



ONTARIO JUDICIAL COUNCIL

ANNUAL REPORT 2024



The Honourable Michael H. Tulloch
CHIEF JUSTICE OF ONTARIO
Co-Chair, Ontario Judicial Council



The Honourable Sharon M. Nicklas
CHIEF JUSTICE
ONTARIO COURT OF JUSTICE
Co-Chair, Ontario Judicial Council



ONTARIO JUDICIAL COUNCIL

May 20, 2025

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

It is our pleasure to submit the Annual Report of the Ontario Judicial Council concerning its twenty-eighth year of operation, in accordance with s. 51(6) of the *Courts of Justice Act*. The period of time covered by this Annual Report is from January 1 to December 31, 2024.

Respectfully submitted,

Michael H. Tulloch
Chief Justice of Ontario
President of the Court of Appeal for Ontario

Sharon M. Nicklas
Chief Justice
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1. INTRODUCTION

The Ontario Judicial Council is an independent body established by the Province of Ontario under the *Courts of Justice Act*, R.S.O. 1990, c. C.43, with a mandate to receive and investigate complaints about the conduct of provincially appointed judges. The *Courts of Justice Act* (also referred to as “the Act”) provisions establishing and governing the Ontario Judicial Council are available on the government’s e-laws website at:

- <https://www.ontario.ca/laws/statute/90c43>

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

The 2024 Annual Report provides information on the Council’s membership, its functions, policies and procedures, and its work during the 2024 reporting year. During the period of time covered by this Report, the Ontario Judicial Council had jurisdiction over 381 provincially appointed judges, including full-time and *per diem* judges.

Provincial judges play an important role in the administration of justice in Ontario. They routinely preside over complex and serious family and criminal proceedings and perform difficult, and important work in the justice system. The judicial officers whose conduct is under the jurisdiction of the Ontario Judicial Council preside over proceedings in the Ontario Court of Justice.

The Ontario Court of Justice is the busiest trial court in Canada. In an average year, judges of the Court deal with over 245,000 adult and youth criminal cases and approximately 8,300 new family law proceedings. The Court holds sittings at approximately 140 locations across Ontario, ranging from large courthouses in cities to fly-in locations in northern Ontario.

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

- <https://www.ontariocourts.ca/ocj/conduct/ojc/>

The website contains:

- ♦ the Council’s current policies and procedures
- ♦ updates about any public hearings that are in progress
- ♦ decisions made in public hearings
- ♦ the Principles of Judicial Office

- ♦ the Continuing Education Plan for judges of the Ontario Court of Justice

2. COMPOSITION AND TERMS OF APPOINTMENT

The *Courts of Justice Act* sets out the membership of the Ontario Judicial Council and terms of appointment:

- ♦ the Chief Justice of Ontario (or designate from the Court of Appeal)
- ♦ the Chief Justice of the Ontario Court of Justice (or designate from the Ontario Court of Justice)
- ♦ the Associate Chief Justice of the Ontario Court of Justice
- ♦ a Regional Senior Judge of the Ontario Court of Justice appointed by the Lieutenant Governor in Council on the recommendation of the Attorney General
- ♦ two judges of the Ontario Court of Justice appointed by the Chief Justice of the Ontario Court of Justice
- ♦ the Treasurer of the Law Society of Ontario or another bencher of the Law Society who is a lawyer, designated by the Treasurer
- ♦ a lawyer who is not a bencher of the Law Society of Ontario, appointed by the Law Society
- ♦ four persons, neither judges nor lawyers, who are appointed by the Lieutenant Governor in Council on the recommendation of the Attorney General

The Chief Justice of Ontario or another judge of the Court of Appeal designated by the Chief Justice chairs all public hearings regarding the conduct of a particular judge and chairs all proceedings dealing with applications for orders of accommodation of a judge's needs resulting from a disability or requests for continuation in office by a Chief Justice or an Associate Chief Justice. The Chief Justice of the Ontario Court of Justice, or another judge of that Court designated by the Chief Justice, chairs all Council meetings.

The judges appointed by the Chief Justice, the lawyer appointed by the Law Society of Ontario, and the community members appointed by the Lieutenant Governor, hold office for 4-year terms and may not be re-appointed. In the appointment of these members to the Council, the importance of reflecting Ontario's linguistic duality and the diversity of its population and ensuring overall gender balance on the Council is recognized.

3. MEMBERS

The membership of the Ontario Judicial Council in 2024 was as follows:

Court of Appeal for Ontario

- ◆ The Honourable Michael H. Tulloch, Chief Justice of Ontario (Co-Chair)

Ontario Court of Justice

- ◆ The Honourable Sharon M. Nicklas, Chief Justice of the Ontario Court of Justice (Co-Chair)
- ◆ The Honourable Aston Hall, Associate Chief Justice of the Ontario Court of Justice
- ◆ The Honourable Justice Esther Rosenberg, Regional Senior Justice (Central East Region)
(Until May 31, 2024)
- ◆ The Honourable Justice Vincent Clifford, Regional Senior Justice (East Region)
(Effective June 1, 2024)

Two judges appointed by the Chief Justice of the Ontario Court of Justice

- ◆ The Honourable Justice Riun Shandler (Toronto)
- ◆ Local Administrative Judge Melanie Dunn (Northeast Region)

Lawyer Members

- ◆ Andrew Spurgeon, Designate for Treasurer of the Law Society of Ontario
(Until October 28, 2024)
- ◆ Jonathan Rosenthal, Designate for Treasurer of the Law Society of Ontario
(Effective October 29, 2024)

Lawyer member appointed by the Law Society of Ontario

- ◆ Ena Chadha, Chair of the Board of Directors of the Human Rights Legal Support Centre

Community Members

- ◆ Jasmit (Jaz) Singh (Oakville), Senior Financial Planning Analyst, Peel Regional Police

- ◆ Cameron MacKay (Toronto), Senior Vice-President, Communications and Public Engagement, Waterfront Toronto
- ◆ Jovica Palashevski (Mississauga), President of Global Consulting
- ◆ Robert (Peter) Woolstencroft (Waterloo), Professor Emeritus, Political Science, University of Waterloo
(Effective February 1, 2024)

Temporary Members

Subsection 49(3) of the *Courts of Justice Act* permits the Chief Justice of the Ontario Court of Justice to appoint a provincial judge to be a temporary member of the Ontario Judicial Council to meet the quorum requirements of the legislation with respect to Judicial Council meetings, review panels and hearing panels.

During the period covered by this report, the following judge of the Ontario Court of Justice was appointed by the Chief Justice as a temporary member for purposes of meeting the quorum requirements of the legislation with respect to Judicial Council meetings and review panels:

- ◆ The Honourable Justice Manjusha Pawagi (Toronto)

4. COUNCIL ADMINISTRATION AND STAFF

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

- Alison Warner – Registrar
- Shoshana Bentley-Jacobs – Counsel & Deputy Registrar
- Lauren Binhammer – Acting Counsel & Deputy Registrar
- Philip Trieu – Assistant Registrar
- Lily Miranda – Acting Assistant Registrar
- Astra Tantaló – Administrative Assistant

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

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

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

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

5. FUNCTIONS OF THE JUDICIAL COUNCIL

The *Courts of Justice Act* prescribes the following functions of the Council:

- ◆ to establish complaint subcommittees from amongst its members to receive and investigate complaints about the conduct of judges, and report to the Judicial Council;
- ◆ to establish review panels to consider complaints referred by the complaint subcommittees and decide upon dispositions under s. 51.4(18);
- ◆ to hold hearings under s. 51.6 when hearings are ordered by review panels pursuant to s. 51.4(18);

- ◆ to review and approve standards of conduct;
- ◆ to consider and approve continuing education plans for the judges;
- ◆ to consider applications by judges under s. 45 for orders for accommodation of needs arising from disabilities to enable them to perform their judicial duties; and,
- ◆ to consider requests by the Chief Justice of the Ontario Court of Justice or the Associate Chief Justices to continue in office beyond age sixty-five.

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

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

The Council is not to be confused with an appellate court. The Council does not have the power to interfere with a court case or change a decision made by a judge. If a person believes that a judge made an error in assessing evidence or in deciding a legal issue, the proper way to proceed is by pursuing available legal remedies through the courts, such as an appeal.

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

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

6. COMMUNICATIONS

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

- <https://www.ontariocourts.ca/ocj/conduct/ojc/hearings/current-public-hearings/>

Information about decisions made during hearings are posted under the link, “Public Hearing Decisions” at:

- <https://www.ontariocourts.ca/ocj/conduct/ojc/hearings/public-hearing-decisions/>

Each Annual Report of the Council is made available on the Council’s website at <https://www.ontariocourts.ca/ocj/conduct/ojc/publications/annual-reports/> no later than thirty days after it has been sent to the Attorney General.

7. EDUCATION PLAN

Control over judicial education is within the sole purview of the Ontario Court of Justice. The Chief Justice of the Ontario Court of Justice is required by s. 51.10 of the *Courts of Justice Act* to implement and make public a plan for the continuing judicial education of provincial judges. The continuing education plan is developed by the Chief Justice in conjunction with the Education Secretariat. Pursuant to s. 51.10(1), the education plan must be approved by the Judicial Council.

The most recent version of the continuing education plan can be found on the Council’s website under the link, “Continuing Education Plan for Judges of the Ontario Court of Justice” at:

- <https://www.ontariocourts.ca/ocj/conduct/ojc/publications/education-plan/>

8. STANDARDS OF CONDUCT

The Chief Justice of the Ontario Court of Justice is empowered to establish “standards of conduct for provincial judges” under s. 51.9 of the *Courts of Justice Act*.

A document entitled the *Principles of Judicial Office* was prepared by the Judicial Conduct Subcommittee of the Chief Judge’s Executive Committee in consultation with the Judges’ Association and the judges of the Ontario Court of Justice. The document was then

submitted to the Ontario Judicial Council for its review and approval in the second year of the Council's operation, as required by s. 51.9(1) of the Act.

The *Principles* set out standards of excellence and integrity to which judges should subscribe. They are not exhaustive. Intended to assist judges in addressing ethical and professional dilemmas, they also serve to assist the public in understanding the standards of conduct expected of judges both on and off the bench.

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

In 2024, the Chief Justice proposed several amendments to the *Principles of Judicial Office*, in consultation with the Association of Ontario Judges. The amendments were both substantive and stylistic. Substantive amendments included:

- noting the importance of respectfully maintaining order, decorum and solemnity in court in both in-person and virtual settings (section 1.3);
- noting the need to be mindful of the differing backgrounds, circumstances and needs of the participants in the proceedings (section 2.2, commentary a);
- noting the importance of engaging in continuing education and self-directed learning in order to maintain currency in the knowledge and skills required to fairly discharge one's judicial duties (section 2.4, commentary a);
- noting that contributions to organizations or community needs should be made in a personal capacity, detached from the judicial title or role (section 3.4, commentary a); and
- noting the need to exercise caution in the use of social media (section 3.5).

Stylistic changes included using the affirmative or declarative voice rather than the prescriptive, similar to the formulation of the Canadian Judicial Council's *Ethical Principles for Judges* (2021).

In accordance with s. 51.9(1) of the *Courts of Justice Act*, these amendments were approved by the Ontario Judicial Council on July 19, 2024.

The *Principles of Judicial Office*, as amended, are posted on the Council's website at:

- <https://www.ontariocourts.ca/ocj/conduct/ojc/standards-of-conduct/>

In 2005, the Chief Justice, together with the Ontario Conference of Judges, proposed to the Judicial Council that the Canadian Judicial Council's *Ethical Principles for Judges* (1998) also form part of the ethical standards governing the conduct of judges of the Ontario Court of Justice. The Judicial Council agreed.

In 2021, the Canadian Judicial Council adopted an updated version of the *Ethical Principles for Judges*, which provides guidance on the high standards of conduct expected of members of the judiciary both on and off the bench.

In 2023, the Chief Justice proposed to the Ontario Judicial Council that the Canadian Judicial Council's *Ethical Principles for Judges* (2021) form part of the ethical standards governing the conduct of judges of the Ontario Court of Justice. The Judicial Council agreed and they also form part of the ethical standards governing the conduct of judges of the Ontario Court of Justice.

9. JUDICIAL APPOINTMENTS ADVISORY COMMITTEE

A member of the Ontario Judicial Council serves on the provincial Judicial Appointments Advisory Committee as its representative. Justice Riun Shandler acted as the Judicial Council's representative on the Judicial Appointments Advisory Committee during the period covered by this report.

10. APPLICATIONS FOR ACCOMMODATION

A judge who believes that they are unable, because of a disability, to perform the essential duties of office unless their needs are accommodated may apply to the Council under s. 45 of the *Courts of Justice Act* for an order that such needs be accommodated to enable them to perform the essential duties.

The Ministry of the Attorney General, with input from the Office of the Chief Justice, has a process that provides a consistent means for judicial officers to request accommodation of needs arising from disabilities. The Council recognizes that the Ministry has access to the expertise and resources to properly assess and address requests for accommodation of needs. For the Council to properly consider applications for accommodation, the applicant judge must first exhaust the accommodation of needs process that is available through the Ministry of the Attorney General. When that process has been completed, if the judge wishes to apply to the Council, they must provide a copy of all documentation from the Ministry's application process, including medical evidence and decisions.

Rule 25 of the Council's Procedures sets out the policy governing applications for an order of accommodation:

- <https://www.ontariocourts.ca/ocj/conduct/ojc/publications/procedures/>

The Council did not receive any applications for an accommodation order to enable the performance of essential duties during the reporting year. An application for an accommodation order received in the previous year was administratively dismissed.

11. THE JUDICIAL COMPLAINTS PROCESS

i. Who may file a complaint?

Any person may make a complaint to the Judicial Council about the conduct of a provincially appointed judge.

