

OPEN LETTER TO NEW BRUNSWICK JUDICIAL COUNCIL

March 16, 2018 From; Ade Olumide, Fax: 613 832 2051, ade6035@gmail.com

TO: Honourable Ernst Drapeau, Chief Judge of New Brunswick,
TO: Chairman Province of New Brunswick Judicial Council
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COMPLAINT RE PROVINCIAL CHIEF JUDGE PIERRE W. ARSENAULT

1. Further to February 6, 2017 complaints, I received on March 11 a response from the Judicial Council of New Brunswick (JCNB) dated March 3 with the following falsehoods;

- a. that Chief Judge Pierre W. Arsenault deliberately defrauding s504 s507.1 required duties is not “evidence of misconduct, neglect of duty or inability to perform required duties”
- b. that the Council does not have jurisdiction to reprimand and remove Chief Judge Pierre W. Arsenault so that another Chief Judge can provide the s504 s507.1 “property” “service”

2. **I hereby ask again that the Council reprimand and remove Chief Judge Pierre Arsenault.** First he lied that he lacked jurisdiction, then he lied that there is a prescribed form, when all registry staff repeatedly told me such s504 form does not exist. If the Council does not reconsider the March 3 response, respectfully, I will have no choice but to formally request New Brunswick Attorney General public prosecution of the Council for bad faith breaches of s21(b), s22.2, s23, 25.1(9)(11b), s139(1)(2)(3a), s341, s362[1], s380 Criminal Code.

Between February 2017 to March 2017 at the City of Fredericton, Chairman New Brunswick Judicial Council did knowingly make and cause to be made directly and indirectly false statements in writing with intent that it be relied upon to wit jurisdiction to reprimand and remove Chief Judge Arsenault for “misconduct, neglect of duty or inability to perform s504 s507 criminal code required duties”, contrary to s362[1], of the Criminal Code of Canada.

Between February 2017 to March 2017 at the City of Fredericton, Chairman New Brunswick Judicial Council did by deceit, falsehood and other fraudulent means contravene the objects of Provincial Courts Act Council by acting in bad faith to encourage “misconduct, neglect of duty or inability to perform required duties judicial misconduct”, defraud good faith “investigation, inquiry or formal hearing..report” duties, contrary to s380 of the Criminal Code of Canada.

Between February 2017 to March 2017 at the City of Fredericton, Chairman New Brunswick Judicial Council did for a fraudulent purpose contravene Provincial Courts Act oath “faithfully, impartially and honestly execute all the powers and duties ...according to law, without fear or favour” to Chief Judge Honourable J. Ernest Drapeau, Vice Chairman s504 s507.1 accused Canadian Judicial Council / Honourable David D. Smith, Chief Justice of Court of Queen's Bench member s504 s507.1 accused Canadian Judicial Council, contrary to s21b, 23, 341 of the Criminal Code of Canada.

3. JCBN should not be contemptuous of the Canadian Victims Bill of Rights and the oath.

Provincial Courts Act 12(1)...each judge ... oath of office...that I will faithfully, impartially and honestly execute all the powers and duties of the office of judge of the Provincial Court accordingly to my best skill and knowledge; and I will do right by all manner of people according to law, without fear or favour, affection or ill-will.

Canadian 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**;

4. The grounds for this position are as follows;

NO LIMIT ON “CHIEF JUDGE ..CONDITIONS” / PROSECUTION FOR BAD FAITH

5. Provincial Court, 6.11(4)Based on the findings contained in the report and the representations, if any, made under subsection (3), the Judicial Council may.. (c) where the conduct of the chief judge is in question, **reprimand the chief judge with such conditions as the Judicial Council considers appropriate**, or (d) recommend to the Lieutenant-Governor in Council that the **judge be removed from office**...6.11(7)Failure on the part of a judge to comply with conditions imposed under paragraph (4)(c) or subsection (6) **shall be deemed to constitute misconduct** under [section 6](#)...6.13No action or other proceeding for damages shall be instituted against the Judicial Council or any member or officer of it or any person acting under the authority of the Judicial Council for any act done in **good faith** in the execution or intended execution of the Judicial Council’s or the person’s duty.

FAILURE TO RECONSIDER IS BEYOND REASONABLE DOUBT EVIDENCE OF A BREACH OF S362(1) CRIMINAL CODE

6. The s6(1) Provincial Court Act “misconduct, neglect of duty, or inability to perform required duties” in February 6, 2017 complaint is:

7. “Chief Judge Pierre W. Arsenault contravened s380 Criminal Code by defrauding me of property;

- a) s507.1 s540 s540 Criminal Code hearing date to issue summons to CJC re refusal to investigate Justice Hackland,
- b) s24 Charter Rights to s579 Criminal Code, s63(2) Judges Act, s3f Act Respecting The office Of Director of Public Prosecutions

8. Chief Judge Pierre W. Arsenault contravened s21(b), 23, 341 Criminal Code with respect to the following 3 Counts Against Canadian Judicial Council;

- a) Between 2015 to 2016 at the City of Moncton, **Canadian Judicial Council** did for fraudulent concealment purpose breach the rule of law against conflict of interest quasi judicial decisions, by taking Chief Justice New Brunswick Court of Queens Bench Judges Act duty to act on a record of investigation by refusing to investigate Justice Hackland's fraudulent interception of private prosecution of Canadian Judicial Council for refusing to investigate Justice Hackland, to wit Ade Olumide equal benefit of s65(2) Judges Act, Canadian Judicial Council liabilities from s12 s21(1a,d) s34 Interpretations Act / Criminal Code "justice system participant" "organization, contrary to s341 of the Criminal Code.
- b) Between 2015 to 2016 at the City of Moncton at the City of Moncton, **Canadian Judicial Council** did for fraudulent purpose of enabling escape of criminals, breach the rule of law against conflict of interest quasi judicial decisions, by taking Chief Justice New Brunswick Court of Queens Bench Judges Act duty to act on a record of investigation by refusing to investigate Justice Hackland's fraudulent interception of private prosecution of Canadian Judicial Council for refusing to investigate Justice Hackland, to wit Ade Olumide equal benefit of s65(2) Judges Act, Canadian Judicial Council liabilities from s12 s21(1a,d) s34 Interpretations Act / Criminal Code "justice system participant" "organization", contrary to s23 of the Criminal Code.
- c) Between 2015 to 2016 at the City of Moncton at the City of Moncton, **Canadian Judicial Council** did for fraudulent purpose of party to ongoing crimes, breach the rule of law against conflict of interest quasi judicial decisions, by taking Chief Justice New Brunswick Court of Queens Bench Judges Act duty to act on a record of investigation by refusing to investigate Justice Hackland's fraudulent interception of private prosecution of Canadian Judicial Council for refusing to investigate Justice Hackland, to wit Ade Olumide equal benefit of s65(2) Judges Act, Canadian Judicial Council liabilities from s12 s21(1a,d) s34 Interpretations Act / Criminal Code "justice system participant" "organization", contrary to s21b of the Criminal Code."

9. The following provisions of the criminal code clearly articulate mandatory 504 507.1 required duties that Chief Judge Pierre W. Arsenault lacks power and jurisdiction to refuse;

- a) "504 Any one who, on reasonable grounds, believes that a person has committed an indictable offence may lay an information in writing and under oath before a justice, **and the justice shall receive the information**, where it is alleged... **(b) that the person, wherever he may be, has committed an indictable offence within the territorial jurisdiction of the justice;...**
- b) 507.1 (1) A justice who receives an information **laid under section 504**, other than an information referred to in subsection 507(1), **shall refer it to a provincial court judge** or, ...Conditions for issuance **(3) The judge or designated justice** may issue a summons or warrant only if he or she **has heard and considered the allegations of the informant and the evidence**

of witnesses;... (10) In this section, *designated justice* means a justice designated for the purpose by the chief judge of the provincial court having jurisdiction in the matter... “

10. The Council is respectfully reminded that the Criminal Code is an Act of the Parliament of Canada, the Constitution is a federal document, therefore if the Council refuses to reprimand and remove the Chief Judge so that an honest judge can fulfil the “required duties”, the integrity of the judiciary as a whole will be brought into disrepute.

