Hastings (above). …

Taylor v. Canada (Attorney General), [2000] 3 FCR 298, 2000 CanLII 17120 (FCA) [60]Finally, in my view, the exception to absolute immunity established in Sirros v. Moore is an extremely narrow one. It will be the rare case indeed where a **plaintiff can show that a judge acted with the knowledge that he or she had no jurisdiction**. The example cited by Lord Bridge in McC v. Mullan demonstrates both the need for an exception to the judicial immunity principle, as well as the limited nature of the exception.. Taylor v. Canada (Attorney General), [2000] 3 FCR 298, 2000 CanLII 17120 (FCA) [62]…."72 He added that a claim for malicious prosecution required a plaintiff to demonstrate "improper motive or purpose,"73 and that "**errors in the exercise of discretion and judgment are not actionable**."74 In that sense, Nelles is consistent with the proposition that the "bad faith" exception to judicial immunity cannot be engaged merely **where a judge errs in the exercise of his or her discretion**, as happened in the present case. [63]In light of the constitutional importance of judicial immunity, I conclude that any "**bad faith" exception to judicial immunity that exists** is just as narrow, if not more so, than the exception to prosecutorial immunity addressed in Nelles .

J.W. Abernethy Management & Consulting Ltd. v. 705589 Alberta Ltd. and Trillium Homes Ltd., 2005 ABCA 103 (CanLII) [24]… The only **exception is when a judge "knowingly acts outside of official capacity; without a good faith belief of jurisdiction**": ***S.G.* v. *Larochelle*** (2004), 355 A.R. 46, 2004 ABQB 123 (CanLII) at para. 10; aff'd 2005 ABCA 111 (CanLII), citing ***Royer* v *Mignault*** (1988), 1988 CanLII 445 (QC CA), 50 D.L.R. (4th) 345 at 354 (Que. C.A.). Judicial immunity clearly extends to Queen's Bench judicial settlement processes, including binding JDR's. See ***Condessa Z Holdings Ltd.* v. *Rusnak*** (1993), 1993 CanLII 5526 (SK CA), 109 Sask. R. 170 (C.A.).

Royer c. Mignault, 1988 CanLII 445 (QC CA) Immunity of Superior Court Judges …. What he does may be outside his jurisdiction - in fact or in law - but so long as he honestly believes it to be within his jurisdiction, he should not be liable. Once he honestly entertains this belief, nothing else will make him liable. He is not to be plagued with allegations of malice or ill-will or bias or anything of the kind. Actions based on such allegations have been struck out and will continue to be struck out. Nothing will make him liable **except it be shown that he was not acting judicially, knowing that he had no jurisdiction to do it…**. In McC. c. Mullan, (1984) 3 All E.R. 908, 816, Lord Bridge of Harwich stated:

...It is, of course, clear that the holder of any judicial office who acts in bad faith, doing what he knows he has no power to do, is liable in damages. If the Lord Chief Justice himself, on the acquittal of a defendant charged before him with a criminal offence, were to say, "That is a perverse verdict," and thereupon proceed to pass a sentence of imprisonment, **he could be sued for trespass.** … I conclude, therefore, that a superior court judge is protected by absolute immunity from any civil liability for anything he does or says in the performance of his functions as a judge. He will not be liable in damages **unless he acts outside of his jurisdiction knowing that he has no power** to do what he does.

Future Inns Canada Inc. v. Nova Scotia (Labour Relations Board), 1999 CanLII 2477 (NS CA) [113].. the Board and its members are protected from a civil action for damages arising out of any acts committed by them, provided the acts are committed in the course of judicial duties, and provided further that a member may lose his or her immunity if while acting in **bad faith** they did something which he or she knew he or she did not have the jurisdiction to do, or while not acting in the course of judicial duties **knew that he or she had no jurisdiction** to act.

Morier et al. v. Rivard et al (1985), 1985 CanLII 26 (SCC), 23 D.L.R. (4th) 1 (S.C.C.), the majority considered the extent and nature of the immunity conferred on superior court judges in Canada, and concluded that it is essentially absolute, allowing for potential liability only where a judge is shown to have **knowingly exceeded his jurisdiction in bad faith**.

Verge Insurance Brokers Limited et al. v Richard Sherk et al., 2015 ONSC 4044 (CanLII) **(b)***inherent jurisdiction is not to conflict with Rule* [61] "[T]he **inherent jurisdiction of the Court of Queen's Bench is not such as to empower a judge of that Court to make an order negating the unambiguous expression of the legislative will**": see *Baxter Student Housing Ltd. et al. v. College Housing Co-operative Ltd. et al.*, 1975 CanLII 164 (SCC), [1976] 2 S.C.R. 475 at p. 480.[62] "**Inherent jurisdiction cannot, of course, be exercised so as to conflict with a statute or Rule**": see *Montreal Trust Company et al. v. Churchill Forest Industries (Manitoba) Limited*, [1971] 4 W.W.R. 542 at p. 547, cited with approval in *Baxter Student Housing Ltd. et al. v. College Housing Co-operative Ltd*…**(c)** *inherent jurisdiction limited to filling gaps* [63] "In spite of the expansive nature of this power, **inherent jurisdiction does not operate where Parliament or the legislature has acted**": see *Stelco Inc. (Re)*, *supra*, at para. 35.