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

The Judicial Council has a legislative mandate to review complaints about the **conduct** of judges. The Council has no authority to review the **decisions** of judges to determine whether there were any errors in how the issues were determined or how conclusions were drawn. If a party involved in a court case thinks that a judge reached the wrong decision in the case, they may have legal remedies through the courts, such as an appeal or application for judicial review. Only a court can change a decision or order of a judge.

All correspondence sent to the Judicial Council is reviewed to determine whether a complaint is within the jurisdiction of the Council. In cases where the complaint may be within the jurisdiction of the Council, a complaint file is opened and a letter of acknowledgement is sent to the complainant.

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

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

If the complaint raises allegations of conduct about a judge arising from a court proceeding that is still ongoing, the Council will not generally commence an investigation until that court proceeding and any appeal or other related legal proceedings have been completed. This is to ensure that any investigation by the Council does not interfere and is not perceived to be interfering with ongoing court matters.

iii. What happens in the complaints process?

The *Courts of Justice Act* and the procedures that have been established by the Council provide the framework for addressing complaints about judges. If a complaint is ordered to a public hearing, certain provisions of the *Statutory Powers Procedure Act* also apply. The complaints procedure is outlined below.

a) Role of Complaint Subcommittees

Once a complaint file is opened, it is assigned to a two-member complaint subcommittee of the Judicial Council for review. Complaint subcommittees are composed of a provincially appointed judge (other than the Chief Justice of the Ontario Court of Justice) and a community member. Complaints are generally not assigned to members from the same region where the judge who is the subject of the complaint presides. This avoids any risk or perception of bias or conflict of interest between a member of the Council and the subject judge.

Section 51.4(6) of the Act requires that the complaint subcommittee's investigation be conducted in private.

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

Section 51.4(3) of the *Courts of Justice Act* empowers the complaint subcommittee to dismiss complaints which are either outside of the jurisdiction of the Council or which, in the opinion of the complaint subcommittee, are frivolous or an abuse of process. If the subcommittee determines that the complaint lacks any merit, it may decide to summarily dismiss the complaint.

In some cases, the subcommittee may decide that further investigation into the complaint is needed. Pursuant to s. 51.4(5) of the Act, the subcommittee may retain independent counsel to assist in the investigation, for example, by conducting interviews with witnesses.

The subcommittee may also decide to invite the judge to submit a written response to the complaint. In such cases, a copy of all the materials considered by the subcommittee will be provided to the judge, together with a letter from the Judicial Council inviting a response. The judge may seek independent legal advice to provide assistance in responding to the complaint.

In cases where a complaint subcommittee determines that a complaint is not suitable for summary dismissal, the complaint subcommittee reports to a review panel of the Judicial Council. The report describes the allegations, the investigation, and recommends a disposition (i.e., dismissal, referral to the Chief Justice, or ordering the complaint to a hearing).

b) Interim Recommendations

In the course of its investigation, the complaint subcommittee may also consider whether the allegation(s) warrant making an interim recommendation of suspension or re-assignment. Under s. 51.4(8) of the Act, the committee may make an interim recommendation to the Regional Senior Justice where the judge presides that the judge be suspended with pay or reassigned to another court location pending the final disposition of the complaint.

A Regional Senior Justice has discretion to accept or reject a complaint subcommittee's interim recommendation. If the Regional Senior Justice decides to suspend the judge pending the final disposition of the complaint, pursuant to the legislation, the judge will continue to be paid.

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

- ◆ the complaint arises out of a working relationship between the complainant and the judge and the complainant and the judge both work at the same court location;
- ◆ allowing the judge to continue to preside would likely bring the administration of justice into disrepute;
- ◆ the complaint is of sufficient seriousness that there are reasonable grounds for investigation by law enforcement agencies; and/or
- ◆ it is evident to the complaints committee that the judge is suffering from a mental or physical impairment that cannot be remedied or reasonably accommodated.

Where a complaint subcommittee is considering making an interim recommendation, it may (but is not required to) provide the judge with an opportunity to make written submissions on the issue before making its decision.

Particulars of the factors behind the complaint subcommittee's interim recommendation are provided to both the Regional Senior Justice receiving the interim recommendation and to the judge.

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

Of the files closed in this reporting year, no judge who was the subject of a complaint was suspended or reassigned to another court location pending the final disposition of the complaints process.

c) Role of Review Panels

Review panels are composed of two provincial judges (other than the Chief Justice of the Ontario Court of Justice), a lawyer and a community member. Complaint subcommittee members who investigated the complaint do not sit on the review panel.

A review panel will review the report of the complaint subcommittee and all relevant materials considered by the subcommittee in its investigation.

Pursuant to s. 51.4(18), the review panel may:

- ◆ dismiss the complaint;
- ◆ refer it to the Chief Justice of the Ontario Court of Justice, and if the subject judge agrees, impose conditions (for example, counselling, remedial education) on the decision to refer the complaint;
- ◆ refer it to a mediator; or
- ◆ order that a hearing into the complaint be held.

Pursuant to the Council's conflict of interest policy, a Council member who is assigned to consider a complaint is required to immediately advise Council staff if they have an actual or potential conflict of interest, for example, as a result of a relationship with the subject judge, the complainant, or a witness involved in the complaint, so that the complaint may be promptly reassigned to a different member of the Council for consideration.

d) Tests Applied by Review Panels in Disposing of Complaints

The Procedures of the Council establish the following tests for the disposition of complaints.

i) Dismissal

A review panel may decide to dismiss a complaint on any of the following grounds:

- ◆ it is frivolous or an abuse of process;
- ◆ it falls outside of the Judicial Council's jurisdiction because it is a complaint about how a judge exercised judicial discretion;
- ◆ it does not include an allegation of judicial misconduct;
- ◆ it is not supported by the evidence gathered during the investigation; or,
- ◆ the actions or comments of the judge do not rise to the level of misconduct that requires further action on the part of the Council.

ii) Referral to the Chief Justice

A review panel shall refer a complaint to the Chief Justice where a majority of the panel concludes that:

- ◆ referring the complaint to the Chief Justice of the Ontario Court of Justice is a suitable means of informing the judge that the judge's conduct was not appropriate in the circumstances that led to the complaint;
- ◆ the conduct complained of does not warrant another disposition; and
- ◆ there is some merit to the complaint.

A review panel may impose conditions of a referral to the Chief Justice, such as a requirement that the judge participate in a course of action or remedial training. Any condition of a referral to the Chief Justice may only be imposed with the judge's consent.

iii) Mediation

A complaint *may not* be referred to mediation in the following circumstances:

- ◆ where there is a significant power imbalance between the complainant and the judge, or there is such a significant disparity between the complainant's and the judge's accounts of the event with which the complaint is concerned that mediation would be unworkable;
- ◆ where the complaint involves an allegation of sexual misconduct or an allegation of discrimination or harassment because of a prohibited ground of discrimination or harassment referred to in any provision of the *Human Rights Code*; or
- ◆ where the public interest requires a hearing of the complaint: s. 51.5(3) of the Act.

The Judicial Council has not established a mediation process pursuant to s. 51.5(1) of the Act.

iv) Order a Hearing

A review panel may order a hearing if a majority of the panel is of the opinion that:

- ◆ there has been an allegation of judicial misconduct that has a basis in fact; and
- ◆ such allegations, if believed by a Hearing Panel, could result in a finding of judicial misconduct

e) Reporting the Disposition of Complaints by Complaint Subcommittees and Review Panels

After a complaint subcommittee or review panel determines the appropriate disposition of a complaint, it communicates its decision to the complainant and, in most cases, to the judge.

Judges may waive notice of complaints made about their conduct in circumstances where the judge is not invited to respond to the complaint and the complaint is dismissed.

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

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

f) Hearings under s. 51.6 of the *Courts of Justice Act*

Hearings of the Judicial Council are presided over by four Council members who were neither part of the complaint subcommittee nor the review panel. The Chief Justice of Ontario, or another judge designated by the Chief Justice, chairs the hearing panel. A judge of the Ontario Court of Justice, a lawyer member and a community member also sit on the hearing panel.

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

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

A hearing into a complaint is public unless a hearing panel determines, in accordance with s. 51.6(7) of the *Courts of Justice Act* and r. 19.1 of the OJC Procedures Document, that it should proceed in part or entirely in private. These criteria include whether the hearing involves matters of public security that may be disclosed, or whether intimate financial, personal or other matters may be disclosed of such nature that the desirability of avoiding disclosure of such matters, in the interests of any person affected or in the public interest, outweighs the desirability of following the principle that the hearing be open to the public.

Where a complaint involves allegations of sexual misconduct or sexual harassment, the Judicial Council also has the power to prohibit publication of information that would disclose the identity of a complainant or a witness.

The Judicial Council engages legal counsel, called presenting counsel, for the purposes of preparing and presenting the case about the judge to the hearing panel. The legal counsel engaged by the Judicial Council operates independently of the Judicial Council. The duty of presenting counsel is not to seek a particular order against a judge, but to see that the complaint about the judge is evaluated fairly and dispassionately to the end of achieving a just result.

The judge has the right to be represented by counsel, or to act on their own behalf in any hearing under this procedure.

Under s. 51.6(11) of the Act, the hearing panel may dismiss the complaint (with or without a finding that it is unfounded) or, if it finds that there has been misconduct by the judge, it may impose one or more of the following sanctions:

- ◆ a warning;
- ◆ a reprimand;
- ◆ an order to the judge to apologize to the complainant or to any other person;
- ◆ an order that the judge take specific measures, such as receiving education or treatment, as a condition of continuing to sit as a judge;
- ◆ suspension, with pay, for any period;
- ◆ suspension, without pay, but with benefits, for up to 30 days.

The hearing panel may also recommend to the Attorney General that the judge should be removed from office. A recommendation by the Council to the Attorney General that the judge be removed from office cannot be combined with any other disposition.

A judge may be removed from office only if a hearing panel of the Judicial Council, following a hearing under s. 51.6, recommends to the Attorney General that the judge should be removed on the ground that they have become incapacitated or disabled from the due execution of his or her office by reason of:

- ◆ inability, because of a disability, to perform the essential duties of their office (if an order to accommodate the judge's needs would not remedy the inability, or could not be made because it would impose undue hardship on the person responsible for meeting those needs, or was made but did not remedy the inability);
- ◆ conduct that is incompatible with the due execution of office; or
- ◆ failure to perform the duties of their office.

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

12. COMPENSATION FOR LEGAL COSTS

When the Judicial Council has dealt with a complaint, s. 51.7 of the *Courts of Justice Act* permits a judge to request compensation for legal costs incurred in connection with the investigation and/or hearing. Such a request would generally be submitted to the Council after the complaints process has been completed, along with a copy of the lawyer's statement of account to support the request.

The Judicial Council may make a recommendation to the Attorney General that a judge be compensated for their legal costs and indicate the amount of compensation recommended. Pursuant to s. 51.7(7) of the Act, the Council's order for compensation may relate to all or part of the judge's costs for legal services and must be based on a rate for legal services that does not exceed the maximum rate normally paid by the Government of Ontario for similar services. The Attorney General is required to pay compensation to the judge if such a recommendation is made s. 51.7(8).

Where a hearing has been ordered, s. 51.7(2) allows a hearing panel to recommend compensation for all or part of the cost of legal services incurred in connection with both the investigation and the hearing. Where a complaint was made on or after July 8, 2020, and a recommendation for removal from office was made by a hearing panel, compensation shall not be recommended by the hearing panel: s. 51.7(5.1).

During the period covered by this Report, three recommendations for compensation were made to the Attorney General by review panels of the Council.

13. COUNCIL PROCEDURES

Under s. 51.1 of the *Courts of Justice Act*, the Council may establish rules of procedure for complaint subcommittees, review panels and hearing panels. As a means of informing the public about the complaints process, the Council must make the rules available to the public. The Council has established procedural rules for the complaints process which are posted on its website.

In 2024, the Judicial Council continued to refine and develop its procedures and policies. The procedural amendments reflect the Council's commitment to ensuring public confidence in the effectiveness of the judicial complaints process for provincially-appointed judges.

- ◆ The OJC Procedures Document previously included an Overview section describing the procedures governing the complaints process, the statutory composition of the Judicial Council, the complaint and hearing processes, and the applicable privacy and confidentiality provisions. The Procedures Document also previously included a Legislative Provision section at the beginning of each section of the rules with the relevant sections of the *Courts of Justice Act*. In 2024, the Procedures were amended to remove the Overview and the Legislative Provisions sections. The information in the

Overview is found on the Council's website and in the Annual Reports. The statutory provisions of the *Courts of Justice Act* are accessible online through a link in Appendix A of the Procedures Document to Ontario's E-Laws website.

- ◆ Rules 4.1 and 4.2 of the Procedures were amended to confirm the discretion of complaint subcommittees to permit the Council to consider anonymous complaints where the subcommittee is satisfied that the allegations raise a serious issue of judicial misconduct that may be independently verified.
- ◆ Rule 4.3 of the Procedures was amended to confirm the discretion of complaint subcommittees to decide whether to permit a complainant to withdraw a complaint upon making a request to do so. The amended rule 4.3 provides that if a complainant indicates in writing that they wish to withdraw their complaint, a complaint subcommittee of the Council may (a) treat the matter as withdrawn; or may (b) proceed to review the matter on the basis that it warrants further consideration by the Council.
- ◆ Rule 4.7 of the Procedures was amended to clarify the Council's general policy of not assigning a complaint subcommittee to consider a complaint until any court or other legal proceedings related to the complaint are finally concluded. The amended rule states: "Where any allegations in a complaint to the Judicial Council relate to an ongoing court, tribunal or other legal proceeding, the Registrar shall advise the complainant that the Judicial Council does not generally consider such complaints until the proceedings, and any appeal or judicial review thereof, have been completed. This approach prevents the Judicial Council's consideration of a complaint from interfering with, or from being perceived as interfering with, any ongoing legal proceedings."
- ◆ Rules 6.4 and 6.5 of the Procedures were amended to clarify the Council's policy that all information and documents related to the investigation and review panel stages of the complaints process are treated as confidential by the Council, subject to an order by the Council, a complaint subcommittee, a review panel or a hearing panel. In addition, the reference to information and documents prepared for mediation was removed from Rule 6.4. The Council has not established a mediation process for complaints because of the statutory exclusions on the types of complaints that may be mediated pursuant to s. 51.5(3) of the *Courts of Justice Act*.
- ◆ Rule 15.5 was amended to clarify that, at a formal hearing into a complaint, where a hearing panel makes a finding of judicial misconduct by a judge, presenting counsel may make submissions on the appropriate disposition, or combination of dispositions, necessary to restore public confidence in the judge and in the administration of justice.