DEFINITIONS OF JUDICIAL MISCONDUCT

<http://legal-dictionary.thefreedictionary.com/misconduct>

MISCONDUCT. Unlawful behaviour by a person entrusted in any degree: with the administration of justice, by which the rights of the parties and the justice of the, case may have been affected.

<http://legal-dictionary.thefreedictionary.com/behaviour>

BEHAVIOUR. In old English, haviour without the prefix be. It is the **manner of** having, holding, or **keeping one's self** or the carriage of one's self **with respect to** propriety, morals, and the **requirements of law**. Surety to be of - good behaviour is a **larger requirement than surety to keep the peace**. Dalton, c. 122; 4 Burn's J. 355.

<http://thelawdictionary.org/misconduct/>

Black's Law Dictionary, What is MISCONDUCT? Law Dictionary: What is MISCONDUCT? definition of MISCONDUCT (Black's Law Dictionary)

Any unlawful conduct on the part of a person concerned in the administration of justice which is **prejudicial to the rights of parties** or to the right determination of the cause; as "misconduct of jurors," "misconduct of an arbitrator." The term is also used to express a **dereliction from duty**, injurious to another, on the part of one employed in a professional capacity, as an attorney at law, (Stage v. Stevens, 1 Denio [N. Y.] 267,) or a public officer, (State v. Leach, 60 Me. 58, 11 Am. Rep. 172.) Law Dictionary: What is BEHAVIOR? definition of BEHAVIOR (Black's Law Dictionary)

<http://www.duhaime.org/LegalDictionary/J/JudicialMisconduct.aspx>

Misconduct Definition: **Conduct on the part of a judge that is prohibited** and which could lead to a form of discipline.

Pursuant to title 28, chapter 16 of the United States Code, judicial misconduct is vaguely defined, at §351(a): "... conduct prejudicial to the effective and expeditious administration of the business of the courts, or (an inability) to discharge all the duties of office by reason of mental or physical disability." Pinning down a precise definition of judicial misconduct is challenging since most codes of judicial conduct include, generally, a **prohibition against conduct prejudicial to the administration of justice that could bring the judicial office into disrepute**.

The American encyclopedia of law, Corpus Juris Secundum ((Title 48A, "Judges")):...Examples of specific instances of judicial misconduct include:

- The use of a harsh and angry tone and demeanor,
- Excessive arrogance,
- Lack of impartiality,**
- Incompetence,**
- Improper political or even charitable or fund-raising activities,

- Sexually harassing conduct,
- Off-the-record, private communication with a litigant about a pending case,
- Criminal conduct,**
- Conflict of interest,**
- An ethnic or racial slur,
- Physical or mental disability,
- Bankruptcy or insolvency,
- Misuse of prestige of office,
- Allowing cameras in the courtroom,
- Receiving a bribe or gift from a litigant,
- Making it public comment on a pending case or which shows **prejudgment**
- Failure to recuse oneself in an appropriate case, and**
- Administrative mismanagement** such as a failure to render a judgment

“MISCONDUCT” FEDERAL AND PROVINCIAL LEGISLATION AND REGULATIONS

Judges Act; 65(2)(b) having been **guilty of misconduct**, (c) having **failed in the due execution** of that office, or (d) having been placed, by his or her **conduct or otherwise**, in a position **incompatible with the due execution of that office**, ...

Ontario Courts Justice Act 51.8 (1)(b) ... (ii) conduct that is incompatible with the due execution of his or her office, or (iii) **failure to perform the duties** of his or her office.

Justices Of The Peace Act, R.S.O. 1990, C. J.4 11.2 (2) (b) (ii) conduct that is incompatible with the due execution of his or her office, or (iii) failure to perform the duties of his or her office.

New Brunswick Provincial Court Act, R.S.N.B. 1973, C. P-21

6 Subject to this Act, a judge holds office during good behaviour and may be removed from office only for **misconduct, neglect of duty or inability to perform his or her duties**.

Newfoundland And Labrador, CODE OF ETHICS

1. The Judge should render justice within the framework of the law.
2. The Judge should perform the duties of office with integrity, dignity and honour.
3. The Judge has a duty to foster professional competence.
4. The Judge should avoid any conflict of interest and refrain from entering a situation or position where the functions of judicial office cannot be faithfully carried out.
5. The Judge should be, and be seen to be, impartial and objective.
6. The Judge should perform the duties of office diligently and devote all efforts to the exercise of his/her judicial functions.
7. The Judge should refrain from any activity which is not compatible with the judicial office.
8. In public, the Judge should act in a reserved, dignified and courteous manner.
9. The Judge should follow the administrative directives of the Chief Judge within the performance of judicial office.
10. The Judge should uphold the integrity and defend the independence of the judiciary, in the best interest of justice and society.

British Columbia Provincial Court Act [RSBC 1996] Chapter 379 Scope of inquiry 26 (b) **misconduct**; (c) **failure in the execution** of his or her office; (d) **conduct incompatible** with the due execution of his or her office.

Quebec Chapter T-16 Courts Of Justice Act 262. The code of ethics determines the rules of conduct and the duties of the judges towards the public, the parties to an action and the advocates, and it indicates in particular which **acts or omissions are derogatory to the honour, dignity or integrity of the judiciary** and the functions or activities that a judge may exercise without remuneration...
chapter T-16, r. 1 Judicial code of ethics Courts of Justice Act (chapter T-16, s. 261)

1. The judge should render justice within the framework of the law.
2. The judge should perform the duties of his office with integrity, dignity and honour.
3. The judge has a duty to foster his professional competence.
4. The judge should avoid any conflict of interest and refrain from placing himself in a position where he cannot faithfully carry out his functions.
5. The judge should be, and be seen to be, impartial and objective.
6. The judge should perform the duties of his office diligently and devote himself entirely to the exercise of his judicial functions.
7. The judge should refrain from any activity which is not compatible with his judicial office.
8. In public, the judge should act in a reserved, serene and courteous manner.
9. The judge should submit to the administrative directives of his chief judge, within the performance of his duties.
10. The judge should uphold the integrity and defend the independence of the judiciary, in the best interest of justice and society.

Nova Scotia Provincial Court Act, Chapter 238, 1989 17K (e) (i) age or infirmity, (ii) having been guilty of **misconduct**, (iii) having **failed in the due execution** of that office, or (iv) having been placed, by the judge's **conduct or otherwise**, in a position incompatible with the due execution of that office.

Territorial Court Act, RSNWT 1988, C T-2 38.(1) A person wishing to make a complaint about (a) the conduct of a judge or of a justice; (b) the **neglect of duty** by a judge or a justice; or (c) any matter which may lead a person to conclude that the ability or capacity of a judge or justice to perform their responsibilities has become substantially impaired or diminished or that they are **otherwise unfit** for office;

Alberta Judicature Act RSA 2000 Section 35 Chapter J-2 Report of recommendations 37 (3) A sanction referred to in subsection (2)(g) or (h) may be recommended only if there was a finding of **misbehaviour, neglect of duty** or inability to perform duties.

Alberta Provincial Court Act Complaints; 9.4 A complaint about the **competence, conduct, misbehaviour or neglect of duty** of a judge or the inability of a judge to perform duties is to be dealt with in accordance with Part 6 of the Judicature Act.

Manitoba The Provincial Court Act C.C.S.M. C. C275 Complaints referred directly to board 31(2) Despite subsection (1), the Chief Judge **shall refer a complaint to the board if (a) the complaint alleges that a judge has committed an indictable offence**; or (b) in the opinion of the Chief Judge, the

alleged misconduct by the judge may amount to conduct prejudicial to the **administration of justice that brings the judicial office into disrepute.**

Saskatchewan Provincial Court Act, 1998 Chapter P-30.11 Statutes Of Sk.;

2(j) “misconduct” includes conduct unbecoming a judge;

Review and investigation of complaint 55(1) The council shall review and, where necessary, investigate the conduct of a judge where the council: (a) receives a complaint respecting the judge alleging **misconduct or incapacity**; or (b) otherwise becomes aware of possible misconduct by the judge or possible incapacity of the judge.