Alberta Provincial Courts Act 2000 Chapter P-31 Action for damages 9.51(1) No action may be brought against a judge for any act done or omitted to be done in the execution of the judge's duty or for any act done in a matter in which the judge has exceeded the judge's jurisdiction unless it is proved that the judge acted **maliciously and without reasonable and probable cause**. … (5) The Minister of Justice and Solicitor General may make a payment for damages or costs, including lawyer's charges incurred by the judge in respect of an act, omission or matter described in subsection (1), (2) or (3).

Manitoba The Provincial Court Act C.C.S.M. C. C275 Exemption from liability 71 Except as provided in this Act, no action shall lie or be instituted against a judge or justice of the peace for any act done by him or her in the execution of a duty unless the act was **done maliciously and without reasonable and probable cause**.

Manitoba The Court of Queen's Bench Act; Exemption from liability 15 Where an officer of the court, in exercising the powers and performing the duties of the officer, acts in good faith, an action shall not be brought against the officer with respect to an act of the officer unless the act is **malicious and is done without reasonable grounds**

Prince Edward Island Provincial Court Act, RSPEI 1988, C P-25 11. Limitation of Action (1) Except as provided in this Act, no action lies or may be instituted against a judge, or justice of the peace for any act done by him or her in the execution of his or her duties unless the act was done **maliciously or without reasonable cause**.

Id. at 368-69 (Stewart, J., dissenting quoting Pierson v. Ray, 386 U.S. 547, 554 (1967) The "central feature" in *Sparkman*, he wrote, was Judge Stump's "preclusion of any possibility for the vindication of respondents' rights elsewhere in the judicial system. Powell noted that the *Bradley* Court accepted the injustices the doctrine of judicial immunity sometimes imposes because those injustices are usually mitigated by the availability of appeal. But **where a judicial officer acts in a manner that precludes all resort to appellate or other judicial remedies that otherwise would be available, the underlying assumption of the *Bradley* doctrine is inoperative...**

Piper v. Pearson, id., 2 Gray 120. … entitlement to immunity, the U.S. Supreme Court focused upon the nature of the act: is it an act ordinarily performed by a Judge? But an act done in **complete absence of all jurisdiction** cannot be a judicial act. It is no more than the **act of a private citizen, pretending to have judicial power** which does not exist at all. In such circumstances, to grant absolute judicial immunity is contrary to the **public policy expectation** that there shall be **a Rule of Law**.

State use of Little v. U.S. Fidelity & Guaranty Co., 217 Miss. 576, 64 So. 2d 697. When a judicial officer acts **entirely without jurisdiction** or without compliance with jurisdiction requisites he may be held **civilly liable for abuse of process** even though his act involved a decision made in good faith, that he had jurisdiction.

Ableman v. Booth, 21 Howard 506 (1859). "**No judicial process,** whatever form it may assume, can have any lawful authority outside of the limits of the jurisdiction of the court or judge by whom it is issued; and **an attempt to enforce it beyond these boundaries is nothing less than lawless violence**."

Bradley v. Fisher, 13 Wall. 335, 20 L.Ed. 646 (1872) "**Where there is no jurisdiction, there can be no discretion**, for discretion is incident to jurisdiction."

Rankin v. Howard, (1980) 633 F.2d 844, cert den. Zeller v. Rankin, 101 S.Ct. 2020, 451 U.S. 939, 68 L.Ed 2d 326. When a judge knows that he lacks jurisdiction, or acts in the face of **clearly valid statutes expressly depriving him of jurisdiction**, judicial immunity is lost.

Ashelman v. Pope, 793 F.2d 1072 (1986), the Ninth Circuit, en banc , criticized the "judicial nature" analysis it had published in Rankin as unnecessarily restrictive. But Rankin's ultimate result was Judge Howard had been independently divested of absolute judicial immunity by his **complete lack of jurisdiction.**

Stump v. Sparkman, id., 435 U.S. 349 Some urge that any act "of a judicial nature" entitles the Judge to absolute judicial immunity. But **in a jurisdictional vacuum**, (that is, absence of all jurisdiction) the second prong necessary to absolute **judicial immunity is missing**.

Davis v. Burris, 51 Ariz. 220, 75 P.2d 689 (1938) judge must be acting **within his jurisdiction** as to subject matter and person, to be entitled to immunity from civil action...

All of which respectfully submitted by Ade Olumide