A copy of the Council's current Procedures that incorporates these amendments is posted on the Judicial Council's website under the link "Procedures of the Council" at:

- <https://www.ontariocourts.ca/ocj/conduct/ojc/publications/procedures/>

14. OVERVIEW OF COMPLAINT CASELOAD IN 2024

The Ontario Judicial Council works hard to administer an efficient and timely process to review complaints against provincial judges that fall within its jurisdiction.

In 2024, the Judicial Council received, reviewed and addressed over 150 letters of complaint. In addition, Council staff received and responded to over 400 telephone inquiries from complainants and members of the public during the reporting period.

Many complaints received by the Council do not involve judicial misconduct. For example, the Council receives a number of complaints that are about the decisions of provincial court judges rather than about their conduct. In addition, the Council receives complaints about federally-appointed judges, police, lawyers and Crown Attorneys, as well as complaints concerning administrative law proceedings.

Council staff review all such correspondence and provide written responses to complainants advising them of the appropriate body to which they may wish to direct their complaints. Depending on the nature of the complaint, Council staff also provide information about legal resources that could possibly assist such complainants.

In 2024, Council staff prepared over 100 responses to complainants to the Ontario Judicial Council providing them with information about the appropriate body to which they may wish to direct their complaint.

During the reporting period, 14 new complaint files were opened. In addition, 32 complaint files were carried forward from the previous reporting period, for a total of 46 open complaint files under consideration by the Council in 2024.

In the reporting period, the Council closed 31 complaint files. Of the 31 complaint files that were closed in 2024:

- 9 complaint files were opened in 2022
- 19 complaint files were opened in 2023
- 3 complaint files were opened in 2024

OUTCOMES FOR COMPLAINT FILES CLOSED IN 2024

Disposition	Number of Cases
Summarily dismissed – Out of jurisdiction, frivolous or an abuse of process	18
Dismissed by review panel – Out of jurisdiction, unfounded, not judicial misconduct	1
Referred to Chief Justice	8
Administratively closed due to loss of jurisdiction or failure of complainant to provide information needed to consider the complaint	4
Hearing	0
TOTAL	31

TYPES OF COMPLAINT FILES CLOSED IN 2024

Complaint Type	Number of Cases	% of Caseload
Criminal Court	9	29%
Family Court	10	32%
Provincial Offences Appeal Court	0	0%
Other – Outside of court	12	39%
TOTAL	31	100%

COMPLAINT FILE CASELOAD

	Fiscal year 2018/19	Fiscal year 2019/20	Apr.1/20 – Dec.31/21	Calendar Year 2022	Calendar Year 2023	Calendar Year 2024
Files opened during year	25	27	41 ¹	28	32	14
Files continued from previous year	20	21	11 ²	13	20	32
Total open files during year	45	48	52	41	52	46
Files closed during year	24	37	39 ³	21	20	31
Files remaining at year end	21	11	13	20	32	15

¹ In fiscal year 2020/21, 26 files were opened. From April 1, 2021-December 31, 2021, 15 files were opened.

² Eleven files were carried over from fiscal year 2019/20 into fiscal year 2020/2021. Thirteen files were carried over from fiscal year 2020/21 into the April 1, 2021-December 31, 2021 period.

³ Thirteen files were closed in fiscal year 2020/21. Twenty-six files were closed between April 1, 2021 – December 31, 2021.

FORMAL HEARINGS

A review panel will order a hearing where a majority of the members of the review panel are of the opinion that there has been an allegation of judicial misconduct that has a basis in fact and which, if believed by the finder of fact, could result in a finding of judicial misconduct.

In 2024, a review panel of the Council ordered a hearing into a complaint about the conduct of The Honourable Justice Paul Currie, Regional Senior Judge of the Central West Region. Pursuant to s. 51.4 of the *Courts of Justice Act*, the complaint subcommittee that investigated the complaint made an interim recommendation to a Regional Senior Judge that RSJ Currie be suspended with pay pending the final disposition of the complaint. The interim recommendation was accepted, and RSJ Currie is suspended with pay pending the final disposition of the complaint.

The hearing panel is composed of Justice Paul Rouleau, a judge of the Court of Appeal for Ontario, who is the chair of the Panel; Justice Christine Pirraglia, a judge of the Ontario Court of Justice; Ena Chadha, a lawyer member of the Council; and Jovica Palashevski, a community member of the Council.

Presenting counsel are Gerald Chan and Alexandra Heine of Stockwoods LLP.

Counsel for RSJ Currie is Brennan Smart.

Hearing updates are available on the Council's website under the link "Current Public Hearings" at:

- <https://www.ontariocourts.ca/ocj/conduct/ojc/hearings/current-public-hearings/>

Decisions made in relation to each of the hearings are posted on the Council's website at:

- <https://www.ontariocourts.ca/ocj/conduct/ojc/hearings/public-hearing-decisions/>

15. CASE SUMMARIES

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

OJC-005-22

The complainant was a lawyer who appeared in several child protection proceedings before the subject judge. The complainant made various allegations about the judge's conduct during the proceedings, including that the judge was unprofessional, discourteous and aggressive.

The Council advised the complainant that the allegations in the complaint could not be considered until the court proceedings were finally concluded, in accordance with the Judicial Council's policy in rule 4.7 of the Procedures Document. This policy provides that the Council will not generally investigate complaints about judicial conduct involving allegations arising from a court proceeding until the conclusion of that proceeding and any appeal or judicial review thereof. This policy is intended to prevent a perception that the judicial complaints process is interfering with any ongoing legal proceedings.

The complainant subsequently wrote to the Council and advised that the court proceedings in issue in the complaint were no longer ongoing. Council staff sought directions from a complaint subcommittee, composed of a judge member and a community member, regarding the continued application of rule 4.7.

The complaint subcommittee determined that rule 4.7 continued to apply in relation to two of the court proceedings in question, but that it did not apply with respect to two of the other proceedings. A complaint file was therefore opened in relation to the latter two proceedings. However, before a final determination could be made in respect of the complaint, the Judicial Council was informed that the judge was no longer a judge of the Ontario Court of Justice. Accordingly, the Council lost jurisdiction over the complaint and the file was administratively closed.

OJC-006-22, OJC-007-22, OJC-008-22, OJC-009-22, OJC-010-22, OJC-011-22 & OJC-016-22

The Judicial Council received seven complaints about the conduct of the subject judge. The complainants were court employees who alleged that the judge's conduct in the workplace constituted harassment and bullying and created a toxic work environment.

In accordance with rule 8.3¹ of the OJC Procedures Document, the seven complaints were assigned to the same complaint subcommittee, consisting of a judge and a community member, for review and investigation.

The complaint subcommittee retained investigating counsel to interview the seven complainants and other witnesses with knowledge or information about the allegations and to obtain any relevant documents or correspondence.

The subcommittee subsequently invited the judge to respond to its concerns arising from its investigation of the complaints. The subcommittee reviewed the responses provided by the judge.

Upon conclusion of its investigation, the subcommittee provided a report to a four-person review panel of the Judicial Council, composed of two judges, a lawyer member and a community member. In total, the complaints were reviewed by six different members of the Council, including two community members.

The review panel considered the following materials provided by the complaint subcommittee: the report of the complaint subcommittee, the seven letters of complaint, transcripts of the interviews with the complainants and witnesses, including related documents and correspondence provided by these individuals, and the judge's written responses to the complaint subcommittee.

The review panel determined that an appropriate disposition of the complaints in the circumstances was a referral to the Chief Justice on various conditions including a requirement that the judge engage in recommended therapy, counselling or treatment, and provide written apologies to the complainants. The Chief Justice provided a report to the review panel on the results of the referral.

In her report, the Chief Justice indicated it appeared that the judge had gained a significant amount of insight and that the treatment sessions were very impactful. The Chief Justice observed that the judge acknowledged that the workplace conduct had a

¹ Rule 8.3 provides that if the Judicial Council receives a new complaint about a judge who is already the subject of an open complaint file, and the new complaint is similar in nature to an outstanding complaint about that judge, the Registrar may assign the new complaint to the same complaint subcommittee that is investigating the earlier outstanding complaint.

dramatic impact on the lives and mental health of the complainants. The judge acknowledged that the workplace conduct was unacceptable.

The review panel was subsequently informed that the judge is no longer a judge of the Ontario Court of Justice. The complaint files were closed.

OJC-020-22

The complainant alleged that the subject judge abused the prestige of judicial office for private purposes in becoming involved in a dispute over an application to reconfigure a local roadway. The complainant was supporting this application before the municipal township council. The complainant alleged that the purpose of the application was to help alleviate criminal activity that was occurring in the residential community where both the complainant and the judge lived.

The complainant asserted that the judge organized neighbours and relatives to attend a meeting of municipal councillors to oppose the application. The complainant further alleged that the judge spoke to municipal councillors before and after the meeting. According to the complainant, in these discussions, the judge referred to their experience as a judge and former prosecutor, indicating that if the criminal activity purported to be occurring in the area were in fact occurring, the judge would know about it.

The complainant also alleged that the judge attended a subsequent meeting between municipal officials and concerned residents regarding the application. According to the complainant, the judge canvassed the neighbourhood prior to the meeting in order to have as much community participation as possible.

1. Complaint Subcommittee's Investigation

The complaint subcommittee reviewed the letter of complaint and enclosures provided by the complainant. The subcommittee also retained investigating counsel to interview the complainant and other witnesses and to gather relevant documents. The subcommittee invited the judge to respond to the complaint and reviewed the response provided.

i) Relevant Ethical Considerations

In the invitation to the judge to respond to the complaint, the subcommittee reviewed the ethical principles that apply to the judiciary and in particular to judicial involvement in political activity and issues of public controversy.

The subcommittee noted that the commentaries to the *Ethical Principles for Judges* prepared by the Canadian Judicial Council include the observation that judges are subject to restraint in their public engagement:

5.B.1 On appointment, judges do not surrender all of the rights and freedoms enjoyed by everyone else in Canada. Nevertheless, the office of the judge imposes restraints that are necessary to maintain public confidence in the impartiality and independence of the judiciary. In defining the appropriate degree of public involvement by a judge there are two

fundamental considerations. The first is whether the involvement could reasonably undermine confidence in the judge's impartiality. The second is whether such involvement may expose the judge to criticism or be inconsistent with the dignity and integrity of judicial office.

The commentaries also speak to the limits on judges' involvement in political activity and out-of-court statements on issues of public controversy:

5.B.2 Judges must cease all partisan political activity upon the assumption of judicial office. Moreover, judges refrain from conduct that, in the mind of a reasonable and informed person, could give rise to the appearance that the judge is engaged in political activity. For this reason, judges must refrain from: (i) membership in political parties and political fundraising; (ii) attendance at political gatherings and political fundraising events; (iii) contributing financially or otherwise to political parties or campaigns; (iv) signing petitions to influence a political decision; and (v) taking part publicly in controversial political discussions, except in respect of matters directly affecting the operation of the courts, the independence of the judiciary or fundamental aspects of the administration of justice.

5.B.3 Like partisan political activity, out of court statements by a judge concerning issues of public controversy may undermine impartiality. They are also likely to lead to public confusion about the nature of the relationship between the judiciary on the one hand and the executive and legislative branches of government on the other. Partisan actions and political statements by definition involve publicly choosing one side of a debate over another. In order to preserve their impartiality, judges should refrain from any political action or involvement. The perception of partiality will be reinforced if the judge's activities attract criticism and/or rebuttal. This in turn tends to undermine public confidence in the judiciary. Judges should not use the privileged platform of judicial office to enter the public arena because it puts at risk public confidence in the impartiality and the independence of the judiciary.

The subcommittee also referred to the case of *Matlow (Re)* (2008). In that case, the Canadian Judicial Council (CJC) considered how judges should conduct themselves when their private interests are affected by the decisions of a municipal government.² The

² In their report to the Minister of Justice, a majority of the Council found that Justice Matlow made serious errors of judgement which constituted judicial misconduct and which placed him in a position incompatible with the due execution of his office, but concluded that a recommendation for his removal from office was not warranted.

CJC majority observed, at para. 110, that judges are entitled to express their concerns about municipal actions:

In their role as private citizens, judges are not obliged to defer to all municipal actions simply because they also happen to be judges. The municipal level of government is the one that most directly affects citizens in their daily lives. As with other citizens, judges may find themselves, in their private capacity, objecting to or expressing concerns about a range of municipal actions. The degree of controversy should not be the basis for deciding whether a judge has a right as a private citizen to object to municipal actions. In fact, those actions that turn out to be the most controversial may be the ones that have the most potential to compromise the judge's interests as a private citizen.

The CJC majority further recognized that in expressing their legitimate concerns, judges are not compelled "to speak only through neighbours or legal counsel": at para. 111. The CJC majority acknowledged that it is "not necessarily inimical to the judicial office that a judge meet, in his capacity as a private citizen, with municipal officials in an effort to raise legitimate concerns": at para. 112.