Prince Edward Island Provincial Court Act, RSPEI 1988, C P-25 .. 10. (1) Where the Lieutenant Governor in Council has reason to believe that a judge is guilty of **misbehaviour** or is **unable to perform his or her duties** properly, the Lieutenant Governor in Council shall by order appoint a judge of the Supreme Court to inquire into and report on the matter.

“IMMUNITY” PROVINCIAL LEGISLATION AND REGULATIONS

Newfoundland And Labrador, Sn1991 Chapter 15 Provincial Court Act, 1991

Action prohibited 25.5 An action for damages shall not lie against the Complaints Review Committee, the judicial complaints panel, an adjudication tribunal **or the individual members** of those bodies, a person appointed to conduct an investigation under subsection 23 (4) or the director for (a) an act or failure to act, or a proceeding initiated or carried out in **good faith** under this Act, or carrying out their duties or obligations under this Act; or
(b) for a decision or order made or enforced in **good faith** under this Act.

British Columbia Provincial Court Act [RSBC 1996] Chapter 379

Immunity protection 27.3 (1) Subject to subsection (2), no legal proceeding for damages lies or may be commenced or maintained against a tribunal, **a member** of a tribunal or a person acting on behalf of or under the direction of a tribunal, because of anything done or omitted
(a) in the performance or intended performance of any duty in relation to an inquiry, or
(b) in the exercise or intended exercise of any power in relation to an inquiry.
(2) Subsection (1) does not apply to a person referred to in that subsection in relation to anything done or omitted by that person **in bad faith.**

British Columbia Supreme Court Act; Powers and privileges 3 (1) The Chief Justice, Associate Chief Justice and judges have all the powers, rights, incidents, privileges and immunities of a judge of a superior court of record, and all other powers, rights, incidents, privileges and immunities that on March 29, 1870, were vested in the Chief Justice and the other justices of the court

11 (10) An action must not be brought against a master for damages for anything done or omitted in **good faith** by the master (a) in the performance or intended performance of any duty, or
(b) in the exercise or intended exercise of any power.

Quebec Chapter J-3 Act Respecting Administrative Justice

74. The Tribunal and **its members** are vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment. They are also vested with all the powers necessary for the performance of their duties; they may, in particular, make any order they consider appropriate to safeguard the rights of the

parties. No judicial proceedings may be brought against them by reason of an act done in **good faith** in the performance of their duties.

Quebec Chapter T-16 Courts Of Justice Act 273. The members of the committee enjoy, for the purposes of an inquiry, the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment.

Chapter C-37 Act Respecting Public Inquiry Commissions 16. The commissioners shall have the same protection and privileges as are conferred upon judges of the Superior Court, for any act done or omitted in the execution of their duty.

Saskatchewan Provincial Court Act, 1998 Chapter P-30.11 Statutes Of SK.

Immunity from liability 63(1) No action lies or shall be commenced against a judge or a justice of the peace with respect to anything done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by the judge or the justice of the peace in the execution of his or her duties or with respect to any matter in which he or she lacked or exceeded jurisdiction, unless it is proved that the act or omission was done maliciously and without reasonable cause.

(2) No action lies or shall be commenced against the council, a hearing committee **or any member** or officer of the council or a hearing committee for any loss or damage suffered by any person by reason of **anything in good faith** done, caused, permitted or authorized to be done, attempted to be done or omitted to be done, by any of them, pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the performance of any duty imposed by this Act or the regulations or with respect to any matter in which he, she or it lacked or exceeded jurisdiction, unless it is proved that the act or omission was done maliciously and without reasonable cause.

Ontario Courts Justice Act; Personal liability 33.1(21) No action or other proceeding for damages shall be instituted against a judge, regional senior judge or member of a committee for any act done in good faith in the execution or intended execution of any power or duty of the person, or for any neglect or default in the exercise or performance in **good faith** of such power or duty.

Liability of judges and other officers 82 The following persons have the same immunity from liability as judges of the Superior Court of Justice: 1. Judges of all courts in Ontario, including judges presiding in the Small Claims Court and deputy judges of that court. 2. Masters. 3. Case management masters.

Justice of Peace Act; Personal liability 8 (21) No action or other proceeding for damages shall be instituted against the Review Council or any of its members or employees or any person acting under the authority of the Review Council, a complaints committee or hearing panel for any act done in **good faith** in the execution or intended execution of any power or duty of the Review Council, a complaints committee or a hearing panel or for any neglect or default in the exercise or performance in good faith of such power or duty.

Nova Scotia Provincial Court Act, Chapter 238, 1989 Powers of tribunal 21C The persons appointed to a tribunal pursuant to Section 21A have all the powers, privileges and immunities of a commissioner appointed pursuant to the Public Inquiries Act. 1998, c. 7, s. 1.

Public Inquiries Act; ... immunities 5 The commissioner or commissioners shall have the same power to enforce the attendance of persons as witnesses and to compel them to give evidence and produce documents and things as is vested in the Supreme Court or a judge public inquiries thereof in civil cases, and the same privileges and immunities as a judge of the Supreme Court.

An Act Respecting a Supreme Court of Judicature 32F (6) No action lies or shall be instituted against a person who prepares a report pursuant to subsection (1) for any loss or damage suffered by a person by reason of anything in **good faith** done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by that person in the carrying out or supposed carrying out of that duty.

Territorial Court Act, RSNWT 1988, C T-2 Immunity (15) No proceedings lie against the Judicial Council or any member of the Judicial Council or any person acting under the authority of the Judicial Council for any act or omission that any of them, acting in **good faith**, reasonably believed was required or authorized by this Act.

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).

Judicature Act RSA 2000 Section 35 Chapter J-2 Powers of judges 4 The judges of the Court have and shall use, exercise and enjoy all the powers, rights, incidents, privileges and immunities of a judge of a superior court of record, and all other powers, rights, incidents, privileges and immunities as amply and as fully to all intents and purposes as they were on and before July 15, 1870, had, used, exercised and enjoyed in England by any of the judges of the following courts:

- (a) the Superior Courts of Law or Equity; (b) the Court of Exchequer as a court of revenue;
- (c) the Court of Probate; (d) the Courts created by Commissions of Assize, of Oyer and Terminer and of Gaol Delivery, or any of those commissions; (e) any other superior court or court of record.

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**.

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**.

Immunity From Civil Action (2) A judge shall have the same immunity from civil proceedings as a judge of a superior court of criminal jurisdiction and shall be compensated out of the Operating Fund for any costs incurred in maintaining such immunity.

Judicature Act 20. No person is liable for any act done in **good faith** in accordance with an order or process of a court.

New Brunswick Provincial Court Act, R.S.N.B. 1973, C. P-21 3.1A judge shall have the same protection and privileges as are conferred upon judges of The Court of Queen's Bench of New Brunswick, for any act done or omitted in the execution of his or her duty.

6.13 No action or other proceeding for damages shall be instituted against the Judicial Council or any member or officer of it or any person acting under the authority of the Judicial Council for any act done in **good faith** in the execution or intended execution of the Judicial Council's or the person's duty.

Judicature Act 56.3 A Case Management Master has the same immunity from liability as a judge of the Court of Queen's Bench.

JUDICIAL COUNCILS LACK OF SEPARATION OF INVESTIGATION AND DECISION MAKING POWER FOR CRIMINAL MISCONDUCT COMPLAINTS

Ontario Courts Justice Act

Personal liability (27) No action or other proceeding for damages shall be instituted against the Judicial Council, **any of its members** or employees or any person acting under its authority for **any act done in good faith** in the execution or intended execution of the Council's or person's duty.

.....

Role of subcommittee Review 51.4 (1) A complaint received by the Judicial Council **shall be reviewed** by a subcommittee of the Council consisting of a provincial judge other than the Chief Justice **and a person who is neither a judge nor a lawyer.**

Rotation of members (2) The eligible members of the Judicial Council shall all serve on the subcommittee on a rotating basis.

Dismissal (3) The subcommittee shall dismiss the complaint without further investigation if, in the subcommittee's opinion, it falls outside the Judicial Council's jurisdiction or is frivolous or an abuse of process.

Investigation (4) If the complaint is not dismissed under subsection (3), the subcommittee **shall conduct such investigation** as it considers appropriate.