The CJC majority explained that judges must respect the limits imposed by their office in expressing their concerns. The majority summarized some of those limits, at para. 123:

In summary, while judges who have personal interests, such as home ownership, that can be affected by government action have the right, in their private capacity, to contest, as do other Canadians, decisions that affect those interest as do other Canadians, there are limits to what a judge might do. A judge is not entitled to use the prestige of judicial office to advance his or her private interests. Nor should a judge use intemperate language where others would likely know, or could be expected to know, that he or she was a judge. And under no circumstances is a judge entitled to act as a legal advisor for individuals opposing government action.

The complaint subcommittee also noted the decision of an Inquiry Committee of the CJC in *Flynn (Re)* (2002), where the Committee observed that judges should not comment publicly about matters that are "politically controversial" (at para. 54) and should "refrain from entering the arena of political controversy" (at para. 56). The Inquiry Committee further observed that these principles "without a doubt prohibit a judge from discussing 'cases that could come before the courts'".

ii) Concerns of the Complaint Subcommittee

In the letter inviting the judge to respond to the complaint, the complaint subcommittee observed that, while the principle of impartiality does not preclude members of the judiciary from engaging in their private capacity with municipal government on issues that affect their interests as private citizens, judges must exercise caution in doing so, and respect the limits imposed by their judicial office.

Having regard to the applicable ethical principles and the information gathered in the investigation, the complaint subcommittee expressed several concerns in the invitation to respond:

- the concern that a reasonable member of the public might conclude that the judge took part publicly in a controversial political matter, including by apparently having signed a petition opposing the application before the township council;
- the concern that the judge may have publicly taken a position on a matter of public controversy at a public meeting and that the judge may have publicly expressed a view on a matter that could come before the courts;
- the concern that the judge may have referred to their position as a judge in communications with municipal councillors in expressing views on a matter of public controversy, and included their judicial email address in communications with a municipal councillor on a matter of public controversy.

iii) Judge's Response to the Complaint

In the response, the judge denied having attempted to use their judicial position to speak from a position of authority or that their conduct was “political” in any way. The judge described the dispute as a local homeowners’ issue in which they were entitled to participate as a local resident.

The judge acknowledged signing the petition but disavowed having created the petition or having organized residents in opposing the application. The judge acknowledged sending an e-mail to a municipal councillor referring to their position as a judge and former prosecutor, but denied having done so for any improper purpose.

The judge recognized the potential for impropriety in referring to one’s career and title during public engagement on contentious issues, and in using one’s judicial e-mail in communications unrelated to the judicial role. The judge confirmed they would avoid any such references in the future and would ensure that their judicial e-mail does not appear, even for forwarding purposes, in any communications unrelated to their judicial role.

2. Consideration by Review Panel

Upon conclusion of their investigation, the subcommittee provided a report to a four-person review panel of the Council, composed of two judge members, a lawyer member and a community member. The review panel reviewed the following materials: the report of the complaint subcommittee, the letter of complaint and enclosures, transcripts of the witness interviews and relevant documentary evidence provided by the witnesses, the subcommittee’s letter inviting the judge to respond to the complaint and the response provided.

The review panel observed that the complaints process through the Judicial Council is remedial in nature. Through reviewing and reflecting upon their conduct, judges may

improve how they handle situations in the future. In accordance with the remedial objectives of the complaints process, the review panel determined that a referral to the Chief Justice pursuant to s. 51.4(13)(b) of the *Courts of Justice Act* was an appropriate disposition of this complaint.

The Ontario Judicial Council's Procedures Document states that a review panel will refer a complaint to the Chief Justice of the Ontario Court of Justice if a majority of the members of the review panel conclude that referring the complaint to the Chief Justice is a suitable means of informing the judge that the judge's conduct was not appropriate in the circumstances that led to the complaint, the complaint does not warrant another disposition, and there is some merit to the complaint.

After obtaining the judge's consent under s. 51.4(15) of the *Courts of Justice Act* to the proposed disposition, the review panel directed that the judge meet with the Chief Justice to review the ethical concerns raised by this complaint, and to obtain any education on the relevant principles of judicial ethics as the Chief Justice may see fit to direct.

3. Referral to the Chief Justice

In accordance with the terms of the referral, the Chief Justice met with the judge and provided a written report to the review panel on the results of this meeting. In the report, the Chief Justice informed the review panel that it was very evident that the judge had carefully reflected upon the conduct in question and the relevant ethical principles. The Chief Justice further reported that the judge expressed a clear understanding of the relevant ethical principles that apply when a member of the judiciary is contemplating involvement in a matter of local public controversy. The Chief Justice further advised that the judge expressed sincere regret, demonstrated full insight into the applicable ethical concerns, and the judge acknowledged that they should have acted differently.

Based on the full insight and acknowledgement demonstrated by the judge during this meeting, and the sincere and profound regret expressed by the judge, the Chief Justice found that it was not necessary to direct that the judge undertake further education on the ethical principles engaged by this complaint.

Having reviewed the report of the Chief Justice, the review panel was satisfied that the judge understood the concerns expressed by the Council and had learned from the complaint and will not engage in conduct of a similar nature in the future. Given that the remedial objectives of the judicial complaints process had been served, the review panel concluded that no additional action in relation to the complaint was required. Accordingly, the complaint file was closed.

OJC-006-23

The complainant appeared as a self-represented litigant before the subject judge in family law proceedings involving her ex-spouse. In her letter to the Judicial Council, the complainant made various allegations against the judge, including that the judge:

- engaged in “unlawful decision-making”, including by denying the complainant a fair trial, refusing to let her call witnesses, ordering child support in an amount less than the Child Support Guidelines and typing a court order incorrectly;
- engaged in racism or discrimination against her by requiring her to seek leave prior to bringing a motion for child support. The complainant alleged this was done to assist her ex-spouse conceal his income and avoid paying child support in accordance with the Guidelines;
- excessively prolonged the litigation;
- allowed the complainant’s ex-spouse to walk out of the proceedings to avoid cross-examination and smiled when this occurred;
- engaged in criminal conduct, including abuse of trust, money laundering, fraud, as well as malicious prosecution, and participating in a vast criminal conspiracy;
- had connections to the complainant’s ex-spouse and his relatives and conspired with such persons to commit fraud, breach of trust and to obstruct justice;
- was offered a beer by the complainant’s ex-spouse in exchange for a decision in his favour.

The complaint was assigned to a two-person subcommittee of the Council, composed of a judge member and a community member, for consideration. The subcommittee reviewed the letter of complaint and materials from the court record, including orders made by the judge and the audio recording of an appearance referred to in the complaint letter.

Based on its review of these materials, the subcommittee observed that many of the allegations in the complaint arose from the complainant’s dissatisfaction with the orders made by the judge. Such allegations concern judicial decision-making and the exercise of judicial discretion, which are matters outside the jurisdiction of the Judicial Council to consider.

In addition, the subcommittee observed that the remainder of the allegations were either unsupported or contradicted by the record of the proceedings, or were otherwise bald allegations lacking an evidentiary foundation.

For example, with respect to the complainant's allegation that the judge discriminated against her by ordering that she seek leave of the court prior to filing motions regarding child support orders, the subcommittee noted that the judge made the same order in relation to the complainant's ex-spouse.

The subcommittee further noted that there was no support for the allegation that the judge excessively prolonged the proceedings. The subcommittee noted that the litigation was acrimonious, with each side being self-represented and contesting the adequacy of the financial disclosure provided by the other. In addition, on various occasions, the complainant did not attend court, which caused delays.

With respect to the allegation that the judge allowed the complainant's ex-spouse to walk out of the proceedings to avoid cross-examination, the subcommittee observed that during one of the appearances, the complainant's ex-spouse advised the court that he was content to have the proceedings continue without his participation. The complainant told the court that if her ex-spouse was in default and not participating, then he could leave. The judge released the complainant's ex-spouse and allowed the complainant to proceed on an uncontested basis.

With respect to the complainant's allegations regarding the judge's alleged relationships and interactions with her ex-spouse and his relatives, the subcommittee observed that the complainant provided no information to support a further investigation or to warrant inviting a response from the judge. In this regard, the subcommittee noted that the complainant provided no information about the source of her knowledge of these relationships. In addition, the complainant provided no information to support a conclusion that the judge's decisions were improperly influenced by any alleged relationship with the complainant's ex-spouse or his relatives. Furthermore, the complainant's allegations that the judge assisted her ex-spouse in concealing his income was found to be purely speculative and without foundation.

Finally, the subcommittee found nothing in the materials to suggest that the judge was biased in favour of the complainant's ex-spouse at any time during the proceedings. To the contrary, the decisions made by the judge were either contrary to the ex-spouse's interests (e.g., holding him in default, drawing an adverse inference against him and imputing income to him) or applicable equally to both the complainant and her ex-spouse (e.g., ordering that neither party was entitled to commence proceedings or file motions without obtaining leave of the court in writing).

Having regard to these considerations, the subcommittee decided to summarily dismiss the complaint pursuant to s. 51.4(3) of the *Courts of Justice Act* and Rule 10.1 of the Council's Procedures on the basis that the complaint raised allegations that were clearly outside the Council's jurisdiction and that were otherwise unsupported by the record and were therefore frivolous.

OJC-008-23

The complainant was the mother of a self-represented defendant in a criminal matter. In her letter to the Council, the complainant made various allegations about the subject judge who presided over her son's criminal trial, including that the judge:

- engaged in “repetitive procedural misconduct, favouritism and tampering with evidence”;
- refused to recuse themselves when an application for recusal was made, showing that the judge had a personal interest in the case;
- accepted an unsworn false affidavit that was “presented improperly in time and manner”;
- failed to stop the Crown's attack of the complainant when she was testifying as a witness;
- made the complainant wait in the hallway for the trial, including while the judge changed the hearing time, adjourned the trial, and heard other matters first, which wasted the complainant's time;
- “heavily modified” the facts and made rulings based on those modified facts;
- required the complainant's son to make submissions on sentencing having previously said that the judge would only be giving reasons as to whether the Crown had made out a case for conviction that day;
- imposed a more severe punishment than the Crown had requested;
- displayed an improper demeanour, which demonstrated a lack of honesty, integrity, and fairness.

The complaint was assigned to a two-person subcommittee of the Council, composed of a judge member and a community member, for consideration. The subcommittee reviewed the complaint letter, transcripts of the appearances before the judge, and the audio of the Crown's cross-examination of the complainant.

Based on its review of these materials, the subcommittee determined that many of the complainant's allegations were outside the jurisdiction of the Judicial Council and that the remaining allegations were not supported by the record.

The subcommittee observed that many aspects of the complaint concerned the judge's decision-making and the manner of exercising judicial discretion, including the judge's decisions about which matters to hear and in what order, evidentiary findings, and the merits of the judge's decision on the recusal motion and sentencing. The subcommittee noted that decisions pertaining to procedure, the conduct of a hearing, as well as the

assessment of evidence and sentencing, are matters of judicial discretion and may be subject to an appeal in a higher court. However, these matters are outside the jurisdiction of the Judicial Council to review.

The complaint subcommittee further observed that it is the responsibility and duty of the judge to control proceedings to ensure an effective and efficient use of court time, as well as a fair hearing. The Council has no jurisdiction to review evidentiary or procedural rulings or reasons for decision. Nor does the Council have jurisdiction to consider the complainant's objections to the merits of the sentence imposed by the trial judge.

The complaint subcommittee observed that there was no evidence in the transcript or audio of the proceedings capable of supporting the allegations that the judge conducted the proceedings unfairly, abusively or improperly. To the contrary, the record reflected that the judge took great care to manage the proceedings in a way that was fair to the self-represented defendant, including taking steps to ensure that the defendant had an opportunity to review and respond to the submissions and disclosure relied on by the Crown at the pre-trial, the s. 11(b) *Charter* motion, and at the trial. In addition, the judge was polite and patient with the defendant despite the constant interruptions of the defendant.

The subcommittee found there was no evidence to support the allegations that the judge failed to prevent the Crown from shouting at or attacking the complainant, as alleged in the complaint letter. The audio recording of the cross-examination did not suggest that the Crown's conduct of the cross-examination was of a nature that necessitated intervention on the part of the trial judge.

Finally, the subcommittee found no basis for a finding of judicial misconduct arising from the timing of the judge's decision to impose sentence. The defendant, who was a paralegal, was given an opportunity by the trial judge to prepare for sentencing. The defendant did not request an adjournment of sentence, nor did he suggest that there was any unfairness in proceeding with sentencing that day.

Having regard to these considerations, the subcommittee decided to summarily dismiss the complaint pursuant to s. 51.4(3) of the *Courts of Justice Act* and Rule 10.1 of the Council's Procedures on the basis that the complaint raised allegations that were clearly outside the Council's jurisdiction and that were otherwise unsubstantiated.

OJC-012-23

The complainant appeared before the subject judge on criminal charges related to the alleged harassment of his former spouse. The complainant was represented by counsel. The complainant pled guilty to two counts of making harassing phone calls, one count of criminal harassment, and one count of failing to comply with a release order. The subject judge imposed a conditional sentence that included a term requiring the complainant to be placed on electronic supervision for the duration of the conditional sentence order.

In the complaint letter to the Council, the complainant alleged that the subject judge did not listen to the Crown when the judge ordered the complainant to wear an ankle bracelet

and pay for it, even though the complainant had limited financial resources. In addition, the complainant made various allegations about the judge's demeanour, including allegations that the judge raised his voice at the complainant, approached the complainant outside the courtroom using a "scary voice", was "mean and rude" and aggressive towards him, and did not let the complainant speak to his lawyer after court. The complainant further alleged that the judge had protected people who had framed the complainant and that the judge was biased against him.

The complaint was assigned to a two-person subcommittee of the Council, composed of a judge member and a community member, for consideration. The subcommittee reviewed the complaint letter and the transcript of proceedings.

Based on its review of these materials, the subcommittee determined that the complainant's allegation regarding the judge ordering him to wear an ankle bracelet at the complainant's own expense concerned a matter of judicial discretion which is outside the Council's jurisdiction to consider.

The subcommittee further found that the court record showed that the judge was patient and respectful towards the complainant throughout the proceeding. There was no evidence that the judge yelled at, or was rude or aggressive toward the complainant. Contrary to the allegations, the judge allowed the complainant's counsel several breaks during the proceeding to clarify matters with the complainant.

In relation to the complainant's assertion that the judge approached him outside the courtroom and prevented him from speaking with his lawyer after court, the subcommittee concluded that these allegations did not warrant investigation by the Council or inviting the judge to respond to the allegations. The subcommittee observed that bare allegations of improper out-of-court conduct by a judge will not warrant investigative steps being taken by the Council, absent some rational factual basis capable of supporting the allegations.

Finally, the complaint subcommittee observed that there was no factual basis to support the complainant's assertion that the judge was biased against him or that the judge protected any parties whom the complainant alleged had framed him.

Having regard to these considerations, the subcommittee summarily dismissed the complaint pursuant to s. 51.4(3) of the *Courts of Justice Act* and Rule 10.1 of the Council's Procedures on the basis that the complaint raised allegations that were either outside the Council's jurisdiction to consider or that were unsubstantiated and therefore frivolous.

OJC-014-23

The complainant was involved in a family matter regarding decision-making and parenting time and child support. The complainant was represented by counsel for part of the proceeding and was self-represented at other appearances. The complainant raised various criticisms of decisions made by the subject judge, including that the judge gave the complainant's former partner everything she had requested, told the complainant she was in default, and required the complainant to attend court in person. The complainant

also alleged that the judge yelled at her on a number of occasions and would not let her speak.

The complaint was assigned to a two-person subcommittee of the Council, composed of a judge member and community member, for consideration. The subcommittee reviewed the complaint letters submitted by the complainant, as well as the transcripts and audio of the court proceedings in question, and the judge's final order.

Based on its review of these materials, the subcommittee determined that the complaint primarily amounted to an expression of the complainant's disagreement with the judge's decision-making and the exercise of judicial discretion. Judicial decision-making is outside the jurisdiction of the Judicial Council to consider. Judges have the authority to make decisions about how to conduct a trial and how to assess the evidence of witnesses. Judges' decisions about these issues may be subject to an appeal in a higher court but they are not matters of judicial conduct that raise ethical concerns for consideration by the Judicial Council.

The complaint subcommittee further determined that there was no evidentiary basis capable of supporting the complainant's allegations that the judge breached any ethical duties or otherwise behaved inappropriately. The transcripts and audio recordings did not support the allegations that the judge yelled or unjustifiably prevented the complainant from speaking. On the contrary, the subcommittee observed that, despite the complainant's repeated interruptions, the judge remained patient, calm and courteous throughout the proceedings.

Having regard to these considerations, the subcommittee summarily dismissed the complaint pursuant to s. 51.4(3) of the *Courts of Justice Act* and Rule 10.1 of the Council's Procedures on the basis that the complaint raised allegations that are clearly outside the Council's jurisdiction and that were otherwise unsubstantiated and therefore frivolous.

OJC-015-23

The complainant was a party in custody proceedings before the subject judge. In a letter to the Council, the complainant made the several allegations about the judge, including that the judge:

- did not permit the complainant to speak on the first court date and subsequent court appearances.
- refused to accept and ignored evidence regarding the mother's alleged drug use as well as fraudulent and criminal conduct. The judge was incompetent by supporting and allowing the mother's crimes to continue.
- failed to recognize and consider the complainant's disability of Post-Traumatic Stress Disorder.
- was friends and cohorts with the mother's counsel.

The complaint was assigned to a two-person complaint subcommittee of the Council, composed of a judge member and community member, for review and investigation. The subcommittee reviewed the complaint letter and enclosures provided by the complainant. The subcommittee also reviewed transcripts of the proceedings before the judge.

Based on its review of these materials, the subcommittee determined that the judge's evidentiary findings concerning the alleged conduct of the mother raised issues of judicial decision-making that were outside the Council's jurisdiction to review. Similarly, the allegation that the judge failed to consider and recognize the complainant's disability concerned the judge's assessment of the evidence, which was a matter of judicial decision-making outside the jurisdiction of the Council. The subcommittee noted that the Council does not have authority to review or revisit evidentiary findings made by a judge.

The subcommittee further found that the record of the court proceedings did not support the allegation that the judge did not allow the complainant to speak on the first court date or during subsequent appearances. To the contrary, the subcommittee observed from the transcript of the first appearance that the judge invited the complainant to make submissions and asked him questions. Transcripts of the subsequent appearances reflect that the complainant did not attend three of the appearances and attended one with counsel, who made submissions on his behalf.

Finally, the subcommittee observed that the complainant provided no information capable of corroborating the remaining allegations, including that the judge was incompetent and was friends with the mother's lawyer. To warrant consideration by the Council, a complainant must provide a valid and rational factual basis concerning the conduct of a judge before a meaningful review can be done. A bare allegation, in of itself, is not sufficient.

Having regard to these considerations, the subcommittee summarily dismissed the complaint pursuant to s. 51.4(3) of the *Courts of Justice Act* and Rule 10.1 of the Council's Procedures on the basis that the complaint raised allegations that were clearly outside the Council's jurisdiction and that were otherwise unsubstantiated and therefore frivolous.

Accordingly, the complaint was dismissed and the file was closed.

OJC-016-23

The complainant alleged that the subject judge behaved unprofessionally and improperly at an annual "CCLA" meeting. The complainant further alleged that the "situation ... caused embarrassment" and could be "harmful and prejudicial" with respect to future legal matters involving the judicial officer. The letter of complaint did not provide any details about the nature of the judge's allegedly unprofessional and improper behaviour, nor did it contain any information or details about the meeting itself (e.g., the time and location, the attendees, the subject matter discussed, or the full name of the body referred to as "CCLA").

The complaint was assigned to a two-person subcommittee of the Council, composed of a judge member and community member, for review and investigation.

The subcommittee reviewed the letter of complaint and instructed Council staff to ask the complainant to provide more information about the meeting and the judge's alleged unprofessional and improper conduct. Council staff sent multiple letters to the complainant requesting this additional information, however, the complainant did not provide any additional details or information in respect of the allegations.

The subcommittee determined that the complaint lacked sufficient detail to permit the allegations to be evaluated or investigated. To warrant consideration by the Council, a complainant must provide a sufficient level of detail in their complaint to support an allegation of misconduct. A bald and unsupported allegation of unprofessionalism or impropriety, in and of itself, is not sufficient.

Having regard to these considerations, the subcommittee summarily dismissed the complaint pursuant to s. 51.4(3) of the *Courts of Justice Act* and Rule 10.1 of the Council's Procedures on the basis that the complaint raised allegations that were without merit and therefore frivolous.

Accordingly, the complaint was dismissed and the file was closed.

OJC-017-23

The complainant was a self-represented defendant in a criminal trial. In his letter to the Council, the complainant made various allegations against the subject trial judge, including that the judge:

- harassed him sexually with verbal statements;
- rudely cut him off during the trial;
- mentioned to the Crown something about "poor person's mentality";
- made "green" jokes and had an irregular tone of face and hand expressions;
- made comments off the record to manipulate the outcome of the trial;
- fabricated evidence and the facts;
- found it funny that he had to pee on the floor of the jail cell and mocked him about his sexual organs;
- tried to shame him;
- commented, "these people, you know...Cuba is a terrorist country" (the complainant identifies as Cuban) and asked the court clerk to look online for a link between Cuba and terrorism.

The complaint was assigned to a two-person subcommittee of the Council, composed of a judge member and community member, for consideration. The subcommittee reviewed the complaint letter and the transcripts of the proceedings before the judge.

Based on its review of these materials, the subcommittee determined that the complainant's allegations were frivolous and unsubstantiated by the record.

With respect to the complainant's allegation that the judge "rudely cut him off", the subcommittee observed from the transcript of one of the appearances that the complainant continued to interrupt the testimony of a Crown witnesses after the judge asked him to stop. The judge subsequently made an order under s. 650 of the *Criminal Code* to exclude the complainant from the proceeding.

The subcommittee observed that judicial offers have a duty to maintain order and decorum in court and to manage proceedings in a manner that promotes order and efficiency. The subcommittee concluded that the judge's management of the trial, and the decision to make an order to exclude the complainant pursuant to s. 650 of the *Criminal Code* were matters of judicial discretion and judicial decision-making outside the jurisdiction of the Judicial Council to review.

In addition, the subcommittee found no evidence in the record to support the remainder of the complainant's allegations. In particular, the transcripts of the proceeding did not reflect any of the alleged statements attributed to the judge, nor did the record suggest that the judge adopted a disrespectful or inappropriate demeanor or tone toward the complainant, as alleged. The subcommittee noted that bald allegations, in the absence of substantiating information, are not sufficient indicators of judicial misconduct warranting investigation by the Council.

Accordingly, the subcommittee concluded that the allegations were outside the jurisdiction of the Council and were otherwise unsubstantiated and therefore frivolous. In accordance with s. 51.4(3) of the *Courts of Justice Act* and rule 10.1 of the Council's Procedures, the complaint was summarily dismissed and the file was closed.

OJC-019-23

The complainant was the mother in family law proceedings before the subject judge. The father filed a contempt motion alleging that the complainant mother had not complied with the judge's final order setting out his parenting time with the parties' young child. The judge found the complainant in contempt and directed that the father should have compensatory parenting time with the child.

In her complaint to the Council, the complainant made various allegations about the judge with respect to the contempt hearing, including that the judge:

- ignored evidence in the complainant's affidavit and barred her lawyer from submitting further evidence;

- decided, without evidence, that the complainant was “lying” about not receiving the final order, of which she was found in contempt;
- provided the father with compensatory access to the parties’ son despite the judge’s apparent acknowledgement of the “child abuse/neglect that had occurred while in the care of the other party” and the “violent criminal charges” that had been laid against the father;
- refused to hear the complainant’s position on access in order to “punish” her;
- stated that the judge needed to “make an example” of the complainant and made threats to her and her son’s future and safety without reviewing her affidavit or “hearing her side”;
- forced the complainant to attend the courthouse in-person rather than virtually as “punishment”, despite her extreme financial hardship and despite permitting the father to attend by Zoom.

The complainant further suggested that the judge had a personal relationship with the father’s lawyer. The complainant asserted that this personal relationship “played a significant role in how this matter [was] being dealt with” and stated, “though I am unable to verify the validity of this claim, I verily believe it to be true.”

The complaint was assigned to a two-person subcommittee of the Council, composed of a judge member and community member, for consideration. The subcommittee reviewed the letter of complaint, transcripts of two of the court appearances on the contempt motion, the final order that was the subject of the contempt motion, and the judge’s endorsement following the contempt motion.

Based on its review of these materials, the subcommittee determined that the majority of the complainant’s allegations stemmed from concerns with the judge’s decision-making and exercise of judicial discretion, which are issues outside the jurisdiction of the Judicial Council. The subcommittee observed that judges have decision-making independence that is not reviewable by the Council. If a person believes that a judge erred in considering the evidence, misinterpreted the law, or made incorrect findings, that person may pursue remedies, if available, in a higher court, such as by filing an appeal. The complaints process cannot be used to appeal a judge’s findings or decisions.

The subcommittee noted that the judge’s findings about when the complainant received notice of the final order, the judge’s assessment of the evidence, and the judge’s ultimate decision on the motion, were matters of judicial discretion and decision-making outside the Council’s jurisdiction.

The subcommittee found that the remainder of the allegations were frivolous and unsupported by the transcripts. For example, the record did not support the allegations that the judge said (or suggested) needing to “make an example” of the complainant, or

that the judge made threats to the complainant's and her son's safety. While the judge emphasized the serious nature of contempt proceedings (*i.e.*, that it carried the potential for penal consequences), the subcommittee found that none of the judge's comments could reasonably be interpreted as threats or threatening. In addition, the subcommittee found no support for the allegation that the judge acknowledged or stated that the father had abused the parties' child, or that being with the father was not in the child's best interest.

In addition, the allegation that the judge did not review the complainant's evidence and refused to "hear her side" was not borne out by the transcripts. The record confirmed that judge allowed both parties to make full submissions, including reply, and the judge indicated on numerous occasions having read both parties' materials. In fact, the subcommittee found the judge to be exceedingly fair to the complainant throughout the proceedings, noting that the judge made efforts to ensure that the complainant understood the nature of the proceedings and had the assistance of legal counsel.

The committee further found that the record did not support the allegation that the judge was trying to "punish" the complainant by requiring her to attend the hearing in-person. Rather, the judge directed the complainant to attend the hearing in-person given the serious nature of the proceedings and the potential for serious consequences to the complainant. In any event, the subcommittee noted that judicial officers have discretion to direct whether participants must attend court remotely or in-person in the proceedings over which they preside.

Finally, the subcommittee determined that the allegation of a personal relationship between the judge and the father's counsel was without merit. On the complainant's own admission, she was "unable to verify the validity of this claim" and provided no details or examples in support of it. To warrant consideration by the Council, a complainant must provide a valid and rational factual basis to indicate that a judge has engaged in misconduct. An unsupported allegation of impropriety, in and of itself, is not sufficient.

Having regard to these considerations, the subcommittee summarily dismissed the complaint pursuant to s. 51.4(3) of the *Courts of Justice Act* and Rule 10.1 of the Council's Procedures on the basis that the complaint raised allegations that were clearly outside the Council's jurisdiction and that were otherwise frivolous and unsupported.