Ontario Justices Of The Peace Act, R.S.O. 1990, C. J.4

Complaint re justice of the peace 10.2 (1) Any person may make a complaint to the Review Council about the conduct of a justice of the peace.

Same (2) A complaint to the Review Council must be made in writing.

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

Information re complaint (4) At any person's request, the Review Council may confirm or deny that a particular complaint has been made to it.

Investigations, Complaints committees 11. (1) As soon as possible after receiving a complaint about the conduct of a justice of the peace, the Review Council shall establish a complaints committee and the complaints committee shall investigate the complaint and dispose of the matter as provided in subsection

Composition (2) A complaints committee shall be composed of,

(a) a judge who shall chair the complaints committee;

(b) a justice of the peace; and

(c) a member who is neither a judge nor a justice of the peace.

Timely reporting to complainant (3) The complaints committee shall report in a timely manner to the complainant that it has received the complaint and it shall report in a timely manner to the complainant on its disposition of the matter.

.....

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

New Brunswick Provincial Court Act, R.S.N.B. 1973, C. P-21

6.6(1) The Judicial Council **shall receive** and the chairman **shall refer to the chief judge for investigation all written communications** suggesting any misconduct, neglect of duty or inability to perform duties on the part of a judge. . . .

6.6(3) Where a written communication comes to the attention of the chief judge, whether by way of referral from the chairman or otherwise, suggesting any misconduct, neglect of duty or inability to perform duties on the part of a judge, **the chief judge shall investigate the matter.**

6.7(1) The chairman shall designate one or more members of the Judicial Council for the purpose of receiving reports referred to in this section.

6.7(2) Where a written communication is received by the chief judge or associate chief judge, whether by way of referral from the chairman or otherwise, the chief judge or associate chief judge, as the case may be, **shall within fifteen days after receiving the written communication**, or within such longer period as the chairman permits, report on the results of the investigation to a member of the Judicial Council who has been designated by the chairman for that purpose.

6.7(3) Based upon the report, the member of the Judicial Council who receives the report **shall, within ten days** after receiving the report, recommend to the chairman whether or not an inquiry should be held.

6.7(4) A recommendation that an inquiry not be held is subject to review by the Judicial Council which may determine that an inquiry should be held.

6.7(5) A recommendation that an inquiry be held is not subject to review by the Judicial Council.

6.8(1) At any time after the receipt of a written communication suggesting misconduct, neglect of duty or inability to perform duties on the part of a judge, the Judicial Council may suspend the judge whose conduct is in question from the performance of the judge's duties with pay, pending the outcome of an investigation, inquiry or formal hearing, and may lift the suspension prior to the conclusion of an investigation, inquiry or formal hearing, where a change in circumstances warrants the lifting of the suspension.

Newfoundland And Labrador, Snl1991 Chapter 15 Provincial Court Act, 1991

Functions of judicial council 18. (1) The functions of the judicial council are

- (a) to consider all applicants for judicial appointment and make a recommendation to the minister with respect to those applicants;
 - (b) [Rep. by 2008 c45 s3]
 - (c) **to receive and investigate complaints** made to it by a judge relating to that judge's judicial duties and to make recommendations to the minister or the chief judge as it considers appropriate;
 - (d) to consider and approve or disapprove transfers under section 14;
 - (e) to prepare and revise, in consultation with the judges, a code of ethics for the judges of the court;
 - (f) to consider proposals for improving the services of the court and to report on the matter to the minister; and
 - (g) to review and report on a matter referred to it by the minister.
- (2) The code of ethics referred to in paragraph (1)(e) is subordinate legislation as defined in the Statutes and Subordinate Legislation Act.

Complaints Review Committee 19. (1) The Complaints Review Committee is established comprising

- (a) the chief judge, who shall be the chairperson of the committee;
 - (b) a justice of the Trial Division of the Supreme Court of Newfoundland and Labrador chosen by the Chief Justice of the Trial Division; and
 - (c) a person, who is not a Provincial Court judge or a member of the Law Society of Newfoundland and Labrador, **appointed by the minister to represent the public interest.**
- (2) Where the chief judge is unable to perform his or her duties as the chairperson of the committee or the chief judge is the subject of a complaint referred to the committee by the director, the associate chief judge shall serve as the chairperson of the committee in the place of the chief judge.
- (3) The term of office of the members of the committee referred to in paragraphs (1)(b) and (c) shall be 3 years and those members are eligible to serve for additional terms.

.....

Complaint 22. A complaint against a judge shall be made in writing addressed to and filed with the Complaints Review Committee through the office of the director who **shall forward it to the members of the committee.**

Powers of committee 23(1)The Complaints Review Committee, on review of a complaint under section 22, may (a) dismiss the complaint where in its opinion

- (i) the matter that is the subject of the complaint is not within the jurisdiction of the judicial complaints panel, or (ii) there is no evidence to support the complaint;
 - (b) with the consent of the complainant and the judge attempt to resolve the complaint; or
 - (c) where the committee is of the opinion that there are reasonable grounds to believe that the judge has engaged in the conduct that is the subject of the complaint, refer the complaint to the judicial complaints panel.
- (2) Where the Complaints Review Committee is of the opinion that there are reasonable grounds to believe that a judge has engaged in the conduct that is the subject of the complaint, the committee may suspend the judge.

- (3) A judge suspended under subsection (2) shall receive his or her salary while suspended unless the Complaints Review Committee directs otherwise.
- (4) Where a complaint is received by the Complaints Review Committee, the committee may refer the complaint to a person to conduct an investigation and to report to the committee.
- (5) A complainant whose complaint is dismissed by the Complaints Review Committee under subsection (1) may, within 30 days after receiving notice of the dismissal, appeal the dismissal to the Trial Division by filing a notice of appeal with the Trial Division.

Action prohibited 25.5 An action for damages shall not lie against the Complaints Review Committee, the judicial complaints panel, an adjudication tribunal **or the individual members** of those bodies, a person appointed to conduct an investigation under subsection 23 (4) or the director for

(a) an act or failure to act, or a proceeding initiated or carried out in **good faith** under this Act, or carrying out their duties or obligations under this Act; or

(b) for a decision or order made or enforced in **good faith** under this Act.

British Columbia Provincial Court Act [RSBC 1996] Chapter 379

Object of council 22 The object of the council is to improve the quality of judicial service, and its functions include the following:

- (a) considering proposed Lieutenant Governor in Council appointments of judges and justices;
- (b) conducting inquiries respecting judges and justices;
- (c) considering proposals for improving the judicial services of the court;
- (d) continuing the education of judges and organizing conferences of judges;
- (e) preparing and revising, in consultation with the judges, a code of ethics for the judiciary;
- (f) reporting to the Attorney General on the matters the Attorney General considers necessary.

Investigations 22.1 (1) Subject to section 25 (2), **all complaints respecting a judge or justice must be directed in writing to the chief judge**, who, after examining the complaint, **must report in writing** to the complainant and to the judge or justice.

(2) The **chief judge must conduct an investigation** respecting the fitness of a judge or justice to perform his or her duties if

- (a) the chief judge, whether or not a complaint has been received under subsection (1), considers that an investigation is advisable, or
- (b) the chief judge is directed by the Attorney General to conduct an investigation.

(3) After completing an investigation under subsection (2), the chief judge

(a) may do one or both of the following:

- (i) take any corrective action that the chief judge considers necessary using the powers given to the chief judge under this Act;
- (ii) order that an inquiry be held respecting the fitness of the judge or justice to perform his or her duties, and

(b) must, if the investigation was initiated as a result of a complaint under subsection (1) or as a result of a direction of the Attorney General under subsection (2) (b) or if an inquiry is ordered under paragraph

(a) (ii) of this subsection, submit to the Attorney General a written report setting out

(i) the nature of the investigation,

- (ii) the relevant facts,
- (iii) the findings, and
- (iv) any corrective action taken.

(4) If, under subsection (3) (a) (ii), the chief judge orders that an inquiry be held, the chief judge must give written notice together with a copy of the report prepared under subsection (3) (b) to the judge or justice whose fitness is the subject of the inquiry.