OJC-018-23 & OJC-26-23

The complainant was a court manager in the region where the subject judge presided. The complainant filed two complaints alleging that the judge engaged in inappropriate conduct toward two female court employees.

OJC-018-23

The complainant advised about receiving a report that the judge made inappropriate comments and engaged in inappropriate conduct toward a “female racialized ministry employee” who was working in the judge’s courtroom. It was alleged that the judge:

- said to the employee, in the courtroom: “How could I forget that beautiful smile and those eyes”;
- gave the employee his business card with his personal cell phone number on it and asked the employee to text him. The employee felt she had no choice but to comply;
- asked the employee to go out for wine with him one night and suggested that she visit him at his home if she was ever in the area;
- texted the employee and asked what her name meant. He also asked, “If you had your druthers would you want your name to mean, ‘strong, vivacious woman’”?

The complainant asserted that the judge’s conduct led to “a very uncomfortable working environment” for the employee and that the behaviour was inappropriate and disrespectful. The complainant further indicated that the employee was concerned that the judge “could be behaving in this manner with other staff”.

OJC-026-23

The complainant advised about receiving an additional report that the same judge had engaged in inappropriate conduct toward a female court reporter who was working in the judge’s courtroom. The complainant indicated that the judge and the court reporter engaged in conversation while alone in the courtroom, during which the judge allegedly made the following comments:

- While discussing Italian wines: “we should share a bottle of wine together”.
- While discussing the employee’s career and future goals: “you are still young, beautiful and intelligent”.

The complainant alleged that the judge subsequently sent an email to the court reporter requesting her to text him the name of a particular wine. The court reporter did not feel comfortable providing the judge with her personal phone number but felt obligated to

respond because the judge was in a position of authority. She responded to his request by email.

The complainant further asserted that, on a number of prior occasions, the judge had allegedly invited the court reporter to attend his chambers for coffee and on one occasion, he asked her to practice Italian with him in his chambers.

The complainant stated that the court reporter was extremely uncomfortable with the judge's conduct, particularly considering his earlier invitations to join him for coffee in his chambers.

Investigation by Complaint Subcommittee

The complaints were assigned to the same two-person complaint subcommittee of the Judicial Council for review and investigation, pursuant to Rule 8.3 of the Procedures of the Judicial Council, which states:

8.3 If the Judicial Council receives a new complaint about a judge who is already the subject of an open complaint file, and the new complaint is similar in nature to an outstanding complaint about that judge, the Registrar may assign the new complaint to the same complaint subcommittee that is investigating the earlier outstanding complaint.

The complaint subcommittee reviewed the letters of complaint and the enclosures provided by the complainant, which included emails and text messages regarding the alleged incidents. The subcommittee retained investigating counsel to interview the complainant and the two court employees in respect of the allegations.

Before the investigation had concluded, the Judicial Council received confirmation that the subject judge was no longer a judge of the Ontario Court of Justice. Accordingly, the Judicial Council lost jurisdiction to continue with the complaints process. The complaint files were administratively closed due to a loss of jurisdiction.

OJC-020-23, 021-23 and 022-23

The subject judge presided over a motion to change an order for child support. In her reasons for decision on the motion, the judge found that the applicant father was intentionally underemployed and increased the amount of child support owing to the respondent mother.

The Council subsequently received letters of complaint arising from the motion from three different complainants. Pursuant to the Procedures of the Council, all three complaints were assigned to a single complaint subcommittee of the Council, consisting of a judge member and a community member, for review and consideration.

The subcommittee reviewed the letters of complaint, the transcript of the motion before the subject judge, and the judge's final order and reasons on the motion.

OJC-020-23

The complainant was the applicant father on the motion. He filed the motion to change the terms of the child support order that had been made in respect of one of his children.

In a letter to the Council, the complainant made various allegations in respect of the subject judge, including that:

- The judge grossly misinterpreted material facts and disregarded evidence.
- The judge prejudged the matter before receiving and reviewing the facts and did not make an independent and impartial decision.
- The judge erred in imputing the complainant's income.
- The judge's decision was improper and vexatious, and exhibited gender and racial bias.
- The judge released a ruling to the complainant on his birthday.
- The judge's decision contained inaccurate statements, including that the complainant was in a romantic relationship with the mother of two of his other children.
- The judge was biased in favour of the respondent mother and allowed one of her (other) children to record the whole hearing.
- The judge was "unfamiliar with cultural, racial, or other traditions and failed to realize that certain conduct is hurtful to others".

OJC-021-23

The complainant was the mother of two of the applicant father's other children. In a letter to the Council, the complainant alleged the following:

- The judge's reasons for decision erroneously stated that the complainant is in a romantic relationship with the applicant father. This was a false statement that endangers the lives of herself and her family. The complainant asserted that the judge's ruling should be amended to correct the false statement and to address the incorrect spelling of her name in the decision, which is part of her cultural identity.
- The judge did not call the complainant to testify, even though she was present in court while the motion was being heard. Instead, the judge believed the evidence of the respondent mother on the motion.

- The judge did not properly review the case and “deliberately lied” in the decision.
- The judge was biased and permitted the respondent mother’s son and his friend to record the entire hearing on their cell phones.
- The judge needs cultural sensitivity training.

OJC-022-23

The complainant was the father of the complainant in OJC-021-23 and was a witness on the motion before the subject judge. In a letter to the Council, he alleged the following:

- The judge made inaccurate statements regarding his testimony and ignored certain evidence.
- The judge was biased in favour of the respondent mother and allowed the respondent mother to speak to him in a disrespectful manner during the hearing.
- The judge exhibited racial bias and “tunnel vision toward cultural norms, especially black and Caribbean culture”.
- The judge failed to identify the parties by name in her reasons, which was derogatory and unprofessional.

Analysis & Findings

OJC-020-23

The subcommittee determined that many of the complainant’s allegations concerned matters that were outside the jurisdiction of the Judicial Council to consider. For example, the allegations concerning the judge’s assessment of the evidence, and factual and legal findings, involved issues of judicial decision-making and the exercise of judicial discretion, and not judicial conduct. The subcommittee noted that the complaints process is not an appeal process, and the Judicial Council does not have jurisdiction to address allegations that take issue with a judge’s factual and evidentiary findings.

Regarding the complainant’s allegations that the judge was biased, prejudged the matter, and did not make an independent or impartial decision, the complaint subcommittee found that these allegations were not supported by the record. To the contrary, the transcript showed that the judge allowed both parties to give evidence, examine witnesses, and make submissions. The judge asked questions of both parties, explained the legal process thoroughly, and conducted the proceedings in a respectful manner.

The subcommittee further noted that the complainant did not provide any details or examples to support the allegations of bias or other alleged prejudicial conduct, and none were found by the complaint subcommittee based on their review of the transcript. The

allegation that the judge released a ruling to the complainant on his birthday, even if accurate, did not raise an issue of judicial misconduct warranting consideration by the Council.

With respect to the allegation that the judge was biased in favour of the respondent mother because one of her children was permitted to record the hearing, the transcript indicated that the respondent mother's son (*i.e.*, not the child in issue in the proceeding) may have been present in the courtroom during the motion, along with the child's father. The subcommittee found no indication in the record that this person was recording the proceeding, nor was any objection made by the complainant in this regard. Accordingly, the subcommittee found that this allegation appeared to be frivolous.

OJC-021-23

The complaint subcommittee observed that one of the complainant's chief concerns appeared to be that the judge's decision erroneously stated that she was in a romantic relationship with the applicant father (*i.e.*, the complainant in OJC-020-23). The subcommittee observed that the judge's assessment of the evidence and findings in this regard were matters of judicial decision-making outside the jurisdiction of the Council to consider. Similarly, the judge's credibility findings and management of the proceedings, including the decision not to require the complainant's evidence, were matters of judicial discretion, rather than issues of judicial conduct warranting consideration by the Council. In addition, the subcommittee noted that the Council does not have jurisdiction to "amend" a judge's ruling to correct factual or spelling errors, as requested by the complainant.

The subcommittee further found the allegations that the judge "deliberately lied", exhibited bias, and required cultural sensitivity training were without merit. In particular, the complainant did not provide details or examples of how the judge's conduct raised ethical concerns "as it relates to race, ethnicity, sexual orientation, gender, or other important elements that make up someone's culture and/or identity." The subcommittee concluded that the record of the proceeding did not support the allegation that the judge demonstrated bias or cultural insensitivity toward the applicant father or any other witness during the hearing.

With respect to the allegation that the judge was biased in favour of the respondent because one of her children was permitted to record the hearing, as noted in relation to complaint OJC-020-23, the transcript indicates that the respondent mother's son (*i.e.*, not the child in issue in the proceeding) may have been present in the courtroom during the motion, along with the child's father. The subcommittee found no indication in the record that this person was recording the proceeding, nor was any objection made in this regard. Accordingly, this allegation appeared to be frivolous.

OJC-022-23

The subcommittee determined that the allegations that the judge made inaccurate statements concerning the complainant's testimony and ignored certain evidence involved matters of judicial decision-making and the exercise of judicial discretion outside the jurisdiction of the Judicial Council. The subcommittee noted that the complaints process is not an appeal process, and that the Council does not have jurisdiction to address allegations that take issue with a judge's credibility and evidentiary findings.

The subcommittee found that the allegation that the judge exhibited prejudice by allowing the respondent mother to speak to the complainant in a disrespectful manner during the hearing was unsupported by the court record and was otherwise an issue outside the Council's jurisdiction to consider. Judges have discretion to manage proceedings involving self-represented litigants, having regard to the need for efficiency and the rights of the parties before the court. The subcommittee observed that the judge afforded leeway to both parties in the conduct of their cross-examinations, given that both parties were self-represented. The subcommittee did not see any suggestion that in managing the proceedings, the judge favoured one party over the other.

In relation to the complainant's allegation that the judge was racially biased and lacked regard for cultural norms, the subcommittee observed that the complainant provided no information capable of substantiating the allegations. The subcommittee found that the record of the proceedings did not support the allegation that the judge demonstrated bias or cultural insensitivity.

Finally, the subcommittee observed that the complainant's assertion that the judge failed to identify the parties by name in the reasons for decision, which he alleged was derogatory and unprofessional, did not raise an ethical concern warranting consideration by the Council. The subcommittee noted that in the reasons for decision, the judge introduced the parties by their names. In subsequent references to the parties, the judge referred to them by referring to their parental relationship to the child as the "mother" and "father". The subcommittee observed that this is a common writing convention used by family law judges in reasons for decision. In any event, the subcommittee noted that this allegation involved the exercise of judicial discretion with respect to the drafting of written reasons and was therefore outside the jurisdiction of the Council to address.

Disposition

Having regard to these considerations, and pursuant to s. 51.4(3) of the *Courts of Justice Act* and Rule 10.1 of the Council's Procedures, the subcommittee summarily dismissed complaint files OJC-20-23, OJC-21-23 and OJC-22-23 on the basis that the complaints raised allegations that were clearly outside the Council's jurisdiction and that were otherwise unsubstantiated and therefore frivolous.

OJC-023-23

The complainant was a defendant in criminal proceedings who was tried on multiple charges. The complainant was represented by counsel at trial. The subject judge found the complainant guilty of assault and mischief and, on the request of the Crown, acquitted the complainant of the remaining charges.

In a letter to the Council, the complainant alleged the following:

- On the day set for sentencing, the judge detailed how the complainant was a low life, had excuses for everything and did not want to take responsibility for anything.
- The judge did not care about a doctor's report that said that the victim did not have trauma, bruising, or injury of any kind.
- The subject judge "really wanted to d.o." the complainant and it seemed as if the judge really hated the complainant.
- Behind closed doors, the judge was biased, had a conflict of interest, and engaged in very unprofessional conduct. The complainant alleged: "it really does suck to go up in front of someone who has there [sic] own painted picture of me all ready [sic]".
- The complainant alleged that, a few years prior to the trial, he saw the judge in a grocery store parking lot. The complainant alleged that he was familiar with the judge because the judge was previously a prosecutor. The complainant alleged that he approached the judge to say hello, and that the judge told the complainant that he "better never end up in front of him or [the complainant] would regret it big time".

The complaint was assigned to a two-person subcommittee of the Council, composed of a judge member and a community member, for review and investigation.

The subcommittee reviewed the complaint letter and the relevant court transcripts. In addition, as part of its investigation into the allegation that the judge "really wanted to d.o" the complainant, the complaint subcommittee sought information from Court Services Division of the Ministry of the Attorney General regarding whether the complainant had previously been the subject of a dangerous offender application. Court Services Division advised that the complainant had not been the subject of a dangerous offender application.

Also as part of its investigation, the subcommittee invited the judge to respond to the allegation that the judge had encountered the complainant in a grocery store parking lot and told the complainant that he "better never end up in front of him or [he] would regret it big time".

The judge provided a written response to the complaint. In the response, the judge denied having ever encountered the complainant outside the courtroom. The judge further advised that he would not recognize the complainant outside the courtroom. The judge also denied having made the comment alleged by the complainant. Additionally, the judge denied having attended at the location where the complainant allegedly encountered the judge.

Upon conclusion of its investigation, the subcommittee reported to a four-person review panel of the Council, composed of two judge members, a lawyer member and a community member. The review panel reviewed the complaint letter, the correspondence with Court Services Division, the transcripts, the letter inviting the judge to respond, and the written response provided.

The review panel observed that some of the complainant's allegations were in essence expressions of disagreement with the judge's credibility findings, with the judge's assessment of the evidence, and with the sentence imposed. The Council has no jurisdiction to review the correctness of legal, evidentiary or sentencing determinations by a judge. Judges have decision-making independence in accordance with the *Constitution Act, 1867*. Procedural rulings and evidentiary findings by a judge, including credibility findings and the weight assigned to the evidence, may be subject to appeal. However, they are not matters of judicial conduct within the Judicial Council's jurisdiction to consider.

The review panel noted that many of the complainant's allegations had no foundation in the court record. For example, regarding the allegation that the judge called the complainant a "low life" at the sentencing hearing, the review panel observed that the judge did not make this remark. Similarly, regarding the allegation that the judge ignored a medical report, the review panel observed that no medical report was entered into evidence.

Regarding the allegation that the subject judge "really wanted to d.o" the complainant, the review panel observed that there was no evidence to support the allegation that the judge wanted to impose a dangerous offender designation on the complainant. During the sentencing proceeding, the Crown commented that given the complainant's criminal history, the complainant would likely face a dangerous offender application in the future. In the judge's reasons for sentence, the judge stated that the Crown was not exaggerating in saying that the complainant was "on the precipice" of a dangerous offender application. This remark was part of the judge's assessment of the complainant's criminal record in the judge's sentencing decision and did not raise a matter of judicial conduct within the Council's jurisdiction to consider.

Regarding the allegation that the judge was biased against the complainant and had a conflict of interest, the review panel noted that, during the sentencing hearing, the complainant's counsel commented that the judge "no doubt" was familiar with the complainant from before the judge's appointment, when the judge was a prosecutor. As noted in the transcript, the judge responded as follows:

I of course have no recollection of ever personally involving myself with the prosecution of [the complainant], but I'm aware of the background that both counsel adverted to...

The review panel observed that counsel for the complainant did not raise any allegation of bias or conflict of interest, nor was a motion for recusal brought. The review panel concluded that the judge's mere familiarity with the complainant's background did not support the allegations of bias or conflict of interest.

Finally, the review panel noted that there was no information that would substantiate the complainant's allegation that the judge spoke to the complainant in a grocery store parking lot a few years prior to the trial. The review panel noted that this allegation was not raised at the complainant's trial. In addition, in the response to the complaint, the judge expressly denied that this interaction ever occurred.

Accordingly, the review panel dismissed the complaint on the basis that the allegations were outside the Judicial Council's jurisdiction and were otherwise unfounded and the file was closed.

OJC-024-23

The complainant was a self-represented litigant in a family law proceeding before the subject judge in an application by his former partner for custody and child support. The judge made a final order in that proceeding. A number of years later, the complainant commenced a motion to change the judge's final order. The judge dismissed his motion as abandoned.

In his letter of complaint, the complainant made various allegations in relation to the judge, including allegations that the judge would not allow him to speak, assumed he was lying, and was biased against him. In addition, the complainant objected to the quantum of child support he was ordered to pay. He also objected to an adjournment granted by the judge, which he alleged caused him to miss two funerals for his close relatives. The complainant further alleged that when he asked for his case to be transferred to the Superior Court of Justice, the judge said that no court can overrule them.

The complaint was assigned to a two-person subcommittee of the Council, composed of a judge member and a community member, for consideration. The subcommittee reviewed the complaint letter, the transcripts and the relevant audio recordings of the proceedings before the judge, as well as the judge's endorsements.

Based on its review of these materials, the subcommittee determined that many of the complainant's allegations were outside the jurisdiction of the Judicial Council to consider and that the remaining allegations were not supported by the court record.

The subcommittee observed that the complainant's allegations concerning the judge's decisions on the quantum of child support and the allocation of responsibility for expenses for the children involved the exercise of the judicial decision-making authority. Similarly, the complainant's criticism of the judge's decision to grant an adjournment was a matter

involving the exercise of judicial discretion. The Judicial Council does not have jurisdiction to review the manner in which a judge decides legal and evidentiary issues or the manner in which a judge exercises their judicial discretion. Issues concerning judicial decision-making and the exercise of judicial discretion are matters that may be reviewed by a higher court; they are not within the jurisdiction of the Judicial Council to consider.

The subcommittee concluded that the court record did not support the complainant's allegation of bias on the part of the judge or the allegation that the judge refused to allow the complainant to speak or assumed he was lying. To the contrary, the court record reflected that the complainant repeatedly declined to participate in the process. The court record also reflected that the judge was patient and courteous and offered the complainant multiple chances to participate.

Regarding the allegation that the judge said that "no court can overrule" her, the subcommittee likewise found this allegation to be unfounded. The record revealed that the complainant asked for his case to be transferred to the Superior Court. The judge did not say that no one could overrule her. Instead, the judge explained that the Ontario Court of Justice had jurisdiction over the complainant's matter and urged him to seek legal advice.

Having regard to these considerations, the subcommittee summarily dismissed the complaint pursuant to s. 51.4(3) of the *Courts of Justice Act* and Rule 10.1 of the Council's Procedures on the basis that the complaint raised allegations that were clearly outside the Council's jurisdiction and that were otherwise unsubstantiated and therefore frivolous.

OJC-027-23

The complainant was a self-represented litigant in a criminal trial before the subject judge. In his letters of complaint, the complainant made various allegations about the judge's conduct during the trial, including that the judge was rude, uncooperative, disrespectful, aggressive and biased.

The complainant subsequently wrote to the Judicial Council and requested that his complaint be withdrawn and further requested that the complaint-related materials he had provided to the Judicial Council be returned to him.

The complaint was assigned to a two-person subcommittee of the Council, composed of a judge member and a community member. The subcommittee considered the materials submitted by the complainant as well as the transcript of the complainant's criminal trial. In considering the complainant's request to withdraw his complaint, the subcommittee had regard to rule 4.3 of the Ontario Judicial Council's Procedures Document, which provides that:

4.3 If a complainant indicates in writing that they wish to withdraw their complaint, a complaint subcommittee may:

- a) treat the matter as withdrawn; or

- b) proceed to review the matter on the basis that it warrants further consideration by the Council.

Pursuant to rule 4.3, the complaint subcommittee determined that the matter did not warrant further consideration by the Council and agreed to treat the complaint as withdrawn. Accordingly, the file was closed.

OJC-028-23

The complainant, a member of the public, alleged that the subject judge presided over the bail hearing of a defendant facing criminal charges despite being in a conflict of interest.

In a letter to the Council, the complainant made several allegations, including that:

- the judge's decision to preside over the bail hearing despite the conflict of interest was a breach of the duty to recuse oneself, as provided in the Canadian Judicial Council's *Ethical Principles for Judges*;
- the judge's ethical breach meant that the defendant would remain in custody; and
- the judge's conduct had "shaken" the complainant's belief in the judicial system.

The complaint was assigned to a two-person subcommittee of the Council, composed of a judge member and community member, for consideration.

The subcommittee reviewed the complaint letters and the transcript of the judge's bail decision. The defendant in the criminal proceeding had sought review of the judge's decision before the Superior Court of Justice. The subcommittee also reviewed the transcript of the Superior Court judge's bail review decision.

The subcommittee noted that the defendant, who was represented by counsel, did not bring a recusal motion at the bail hearing. However, at the bail review, counsel for the defendant argued that the judge was biased or that there was a reasonable apprehension of bias.

The bail review judge considered and rejected counsel's position. The bail review judge concluded that there was no evidence upon which a reasonably informed person could find that the subject judge was biased, or that there was any reasonable apprehension of bias.

In the complaint to the Council, the complainant relied on the same arguments that defendant's counsel relied on before the bail review judge in support of the allegation that the judge had a conflict of interest warranting recusal. The complaint subcommittee shared the view of the bail review judge that there was no evidence capable of supporting

the allegation that the judge was biased, or that there was a reasonable apprehension of bias capable of warranting recusal. Given this conclusion, the complaint subcommittee observed that the further allegations of the complainant were equally without foundation.

Having regard to these considerations, the subcommittee summarily dismissed the complaint pursuant to s. 51.4(3) of the *Courts of Justice Act* and Rule 10.1 of the Council's Procedures on the basis that the complaint raised allegations that were clearly without merit and therefore frivolous.

OJC-030-23

The complainant was a Crown witness in a criminal proceeding involving a defendant who was charged with an assault against the complainant. The subject judge dismissed the assault charge based on a finding that the Crown had not proven the case beyond a reasonable doubt.

In a letter to the Judicial Council, the complainant raised a number of concerns about the judge's reasons for finding that her evidence was not credible, including that the judge's decision was "rife with victim blaming and victim shaming". The complainant also alleged that the judge improperly relied on a social media post that the complainant had made regarding the assault even though the complainant had not been asked to comment on the social media post in her evidence at the trial.

The complaint was assigned to a two-person subcommittee of the Council, composed of a judge member and community member. The subcommittee reviewed the complaint letter and the transcript of the proceedings before the subject judge, including the transcript of the complainant's evidence and the judge's reasons for decision.

The subcommittee determined that the complaint primarily related to the judge's credibility findings and the factors the judge relied on in making those credibility findings. Complaints about credibility findings by a judge do not raise an issue of judicial conduct within the jurisdiction of the Council to consider.

Regarding the allegation that the judge improperly relied on a social media post by the complainant which had not been put to her in evidence, the subcommittee observed that the complainant was asked by defence counsel in cross-examination about the social media post in question. Accordingly, the subcommittee concluded that the court record did not substantiate the complainant's allegation that the judge relied on evidence that was not presented to the complainant in the courtroom.

Having regard to these considerations, the subcommittee summarily dismissed the complaint pursuant to s. 51.4(3) of the *Courts of Justice Act* and Rule 10.1 of the Council's Procedures on the basis that the complaint raised allegations of judicial decision-making that are outside the Council's jurisdiction and that were otherwise not substantiated and therefore frivolous. Accordingly, the complaint file was closed.

OJC-031-23

The complainant was charged with breaching a peace bond and appeared for trial before the subject judge. The judge entered a conviction and imposed a suspended sentence, followed by a period of probation.

In a letter to the Council, the complainant made various allegations, including that the judge:

- was not impartial because the judge allowed a police officer to testify with “fabricated evidence” and ignored the fact that one of the officers involved in the case had been demoted and had a personal relationship with the victim;
- was involved in a conspiracy against the complainant;
- ordered a psychological assessment with malicious intent;
- imposed a sentence of three years’ probation, even though the complainant was deemed to be low risk;
- was “fanatical” and “hell-bent” on putting the complainant in jail;
- was rude toward defence counsel and “lashed out” at him with a verbally abusive rant; and
- allowed the Crown to read the victim impact statement of the victim’s father out loud in court, which the complainant found offensive.

The complaint was assigned to a two-person subcommittee of the Council, composed of a judge member and community member, for consideration. The subcommittee reviewed the complaint letter. The subcommittee also reviewed the transcripts of the judge’s reasons for judgment, a follow-up court appearance before the subject judge, and the sentencing hearing, as well as the audio recordings of the trial and sentencing hearing.

Based on its review of these materials, the subcommittee determined that many of the complainant’s allegations related to the judge’s decision-making and exercise of judicial discretion, which are outside the jurisdiction of the Council to consider. For instance, the allegations about the merits of the sentence imposed by the judge and the decision regarding the admissibility of a victim impact statement are matters of judicial decision-making, which the Council has no authority to review. The appellate process provides the appropriate avenue for challenging decisions made by a judge.

Regarding the allegation that the judge was not impartial because the judge allowed a police officer to testify with “fabricated evidence” and ignored that one of the officers involved in the case had been demoted and had a personal relationship with the victim, the subcommittee observed that the Council has no authority to review a judge’s decision to allow a particular witness to testify, or to review what weight a judge assigns to a witness’s

evidence. As noted, the appellate process provides the appropriate avenue for challenging evidentiary decisions made by a judge.

The subcommittee concluded that the remaining allegations were not supported by any evidence. For instance, the subcommittee found no evidence to support the allegations that the judge ordered a psychological assessment with “malicious intent” or that the judge was “hell-bent” on putting the complainant in jail. To the contrary, the subcommittee noted that the psychological assessment was ordered at the request of defence counsel. In addition, the judge did not impose a custodial sentence.

The subcommittee did not find any support in the record for the allegation that the judge lashed out at the complainant during the trial or was rude and disrespectful to the complainant’s lawyer. On the contrary, the judge was professional and courteous to all participants during the proceedings.

Finally, the subcommittee concluded that the allegation that the judge was involved in a vast conspiracy against the complainant was without any evidentiary foundation and did not warrant consideration by the Council. To warrant consideration by the Council, a complainant must provide a valid and rational factual basis capable of supporting an allegation of misconduct involving a judge.

Having regard to these considerations, the subcommittee summarily dismissed the complaint pursuant to s. 51.4(3) of the *Courts of Justice Act* and Rule 10.1 of the Council’s Procedures on the basis that the complaint raised allegations that were clearly outside the Council’s jurisdiction and that were otherwise unsubstantiated and therefore frivolous. The complaint was dismissed and the file was closed.

OJC-001-24

The complainant’s daughter was a party in family law proceedings involving the daughter’s ex-partner and father of their infant child. Both parties were represented by counsel in the proceedings. The parties brought competing motions for interim relief before the subject judge. The hearing took place by way of a video appearance. The applicant and the respondent were each seeking interim primary decision-making, parenting time, and other relief in relation to the child. The judge made an interim order granting each parent decision-making authority and providing details on a shared parenting time arrangement.