.....

Immunity protection 27.3 (1) Subject to subsection (2), no legal proceeding for damages lies or may be commenced or maintained against a tribunal, **a member** of a tribunal or a person acting on behalf of or under the direction of a tribunal, because of anything done or omitted

(a) in the performance or intended performance of any duty in relation to an inquiry, or

(b) in the exercise or intended exercise of any power in relation to an inquiry.

(2) Subsection (1) does not apply to a person referred to in that subsection in relation to **anything done or omitted by that person in bad faith**.

Quebec Chapter J-3 Act Respecting Administrative Justice

74. The Tribunal and **its members** are vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment.

They are also vested with all the powers necessary for the performance of their duties; they may, in particular, make any order they consider appropriate to safeguard the rights of the parties.

No judicial proceedings may be brought against them by reason of an act done in **good faith** in the performance of their duties.

Chapter IV Complaints 182. Any person may lodge a complaint with the council against a member of the Tribunal for breach of the code of ethics, of a duty under this Act or of the prescriptions governing conflicts of interest and incompatible functions.

183. A complaint must be in writing and must briefly state the reasons on which it is based.

It shall be transmitted to the seat of the council.

184. If the complaint is lodged by a member of the council, that member cannot take part in the examination of the complaint.

If the complaint is lodged against a president or chair who is a member of the council, that president or chair cannot take part in the council's sittings as long as a final decision has not been rendered on the complaint, and must be replaced in the meantime by the vice-president or vice-chair of the body of which the president or chair concerned is a member.

.....

184.2. Unless the complaint is lodged by the Minister, the **council shall form a committee**, composed of five council members, to determine whether a complaint is admissible.

Two committee members shall be chosen from among the council members referred to in paragraph 9 of section 167; the other committee members shall be chosen from among the council members representing a body of the Administration whose president or chair is a council member.

The quorum of the committee is three members.

184.3. The committee may require of any person the information it considers necessary and examine the relevant record even if it is confidential under section 89.

185. The committee may dismiss any clearly unfounded complaint.
The committee shall forward a **copy of its decision, with reasons**, to the complainant and to the council.

186. Where the complaint has been determined admissible, or where the complaint is lodged by the Minister, the council shall transmit a copy of it to the member and, where necessary, to the Minister.
The **council shall form an inquiry committee** composed of three members, which shall be entrusted with conducting an inquiry into the complaint and disposing of it on behalf of the council.

Two members of the inquiry committee shall be chosen from among the members of the council referred to in paragraphs 3 to 9 of section 167, at least one of whom shall **neither practise a legal profession nor be a member of a body of the Administration whose president or chairman is a member of the council**. The third member of the inquiry committee shall be the member of the council referred to in paragraph 2 of that section or shall be chosen from a list drawn up by the president of the Tribunal, after consulting all the members of the Tribunal. In the latter case and if the inquiry committee finds the complaint to be justified, the third member shall take part in the deliberations of the council for the purpose of determining a penalty.

If the complaint is lodged against a president or chair or a vice-president or vice-chair of a body of the Administration whose president or chair is a member of the council, the third member of the inquiry committee shall be chosen from among the council members or from a list of names drawn up by the presidents and chairs of those bodies. The third member must not be a member of the body whose president or chair or vice-president or vice-chair is the subject of the complaint.

.....

190. After giving the member who is the subject of the complaint, the Minister and the complainant an opportunity to be heard, the committee shall decide the complaint.

If the committee finds the complaint to be justified, it may recommend that the member be reprimanded, suspended with or without remuneration for the period it determines or dismissed.

The committee **shall send its inquiry report and conclusions, with reasons** therefor, to the council together with its recommendations, if any, concerning the penalty.

191. The council shall then send a copy of the **inquiry report** and of the committee's conclusions to the member who is the subject of the complaint, **to the complainant** and to the Minister.

Quebec Chapter T-16 Courts Of Justice Act

256. The functions of the council are:

- (a) to organize, in accordance with Chapter II of this Part, refresher programs for judges;
- (b) to adopt, in accordance with Chapter III of this Part, a judicial code of ethics;
- (c) to receive and examine any complaint lodged against a judge to whom Chapter III of this Part applies;
- (d) to promote the efficiency and uniformization of procedure before the courts;
- (e) to receive suggestions, recommendations and requests made to it regarding the administration of justice, to study them and to make the appropriate recommendations to the Minister of Justice;
- (f) to cooperate, in accordance with the law, with any body pursuing similar purposes outside Québec, and
- (g) to hear and decide appeals under section 112.

DIVISION III Examination Of Complaints

263. The council receives and examines a complaint lodged by any person against a judge alleging that he has failed to comply with the code of ethics.

264. Any complaint is made in writing to the secretary of the council and states the facts with which the judge is charged and the other relevant circumstances.

265. The council shall examine the complaint; it may, for that purpose, require from any person such information as it may deem necessary and examine the relevant record, even if the record is confidential under the Youth Protection Act (chapter P-34.1).

If the complaint is lodged by a member of the council, he cannot participate in the examination of the complaint by the council.

266. The council shall forward a copy of the complaint to the judge; it may require an explanation from him.

267. If the council, after examining a complaint, establishes that it is not justified or that its nature and importance do not justify an inquiry, it shall notify the plaintiff and the judge of it and state its reasons therefor.

268. The council may, after examining a complaint, decide to make an inquiry. It must make an inquiry, however, if the complaint is lodged by the Minister of Justice or if the latter requests it pursuant to the third paragraph of section 93.1 or the third paragraph of section 168.

Nova Scotia Provincial Court Act, Chapter 238, 1989

Powers of Judicial Council

17 (1) The Judicial Council may

- (a) receive a complaint;
- (b) investigate a complaint;
- (c) resolve a complaint;
- (d) dismiss a complaint;
- (e) adjudicate a complaint;

- (f) retain counsel;
- (g) hold hearings;
- (h) delegate its functions to a committee or a member of the Judicial Council;
- (i) determine its own procedures and any procedures governing a review committee.

.....

Powers of Chief Judge upon receipt of complaint

17B (1) The Chief Judge to whom a complaint is made pursuant to Section 17A may (a) dismiss the complaint and provide **written reasons** to the complainant if

- (i) the complaint is not within the jurisdiction of the Judicial Council,
- (ii) the Chief Judge considers the complaint to be frivolous or vexatious, or
- (iii) there is no evidence to support the complaint;

(b) attempt to resolve the complaint;

(c) refer the complaint to the Chair of the Judicial Council together with a recommendation that the complaint

- (i) be dismissed,
- (ii) be resolved with the agreement of the judge, or
- (iii) be referred to a review committee for further investigation.

(2) Any discussions between the Chief Judge and the judge complained of respecting the complaint are confidential and shall not be disclosed by the Chief Judge to the Judicial Council.

Upon receipt of recommendation of Chief Judge 17C Upon receipt of a recommendation made pursuant to clause (c) of subsection (1) of Section 17B, the Chair of the Judicial Council may either accept the recommendation of the Chief Judge, and advise the complainant and the Judge in writing, or empanel a review committee.

Powers of Chief Judge without complaint 17D (1) The Chief Judge of the Family Court may, at any time, without a complaint having been made, review any matter respecting the conduct or fitness for office of a judge of the Family Court and may refer the matter in writing to the Chair of the Judicial Council.

(2) The Chief Judge of the Provincial Court may, at any time, without a complaint having been made, review any matter respecting the conduct or fitness for office of a judge of the Provincial Court and may refer the matter in writing to the Chair of the Judicial Council.

(3) The Chief Justice of Nova Scotia may, at any time, without a complaint having been made, review any matter respecting the conduct or fitness for office of the Chief Judge or Associate Chief Judge of the Family Court or the Chief Judge or Associate Chief Judge of the Provincial Court and may refer the matter in writing to the Chair of the Judicial Council.

Upon referral by Chief Judge 17E Upon receipt of a referral made pursuant to Section 17D, the Chair of the Judicial Council **shall empanel a review committee**.

Immunity (15) No proceedings lie against the Judicial Council or any member of the Judicial Council or any person acting under the authority of the Judicial Council for any act or omission that any of them, acting in **good faith**, reasonably believed was required or authorized by this Act.

38.(1) A person wishing to make a complaint about (a) the conduct of a judge or of a justice;
 (b) the neglect of duty by a judge or a justice; or
 (c) any matter which may lead a person to conclude that the ability or capacity of a judge or justice to perform their responsibilities has become substantially impaired or diminished or that they are otherwise unfit for office;

may file a complaint in writing with the registry of the court.

(2) A person who files a complaint may withdraw that complaint at any time with the consent of the council

39. The registry **shall provide a copy of the complaint immediately to the council, the chief judge, and to the judge or justice who is the subject of the complaint.**

40. **Within 30 days of receipt of the complaint, the chair of the council shall call a meeting to consider the complaint.**

41.(1) On considering the complaint, the council may

(a) dismiss the complaint if the council finds it unnecessary, scandalous, frivolous, vexatious, unfounded, brought in bad faith, or beyond its jurisdiction;

(b) refer the complaint to the chief judge to be disposed of by the chief judge in accordance with section 42;

(c) if the council considers that the complaint is one which should be heard but which it may be able to resolve without referring it to a judicial conduct tribunal, the council may, with the consent of the judge or justice who is the subject of the complaint,

(i) give the complainant and the respondent the opportunity to speak to the complaint in the presence of each other, and

(ii) dispose of the complaint by way of reprimand or dismiss the complaint; or

(d) order an inquiry by a tribunal.

(2) A judge or justice against whom a complaint has been made shall not participate as a member of council for the purposes of its reviewing a complaint against them.

(3) The council may investigate a complaint as it considers advisable to determine the disposition of a complaint under subsection (1).

(4) Where the council refers a complaint to a judicial conduct tribunal in accordance with paragraph 1(d), it may recommend the suspension of the judge or justice who is the subject of the complaint with or without pay to the tribunal that is to hear the complaint. The tribunal shall determine immediately whether or not the suspension is warranted and, if it considers the suspension is warranted, it shall suspend the judge or justice until the complaint is disposed subject to any terms and conditions it considers advisable.

42. The chief judge **shall rule on every complaint** referred to the chief judge under paragraph 41(1)(b) within 30 days of receiving the complaint and **shall promptly report the disposition of the complaint** to the complainant, the judicial council, and to the judge or justice who was the subject of the complaint.

43. A complainant who believes that the chief judge has erred in the disposition of the complainant's complaint may, within 30 days of the receipt of the chief judge's ruling, ask the council to review the complaint and the **council shall deal with the matter** in accordance with either paragraph 41(1)(c) or 41(1)(d).

44. A judicial conduct tribunal constituted to hear a matter referred to it by the council under section 41 of this Act shall be a deputy judge of the Supreme Court appointed by the Senior Judge of the Supreme Court

Alberta Judicature Act RSA 2000 Section 35 Chapter J-2

Complaints 34(1) A complaint may be made (a) to the Chief Judge of the Provincial Court in the case of a complaint about a judge or justice of the peace or to the Chief Justice of the Court of Queen's Bench in the case of a complaint about a master, or
(b) to the Judicial Council.

(2) The Chief Judge or the Chief Justice, as the case may be, **shall review any complaints** made under subsection (1)(a) and **shall review any matter** regarding the conduct of a judge, justice of the peace or master that comes to the Chief Judge's or Chief Justice's attention, whether or not a complaint has been made, and may do one or more of the following:

- (a) reprimand the judge, justice of the peace or master, as the case may be;
- (b) take corrective measures;
- (c) refer the matter to the Judicial Council;
- (d) determine that no further action need be taken.

(3) The Chief Judge may delegate the function of reviewing a matter or complaint in respect of a justice of the peace referred to in subsection (2) to the person referred to in section 9(1)(b) of the Justice of the Peace Act.

(4) **The Judicial Council shall receive and informally inquire into a complaint received by it under subsection (1) or referred to it under subsection (2)(c) and may do one or more of the following:**

- (a) reprimand the judge, justice of the peace or master, as the case may be;
- (b) take corrective measures;
- (c) refer the complaint for a judicial inquiry;
- (d) dismiss the complaint if it is frivolous or vexatious or is not about a matter in respect of which a complaint may be made;
- (e) determine that no further action need be taken.

(5) The proceedings under this section are not public.

(6) Where

(a) the Judicial Council finds that a complaint is frivolous or vexatious or is not about a matter in respect of which a complaint may be made, or

(b) the Chief Justice of the Court of Queen's Bench, the Chief Judge of the Provincial Court or the Judicial Council determines that no further action need be taken, the Judicial Council, the Chief Justice

or the Chief Judge, as the case may be, **shall in writing advise the complainant as to why that conclusion was reached.**

Manitoba The Provincial Court Act C.C.S.M. C. C275

Complaints 28(1) Any person may make a complaint to the Chief Judge alleging misconduct by a judge or the incapacity of a judge, and the complaint shall be dealt with in accordance with this Part.

Complaints about Chief Judge 28(2) Despite subsection (1), if the Chief Judge is the subject of a complaint, the complaint shall be made to the Chief Justice of the Queen's Bench.

.....

Chief Judge may investigate on own initiative 30 In addition to investigating a complaint received under subsection 28(1), the Chief Judge may, on his or her own initiative, investigate any matter respecting misconduct by a judge or the incapacity of a judge that comes to his or her attention, and the matter shall be dealt with in the same manner as a complaint is dealt with under this Part.

Powers of Chief Judge 31(1) After receiving a complaint the Chief Judge may

- (a) resolve the complaint if the Chief Judge obtains the agreement of the complainant and the judge;
- (b) if the Chief Judge is of the opinion that there is no basis for the complaint or that a more appropriate avenue should be pursued by the complainant, advise the complainant of that fact; or
- (c) refer the complaint in writing to the board for investigation.

Complaints referred directly to board

31(2) Despite subsection (1), the Chief Judge **shall refer a complaint to the board if**

- (a) the complaint alleges that a judge has committed an indictable offence;** or
- (b) in the opinion of the Chief Judge, the alleged misconduct by the judge may amount to conduct prejudicial to the administration of justice that brings the judicial office into disrepute.**

Notification of decision 31(3) The Chief Judge shall give the complainant and the judge who is the subject of the complaint notice in writing of his or her decision under subsection (1) **within 60 days after the date the complaint** was received, and the **notice to the complainant shall include information about referring the complaint** to the board under subsection (4).

Referral to board by complainant 31(4) A complainant who is dissatisfied with a decision of the Chief Judge under clause (1)(b) or who has not been notified within the time period referred to in subsection (3) may, in writing, refer the complaint to the board within 30 days of receiving a copy of the decision, or of the expiry of the time period, as the case may be.

Saskatchewan Provincial Court Act, 1998 Chapter P-30.11 Statutes Of Sk.

Review and investigation of complaint 55(1) The council shall review and, where necessary, investigate the conduct of a judge where the council:

- (a) receives a complaint respecting the judge alleging misconduct or incapacity; or
- (b) otherwise becomes aware of possible misconduct by the judge or possible incapacity of the judge.

(1.1) For the purposes of conducting a review and any necessary investigation of a matter mentioned in subsection (1), the council may ask the chairperson, or another member of the council designated by the chairperson, to conduct a review and investigation.

(1.2) The chairperson or member of the council designated by the chairperson pursuant to subsection (1.1) may:

(a) dismiss the complaint without further consideration by the council if the complaint is found to be frivolous, vexatious or wholly without merit; or

(b) refer the matter to the council for further review and investigation.

(1.3) Subject to any restrictions set out by the council, the decision of the chairperson or member of the council pursuant to subsection (1.2) is deemed to be the decision of the council.

(2) On completion of a review and any investigation, the council may:

(a) take no further action if the council is of the opinion that the matter does not constitute misconduct by the judge or establish incapacity of the judge;

(b) if it is of the opinion that the matter may be appropriately resolved without the appointment of a hearing committee and the judge consents, make a finding of misconduct or incapacity and:

(i) make an order pursuant to clause 62(2)(b), (c), (d), (e) or (f) or clause 62(3)(a), (b), (c) or (d); or

(ii) make any other remedial order that the council considers appropriate;

or (c) appoint a hearing committee pursuant to section 57 to hear the matter or any aspect of the matter.