According to the complainant, her daughter was in an abusive relationship with her ex-partner and evidence of the abuse suffered by her daughter was presented on the motion. In a letter to the Council, the complainant alleged that:

- the judge was not interested in the issues of domestic abuse and intimate partner violence; in an endorsement, the judge stated that the judge was “not prepared to determine the truth of these allegations on the basis of contradictory evidence”;

- the judge's demeanour throughout was "pompous, gruff, rude, disinterested, indifferent and demeaning" to her daughter, and was also "condescending, humiliating and disrespectful";
- the judge was supportive of her daughter's ex-partner with respect to changing their child's surname and admonished her daughter for not mentioning the father in the birth announcement;
- the judge made derogatory comments towards her daughter and engaged in victim-blaming; the judge asserted that the abuse may have been due to "a lack of personal respect that leads to being a victim";
- the judge insulted the complainant's daughter by stating that even if violence occurred in the presence of her child, "there is no evidence of impact on the child"; the complainant describes this as a "horrifying attitude" on the part of the judge;
- due to the judge's "lack of good judgement and victim blaming, an innocent child is in the hands of a monster";
- the judge "chose to cultivate the myth that domestic violence is okay and supported by the courts and it is actually the victim's fault."

The complaint was assigned to a two-person subcommittee of the Council, composed of a judge member and community member, for review and investigation.

The subcommittee reviewed the complaint letter, the motion transcript, and the judge's endorsement. Based on its review of these materials, the subcommittee determined that the majority of the complainant's allegations related to the judge's findings and reasons for decision. Such allegations concern the exercise of judicial discretion and decision-making, which are matters outside the jurisdiction of the Judicial Council to consider.

For example, the complainant's allegations about the judge's decision on the issue of the child's surname raises a matter of judicial decision-making that is beyond the Council's jurisdiction to review. Judges are responsible for exercising judicial decision-making, which includes but is not limited to the assessment of the evidence. The Judicial Council cannot review the manner in which a judge exercises their judicial discretion. These are issues that may be considered by an appellate or reviewing court but are not matters for consideration by the Council.

In addition, the subcommittee observed that while the judge made some of the comments alleged in the letter of complaint, the allegations appear to take such remarks out of context. For example, the judge's comment that the judge was not prepared to resolve competing evidence was made in the context of competing motions for interim relief. The complaint subcommittee noted that a judge has authority to refuse to make credibility determinations where competing affidavits are filed and where the parties have not yet been cross-examined on their affidavits. When read in this context, the judge's comment about not being prepared to determine the truth of allegations of domestic abuse and

intimate partner violence did not indicate a lack of interest in these issues. Rather, this comment meant that the judge was not able to make credibility determinations without the benefit of cross-examinations of the parties on their affidavits.

Regarding the judge's comment in the endorsement – "a lack of personal respect that leads to being a victim", the subcommittee observed that the judge did not direct this remark to either of the parties, nor did the judge state that a lack of personal respect was an excuse for abuse. The judge made this general comment in the context of a case where both parties were alleging abuse by the other.

Regarding the judge's comment about a lack of evidence that violence experienced by the mother in the child's presence had an impact on the child, the judge made this comment as an incidental remark in the context of an interim motion where there was no evidence from either party or from a Children's Aid Society or Office of the Children's Lawyer to suggest that the child was experiencing harm or violence. While recognizing that the complainant found the comment troubling, the subcommittee observed that the remark reflected the judge's assessment of the state of the evidentiary record before her. The subcommittee concluded that the comment did not raise an issue of judicial misconduct warranting review by the Council.

Finally, based on their review of the motion record, the subcommittee found that there was no support for the complainant's allegations that the judge treated the complainant's daughter poorly, was hostile towards her, or otherwise made inappropriate comments during the hearing. As already noted, the complainant's daughter was represented by counsel on the motion. The subcommittee observed that the judge said very little during the hearing and said nothing that was inappropriate or critical of the complainant's daughter.

Having regard to these considerations, the subcommittee summarily dismissed the complaint pursuant to s. 51.4(3) of the *Courts of Justice Act* and Rule 10.1 of the Council's Procedures on the basis that the complaint raised allegations that were clearly outside the Council's jurisdiction and that were otherwise unsubstantiated.

Accordingly, the complaint was dismissed and the file was closed.

OJC-002-24

The complainant was a client of the subject judge at the time of the judge's appointment to the bench. Before being appointed, the judge practiced family law and provided family law-related services to the complainant and the complainant's co-parent.

On the day of the judge's appointment to the bench, the judge emailed the complainant and the co-parent to inform them of the appointment and to advise that the judge could no longer provide family law-related services. A few days later, the judge sent the complainant and the co-parent an email with a summary of their final account. The summary indicated that the co-parent owed the complainant part of a prior costs award. The judge advised that the co-parent should pay the complainant directly.

The complainant responded to the judge, refusing to accept “the transfer of any debt” that the co-parent owed the judge (referring to the balance of the costs award). The complainant asked the judge to refund the money to the complainant directly and asked the judge to collect any outstanding amounts. The complainant wrote that if payment was not received, or if the judge did not respond by a specified date, the complainant would escalate the matter to the Judicial Council.

With the letter of complaint, the complainant included correspondence received from the judge explaining that the costs award was a debt the co-parent owed to the complainant and not to the judge. The judge further explained that by prior arrangement, the co-parent had been paying the costs award by replenishing each month the retainer funds in the judge’s trust account. Upon termination of the judge’s retainer, the judge had returned the balance of the retainer funds to the complainant, including the amounts the co-parent had paid on account of the costs award.

The complainant alleged that the judge terminated the professional relationship abruptly. The abrupt termination left unresolved issues and created confusion which “could have been potentially avoided with better communication and responsible termination practices”. The complainant added that individuals appointed to the bench should be obliged to fulfill all existing contractual obligations before assuming their judicial role and that individuals should be transparent about their plans for seeking a judicial appointment.

The complainant further alleged that the judge negotiated terms regarding the payment of costs without the complainant’s involvement.

The complaint was assigned to a two-person subcommittee of the Council, composed of a judge member and community member, for review and investigation. The subcommittee reviewed the complaint letter and enclosures provided by the complainant.

Regarding the allegation about the judge’s manner of terminating the professional relationship, the subcommittee observed that the judge’s conduct was consistent with the ethical obligations that apply upon appointment to the bench. The subcommittee observed that the Canadian Judicial Council’s *Ethical Principles for Judges* (2021) state:

5.C.4 Upon appointment, judges must immediately cease practicing law, and should divest themselves and remain divested of their interests in commercial and business activities. Severance of all association with the judge’s legal practice should be done as quickly as possible, ideally in an immediate and final way.

The complainant’s suggestion that individuals appointed to the bench must complete all existing retainers prior to assuming their judicial position is inconsistent with this principle and with established practice. While it may be frustrating and inconvenient, individuals must retain new counsel when their current counsel is appointed to the bench.

There is no ethical obligation on lawyers to advise their clients that they are considering (or have applied for) a judicial appointment.

Accordingly, the complaint subcommittee found no evidence of misconduct in the judge's manner of terminating the professional relationship. The judge had advised the complainant immediately of the judicial appointment and the termination of the retainer and promptly rendered the final account.

Regarding the allegation that the judge negotiated terms for the payment of costs without involving or informing the complainant, this allegation related to the judge's legal practice prior to the judicial appointment. Based on the correspondence provided by the complainant, the co-parent had been paying the costs award in this manner for some months prior to the judge's appointment.

The Judicial Council's jurisdiction over pre-appointment conduct is limited to alleged conduct that is relevant to a judge's ability to execute their judicial functions and where the conduct may undermine public confidence in the judge and in the administration of justice generally. The subcommittee determined that even if true, the alleged conduct did not meet this threshold and was therefore outside the jurisdiction of the Council to consider.

The subcommittee was troubled that in email correspondence with the judge, the complainant immediately threatened to escalate the financial dispute to the Judicial Council. The subcommittee was concerned that the complainant may have been attempting to use the complaints process to compel payment from the judge, which could be considered an abuse of the Council's process.

Having regard to these considerations, the subcommittee summarily dismissed the complaint pursuant to s. 51.4(3) of the *Courts of Justice Act* and Rule 10.1 of the Council's Procedures on the basis that the complaint raised allegations that are clearly outside the Council's jurisdiction and that were otherwise frivolous or an abuse of process.

Accordingly, the complaint was dismissed and the file was closed.

OJC-003-24

The complainant was a victim in a criminal sentencing proceeding presided over by the subject judge. The defendant was charged with sexual offences against multiple victims. The defendant pled guilty to sexual assault in relation to a different victim and acknowledged the allegations in relation to the others, including the complainant. The judge accepted a joint submission on sentence from the Crown and the defence and the Crown withdrew the remaining charges. The complainant attended the sentencing hearing and read her victim impact statement into the record.

In a letter to the Council, the complainant alleges that during the sentencing hearing:

- the judge lacked empathy and mistreated her while she was reading her victim impact statement. For example:

- the judge belittled her and was “very rude and disrespectful”.
 - the judge “continuously interrupted” her, made her jump from one part of her statement to another, and prevented her from reading a vital part. The complainant found this challenging as a person with a disability.
 - the judge accused the complainant of insulting the judge and the judge’s colleagues, saying that her opinions of the justice system should not be in the victim impact statement.
 - the judge denied her truth and shut her down. The judge did not want anyone to know that the justice system is broken. The complainant said she would go to the media, and the judge then threatened her with a media ban.
- The judge was unable to control the proceeding over Zoom. This resulted in a “serious lack of consideration and protection for the victim”. For example:
 - At the beginning of the hearing, the defendant did not have his camera or microphone on. During the hearing, the defendant was laying down, pretending to be ill, and sleeping at times. The judge “never called him out”.
 - At the end of the hearing, the judge did not close the Zoom conference, which left the complainant and the defendant together in the virtual courtroom. The defendant walked up to the camera and stared down the complainant. The complainant felt violated and traumatized.
 - Observers did not need to identify themselves or have their cameras on, but their microphones were not muted. The court should have muted observers at the beginning of the hearing.
 - While the complainant was reading her victim impact statement, an unidentified observer laughed. If the complainant hadn’t stopped reading and questioned the behaviour, the judge would have allowed it to continue.
 - The judge misrepresented his role by saying he would consider her victim impact statement. In fact, the judge’s role as decision-maker was an illusion as “judges have little to no say ... and must always take the plea deal without scrutiny”.
 - The sentence was inadequate, did not hold the defendant accountable, and brought the criminal justice system into disrepute. The plea deal took

away the complainant's day in court and was done solely for the convenience of the Crown.

- The complainant asked for restitution, only for the judge to say that she had to pursue civil proceedings. Judges should be able to require restitution. It was a slap in the face for the judge to impose a \$100 victim surcharge, when the complainant was never offered any victim services.
- The defendant is still running the business he used to lure his victims. The judge should have addressed this when crafting the defendant's probation conditions.
- The judge failed to hold the defendant accountable for his actions in all jurisdictions. Defendants should be held accountable for a minimum of one charge per jurisdiction so that they can be sentenced as repeat offenders.
- The judge disregarded "the Canadian and Ontario Bill of Rights, the Canadian Sentencing Commission proposals of 1987, the office of the Ombudsman for Victims' progress report 202 proposals, and D:35 victims".

The complaint was assigned to a two-person subcommittee of the Council, composed of a judge member and community member, for consideration. The subcommittee reviewed the complaint letter, along with the transcript and audio recording of the proceeding before the judge.

Based on its review of these materials, the subcommittee observed that several of the allegations related to the complainant's disagreement with the sentence imposed on the defendant, and with the criminal justice system more generally. The subcommittee noted that the Council has no jurisdiction to consider legal, evidentiary or procedural determinations by a judge. Sentencing decisions by a judge may be subject to appeal. However, they are not matters of judicial conduct within the Judicial Council's jurisdiction to consider. Similarly, the Council has no jurisdiction to consider complaints about the resolution of criminal proceedings or the criminal justice system more generally.

Regarding the allegations that the judge mistreated the complainant while she was reading her victim impact statement, the subcommittee carefully reviewed the audio recording of the complainant reading her victim impact statement. The subcommittee observed that the judge treated the complainant politely, respectfully, and patiently. The subcommittee noted that while the judge interrupted the complainant from time to time, the judge did so only when the content of the complainant's victim impact statement departed from what was legally permissible. The subcommittee observed that the judge was respectful in interrupting and giving direction to the complainant. The judge acknowledged the complainant's frustration with the justice system and apologized for the interruptions.

The subcommittee determined that the judge did not accuse the complainant of insulting the judge and the judge's colleagues, as alleged. Rather, the judge acknowledged the

complainant's views about the judicial process and various justice system participants and explained that those views were not appropriately part of a victim impact statement. The committee concluded that there was nothing inappropriate in the judge's conduct.

The subcommittee found that the judge did not threaten the complainant with a publication ban, as alleged. Rather, after the complainant finished reading her victim impact statement, defence counsel asked that the existing publication bans be read out for the complainant's benefit and for the benefit of others present. The judge then directed the clerk to read out the publication bans.

Regarding the allegations that the judge failed to control the courtroom, the subcommittee concluded that these allegations were not borne out by the record of proceedings. It was within the judge's discretionary power to determine how to control the proceedings, including whether to comment on the defendant's behaviour during the proceedings. The Judicial Council has no jurisdiction to consider complaints arising from the exercise of such judicial discretion.

The subcommittee further noted that the judge responded appropriately to an observer who laughed while the complainant was reading her statement. Defence counsel informed the judge that the laughter came from an observer who was immediately muted. The judge indicated his agreement with the complainant that the laughter was "very inappropriate".

The subcommittee observed that the audio recording and transcript did not reveal whether, after the hearing ended, the defendant walked up to his camera and stared at the complainant, as alleged. However, the subcommittee observed that at the end of the hearing, the court took a brief recess. The record did not suggest that the judge was made aware of any alleged inappropriate behaviour by the defendant while the court was on recess.

Having regard to these considerations, the subcommittee summarily dismissed the complaint pursuant to s. 51.4(3) of the *Courts of Justice Act* and Rule 10.1 of the Council's Procedures on the basis that the complaint raised allegations that were clearly outside the Council's jurisdiction and that were otherwise unsubstantiated and therefore frivolous. The file was closed.