....

Immunity from liability 63(1) No action lies or shall be commenced against a judge or a justice of the peace with respect to anything done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by the judge or the justice of the peace in the execution of his or her duties or with respect to any matter in which he or she lacked or exceeded jurisdiction, unless it is proved that the act or omission was done maliciously and without reasonable cause.

(2) No action lies or shall be commenced against the council, a hearing committee **or any member** or officer of the council or a hearing committee for any loss or damage suffered by any person by reason of **anything in good faith** done, caused, permitted or authorized to be done, attempted to be done or omitted to be done, by any of them, pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the performance of any duty imposed by this Act or the regulations or with respect to any matter in which he, she or it lacked or exceeded jurisdiction, unless it is proved that the act or omission was done maliciously and without reasonable cause.

Prince Edward Island Provincial Court Act, RSPEI 1988, C P-25

Inquiry by Supreme Court judge 10. (1) Where the Lieutenant Governor in Council has reason to believe that a judge is guilty of misbehaviour or is unable to perform his or her duties properly, the Lieutenant Governor in Council shall by order appoint a judge of the Supreme Court to inquire into and report on the matter.

Powers (2) A judge of the Supreme Court who is appointed pursuant to subsection (1) has, for the purposes of the inquiry, all the powers of a commissioner under the Public Inquiries Act, R.S.P.E.I. 1988, Cap. P-31 and may direct that the inquiry be open to the public or held in camera.

Notice (3) The judge whose behaviour is the subject of the inquiry shall be given notice of the time and place appointed for the inquiry and he or she may attend with counsel of his or her choice, produce evidence and cross-examine witnesses.

....

Recommendations (5) Where the report of the judge of the Supreme Court confirms that the judge is guilty of misbehaviour or is unable to perform his or her duties properly, the judge of the Supreme Court shall report to the Lieutenant Governor in Council and shall make one or more of the following recommendations:

- (a) dismiss the complaint;
- (b) reprimand the judge;
- (c) recommend that the judge be suspended for a determinate period; or
- (d) recommend that the judge be dismissed from office.

Resumption of Duties (6) Where the report of the judge of the Supreme Court does not find that the judge is guilty of misbehaviour or is unable to perform his or her duties properly, the judge shall resume the duties of his or her office.

Powers of Lieutenant Governor in Council (7) Where the report of inquiry recommends that the judge be suspended for a determinate period or recommends that the judge be dismissed from office, the Lieutenant Governor in Council may (a) suspend the judge for such period of time as the Lieutenant Governor in Council may consider advisable; or (b) remove the judge from office.

Copies of report (8) The judge of the Supreme Court shall give a copy of his or her report to the judge whose behaviour is the subject of the inquiry.

JCNB DISHONESTY / PARTIALITY BREACHES ETHICS / CRIMINAL CODE / RULE OF LAW AGAINST ABSURD STATUTORY INTERPRETATION

11. Chief Justice abusing public power to help criminals to retain proceeds of crime and steal more from same victim, is a breach of rule of law against absurd statutory interpretation. Suppose criminal judges discover that other judges will lie to protect them regardless of crimes committed, that would encourage more acts to harm the “integrity of the judiciary”. Every profession has professional malpractice penalties to safeguard the integrity of the profession e.g. lawyers, doctors, engineers etc. etc. Judges are the only profession where professional malpractice is encouraged to such a point that they are acting like an organized crime syndicate.

12. *Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 SCR 27, 1998 CanLII 837 (SCC) 27 consequences or effects which result from the Court of Appeal's interpretation of ss. 40 and 40a of the ESA are **incompatible with both the object of the Act** ... It is a well established principle of statutory interpretation that the legislature does not intend to produce **absurd consequences**. According to Côté, *supra*, an interpretation can be considered absurd if it leads to **ridiculous or frivolous consequences, if it is extremely unreasonable or inequitable, if it is illogical or incoherent, or if it is incompatible with other provisions or with the object** of the legislative enactment (at pp. 378-80). Sullivan echoes these comments noting that a label of **absurdity** can be attached to interpretations which **defeat the purpose of a statute** or render some aspect of it pointless or futile (Sullivan, *Construction of Statutes*,...

13. An appeal has no consequences for fraudulent misconduct. No other profession can avoid the consequences of fraud, for example the police obviously did not go to the airport intending to kill, but lied under oath & suffered a penalty.

14. “the RCMP officer who fired a Taser the night Robert Dziekanski died at Vancouver International Airport, has been sentenced to 30 months in prison for perjury and colluding with his fellow officers at an inquiry into the death... to claim Dziekanski was standing while he Tasered him a second time, when it's clear from bystander video the Polish immigrant was already on the ground.”

15. **Does Chief Justice encouraging fraud by other judges threaten the integrity of the judiciary as a whole?** Moreau Bérubé v. New Brunswick (Judicial Council), [2002] 1 S.C.R. 249, 2002 SCC 11 “expertise of the Judicial Council lies in its appreciation of the distinction between impugned judicial actions that can be dealt with through a normal appeal process, and those that may **threaten the integrity of the judiciary as a whole**,...”.

16. 31(2) Manitoba Provincial Court Act test should now be applied, failure to do so is a breach of the rule of law against absurd statutory interpretation of Courts Justice Act.

- a) Manitoba Provincial Court Act; Complaints referred directly to board 31(2) Despite subsection (1), the Chief Judge shall refer a complaint to the board if (a) the complaint alleges that a judge has committed an **indictable offence**; or (b) in the opinion of the Chief Judge, the alleged misconduct by the judge may amount to conduct prejudicial to the **administration of justice that brings the judicial office into disrepute**.

LAW WITHOUT THE PURSUIT OF JUSTICE IS JUST A STATEMENT OF WORDS

<http://www.gg.ca/document.aspx?id=14195>

17. And by rule of law, I mean the prevailing legal system in Canada centred upon the constant, relentless pursuit of justice. **Law without the pursuit of justice is just a statement of words**. The rule of law, married to the constant pursuit of justice, is what makes us free. How do we take a strong foundation and make it better? Or, as the coat of arms adopted when I became governor general, says, Contemplanre Meliora: “To envisage a better world.”.....I would ensure there is a broad and extensive focus on ethics in law school, to help aspiring lawyers develop a greater understanding of the **ethical implications of a proposed course of action** and to see their public trustee role.

https://www.nytimes.com/2017/01/31/us/politics/full-transcript-video-trump-neil-gorsuch-supreme-court.html?_r=0

18. It is the role of judges to apply, not alter, the work of the people’s representatives. A judge who likes every outcome he reaches is very likely a **bad judge**..... stretching for results he prefers rather than those the law demands.

RULE OF LAW AGAINST CONFLICT OF INTEREST ADMINISTRATIVE OR JUDICIAL DECISION MAKERS

19. It is a fact commonly known to the community that priests investigating priests accused of sexual abuse creates more victims than if the police were in charge of investigations. Gonthier J. in Therrien

said “other judges may be the only people in a position to consider and weigh effectively all the applicable principles”, this is wholly inaccurate, with judge’s instruction on the law juries make decisions on all manner of complex indictable offences.

20. “deterrent”, “responsibility’ is why “**government... will not receive preferential treatment**”, “public interest **political consequences ... should never affect Crown counsel’s**” Ontario Policy Manual

16. “(b) where the accused is a **sitting member**, or a candidate in an election, of the **Legislative Assembly** of New Brunswick, or an agent of such a person, the matter shall be referred to an out-of-province prosecutor;”

(c) where the **accused is a member of the judiciary**, the matter shall be referred to an outside prosecutor;

(d) where the accused is a **deputy head**, as defined in the **Civil Service Act**, the matter shall be referred to an outside prosecutor;

(e) where the accused is a Crown Prosecutor or **administrator with Public Prosecution Services**, the matter shall be referred to an out-of-province prosecutor;

(f) where the accused is an **employee of Public Prosecution Services** other than a Crown Prosecutor or administrator, the matter shall be referred to an outside prosecutor;

....not referring the matter to an outside prosecutor could bring the administration of justice into disrepute” New Brunswick Policy Manual

17. R. v. Papadopoulos, 2005 CanLII 8662 (ON CA) [22] The appellants rely upon the following statement by LeDain J. in Cardinal and Oswald v. Director of Kent Institution (1985), 1985 CanLII 23 (SCC), 23 C.C.C. (3d) 118 (S.C.C.), at p. 132: I find it necessary to affirm **that the denial of a right to a fair hearing must always render a decision invalid**, whether or not it may appear to a reviewing court that the hearing would likely have resulted in a different decision. **The right to a fair hearing must be regarded as an independent, unqualified right** which finds its essential justification in the sense of procedural justice which any person affected by an administrative decision is entitled to have. It is not for a court to deny that right and sense of justice on the basis of speculation as to what the result might have been had there been a hearing [emphasis added]. [23] Cardinal was an administrative law case in which the director of a penal institution had declined to follow the recommendations of a classification board that the claimants be returned from isolation to the general prison population, and who had refused to allow the claimants to make representations regarding their version of events. It has been cited in many authorities for the proposition that the **denial of a right to a fair hearing cannot be cured and must always render the decision invalid**: see for example, Gale v. Canada (Treasury Board), 2004 FCA 13.; Newfoundland Telephone Co. v. Newfoundland (Board of Commissioners of Public Utilities), 1992.. 84 (SCC),[1992]1S.C.R. 623, at para. 40; and Mobil Oil Canada Ltd. v. Canada-Newfoundland Offshore Petroleum Board, 1994 CanLII 114 (SCC), [1994] 1 S.C.R. 202.

S507.1 BURDEN OF PROOF FOR SUMMONS / NEW EVIDENCE HEARING

18. JCBN good faith duties are a constitutional, statutory and common law “**positive rights of performance**”, which is akin to s507.1 duty to “shall hear and consider”, therefore in light of ongoing and new crimes by judges, there is a positive duty to reprimand fraudulent motive for Chief Judge refusal of statutory duties.

19. **“Absence of good faith can be deduced and bad faith presumed”**. s507.1 summons is not a guilty verdict, JCBN cannot justify s22.2, 25.1(9)(11b) Criminal Code breaches.

20. Prosecution of JCBN for **bad faith** is a constitutional, statutory and common law right. To be clear any person that does anything to obstruct the trial that will result from s507.1 summons, is committing an s139, 21b, 23, 341 crime, that will trigger the necessary legal responses.

JCBN S21B MOTIVE FOR LACK OF REASON WHY DEFRAUDING S504 S507.1 IS NOT MISCONDUCT, NEGLIGENCE OF DUTY OR INABILITY TO PERFORM REQUIRED DUTIES

21. In order to decide whether or not to prosecute JCBN, a refusal order must clearly state in reasons that deliberate dishonesty and deliberate partiality towards dishonest judges is not **derogatory to the integrity of the judiciary or a breach of impartially, honestly, faithfully**.

22. R. v. R.E.M., 2008 SCC 51, [2008] 3 SCR 3, “Reasons provide public accountability of the judicial decision; justice is not only done, but is seen to be done. Thus, it has been said that the main object of a judgment “is not only to do but to seem to do justice”:

23. R. v. S. (R.D.), [1997] 3 S.C.R. 484 “whether the impugned conduct gives rise to a reasonable apprehension of bias. Actual bias need not be established because it is usually impossible to determine whether the decision-maker approached the matter with a truly biased state of mind. ... The test is what would an informed person, viewing the matter realistically and practically -- and having thought the matter through – conclude”

JCBN LIMIT TO DISCRETION / BAD FAITH LACK OF REASONS TO REFUSE

24. Provincial Councils preclude prosecution for good faith, prosecuting bad faith is allowed.

25. Provincial Councils require a response to complainant with written reasons, therefore JCBN deliberately false reasons is fraud.

26. The following case law describes the **limit to discretionary public power**, JCBN only has immunity for good faith decisions consistent of the objects of the Act, a clear departure from the objects of Provincial Courts Act by making a decision to encourage judges to act deliberately dishonestly, partially, unfaithfully then JCBN no longer enjoys immunity.

27. Roncarelli v. Duplessis 1959 CanLII 50 (SCC), [1959] S.C.R. 121,**there is no such thing as absolute and untrammelled "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**.

28. 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**”:

29. Canadian Broadcasting Corporation v The Queen, 1983 CanLII 50 (SCC), [1983] 1 S.C.R. 339 ..”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”

30. Garland v. Consumers’ Gas Co., [2004] 1 S.C.R. 629, 2004 SCC **the legislature could not reasonably be believed to have contemplated** ... criminal conduct, despite the broad wording of the section ... “[t]he defendant can point to no case which allows the defence unless the federal statute in question uses the word ‘unduly’ or the phrase ‘in the public interest’”. Absent such recognition in the statute of “public interest”, he held, no leeway

BAD FAITH COMMON LAW TESTS FOR REMOVING IMMUNITY

31. Douglas v. Canada (Attorney General), 2014 FC 299 (CanLII)
[118] ... Parliament cannot have intended that an Inquiry Committee be excused of its obligations to provide procedural fairness, as would be found in a court, on the ground that it is not a court, and simultaneously seek to insulate itself from judicial review on the basis that it is deemed to be a superior court. [119] **Immunizing the Council’s decisions from review offends the principle that all holders of public power should be accountable for their exercises of power:** per Stratas JA in Slansky FCA, above, at paras 313-314. As mentioned above, where the issue arising from an impugned decision goes to a breach of procedural fairness, the **decision-making body may be deprived of jurisdiction**. Statutory tribunals cannot be immunized from review of such errors: Crevier v Quebec (Attorney General) (1981), 1981 CanLII 30 (SCC), 127 DLR (3d) 1 at para 20 (SCC) [Crevier]; Shubenacadie Indian Band v Canada (Canadian Human Rights Commission) (re MacNutt) (1997), 1997 CanLII 6370 (FC), 154 DLR (4th) 344(FC) at para 40.

JCBN BREACH OF CHARTER RIGHTS AND FREEDOMS

32. Refusing to consider a reprimand “**inaction.... interference**” in positive Charter rights;
33. 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 ... environment in which their s. 7 rights were threatened, nor do they need to establish that the government’s **inaction worsened their plight..** “[i]n some contexts it will be proper to characterize s.15 as providing **positive rights**”.... 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**....

34. “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...**”

35. Johnston et al. v. Prince Edward Island, 1995 CanLII 10509 (NL SCTD) [302].... City of Kamloops v. Nielsen, 1984 CanLII 21 (SCC), [1984] 2 S.C.R. 2, at p. 24, by Wilson, J., in these words: 'In my view, inaction for no reason or inaction for an improper reason cannot be a policy decision taken in the bona fide exercise of discretion. Where the question whether the requisite action should be taken **has not even been considered by the public authority, or at least has not been considered in good faith...**

CRIMINAL CODE LIMIT ON INHERENT JURISDICTION

36. The rule of law right against using inherent jurisdiction for bad faith excess of constitution, statutes, is part of the constitution;

Verge Insurance Brokers Limited et al. v Richard Sherk et al., 2015 ONSC 4044 (CanLII)

[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)..

[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-op...*

[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.

[64] Inherent jurisdiction is “not limitless; if the legislative body has not left a functional gap or vacuum, then **inherent jurisdiction should not be brought into play**”: see *Royal Oak Mines Inc. (Re)*, 1999...

[65] “[W]here the usefulness of the powers under the Rule ends, the usefulness of the powers of inherent jurisdiction begins . . . they are wider and more extensive powers . . . filling any gaps left by the Rules . .

[66] Furthermore, s. 146 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 **restricts the scope of inherent jurisdiction to situations where there is an “absence of express provision for procedures”**

JCBN LIABILITY FOR FAILURE TO REPRIMAND AND REMOVE

Paquette v. Desrochers, 2000 CanLII 22729 (ON SC)...In law, can the Attorney General be liable in tort for damages occasioned by a malicious failure to prosecute?

[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 expounded by the Supreme Court of Canada in *Nelles*.

All of which respectfully submitted by Ade Olumide