



ONTARIO JUDICIAL COUNCIL

ANNUAL REPORT 2025



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 29, 2026

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-ninth 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, 2025.

Respectfully submitted,

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

Sharon M. Nicklas
Chief Justice
Ontario Court of 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 2025 Annual Report provides information on the Council’s membership, its functions, policies and procedures, and its work during the 2025 reporting year. During the period of time covered by this Report, the Ontario Judicial Council had jurisdiction over 396 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 highest-volume trial court in Canada. In an average year, judges of the Court deal with over 249,000 adult and youth criminal cases and over 7,500 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 2025 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 Vincent Clifford, Regional Senior Justice (East Region)

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

- ◆ Jonathan Rosenthal, Designate for Treasurer of the Law Society of Ontario

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
(Until June 16, 2025)
- ◆ Cameron MacKay (Toronto), Senior Vice-President, Communications and Public Engagement, Waterfront Toronto
- ◆ Jovica Palashevski (Mississauga), President of Global Consulting
(Until July 1, 2025)
- ◆ Robert (Peter) Woolstencroft (Waterloo), Professor Emeritus, Political Science, University of Waterloo

- ◆ Marian Lippa (Vaughan), Paralegal, Lippa Legal Services
(Effective September 4, 2025)
- ◆ Keith Strachan (Barrie), Chief Executive Officer, BioFlight Fuels
(Effective December 17, 2025)

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 judges of the Ontario Court of Justice were appointed by the Chief Justice as temporary members 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)
- ◆ The Honourable Justice Lise Parent (*Per diem*)

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, two Counsel/Deputy Registrars, 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 Tantalo – 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

During the reporting year, the Ontario Judicial Council launched a new public website as part of its ongoing commitment to transparency, accessibility, and public confidence in the judicial oversight process. The new website provides a modernized platform through which members of the public, the judiciary, and other stakeholders can access clear and reliable information about the Council's mandate, jurisdiction, processes, and activities.

The website was designed with a focus on usability, accessibility, and plain language communication. It incorporates a responsive design that allows content to be viewed effectively across a range of devices, including desktop computers, tablets, and mobile phones.

Key enhancements include clearer explanations of the complaint process through a "Frequently Asked Questions" section, improved navigation, and the introduction of a "Latest News and Publications" section to support access to public information about the Council's work.

The launch of the website represents an important step in strengthening the Council's public facing communications and enhancing public understanding of its independent role. The Council will continue to review and improve the website over time to ensure that it remains responsive to user needs and reflects best practices in public sector 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/files/Continuing-Education-Plan-for-Judges-of-the-Ontario-Court-of-Justice-Effective-21-March-2025.pdf>

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.

The *Principles of Judicial Office* 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 from January 1, 2025 to May 31, 2025. Regional Senior Justice Vincent Clifford acted as the Judicial Council's representative on the Judicial Appointments Advisory Committee from June 1, 2025 to December 31, 2025.

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.

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 and 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 subcommittee 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 (remote or in person) between the judge and the complainant and/or an affected third party;
- ◆ 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
- ◆ there are concerns about the competence and/or capacity of the judge to perform the essential duties of office.

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 four Council members: two provincial judges (other than the Chief Justice of the Ontario Court of Justice), a lawyer member, 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 on an anonymized basis. 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, four 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 2025, 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 Council made two substantive amendments to rule 9.2, which sets out the factors to be considered by complaint subcommittees in making interim recommendations for a judge's suspension with pay, or re-assignment to another court location, pending the final disposition of a complaint.

First, the Council amended rule 9.2(a), which addresses complaints arising from working relationships between judges and others. The Council amended this rule to include the term, "affected third party", to clarify that

individuals may complain to the OJC on behalf of an affected third party. The amended (a) now also refers to both remote and in-person working relationships.

Second, rule 9.2(d) was amended to reflect that an interim recommendation may be made where a complaint subcommittee has concerns about the competence and/or capacity of a judge to perform the essential duties of office, regardless of whether the judge has a disability.

- ◆ The Council amended rule 12.10, which addresses a judge's consent to the referral of a complaint to the Chief Justice of the Ontario Court of Justice, with conditions. The Council amended this rule to clarify that, as set out in s. 51.4(15) of the *Courts of Justice Act*, a judge's consent is only required if conditions are attached to the referral to the Chief 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 2025

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 2025, the Judicial Council received, reviewed and addressed over 175 letters of complaint. In addition, Council staff received and responded to several hundred 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 2025, Council staff prepared over 150 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, 21 new complaint files were opened. In addition, 15 complaint files were carried forward from the previous reporting period, for a total of 36 open complaint files under consideration by the Council in 2025.

In the reporting period, the Council closed 19 complaint files. Of the 19 complaint files that were closed in 2025:

- 1 complaint file was opened in 2023
- 10 complaint files were opened in 2024
- 8 complaint files were opened in 2025

OUTCOMES FOR COMPLAINT FILES CLOSED IN 2025

Disposition	Number of Cases
Summarily dismissed – Out of jurisdiction, frivolous or an abuse of process	12
Dismissed by review panel – Out of jurisdiction, unfounded, not judicial misconduct	6
Referred to Chief Justice	1
Administratively closed due to loss of jurisdiction or failure of complainant to provide information needed to consider the complaint	0
Hearing	0
TOTAL	19

TYPES OF COMPLAINT FILES CLOSED IN 2025

Complaint Type	Number of Cases	% of Caseload
Criminal Court	16	84%
Family Court	3	16%
Provincial Offences Appeal Court	0	0%
Other – Outside of court	0	%
TOTAL	19	100%

COMPLAINT FILE CASELOAD

	Fiscal year 2019/20	Apr.1/20 – Dec.31/21	Calendar Year 2022	Calendar Year 2023	Calendar Year 2024	Calendar Year 2025
Files opened during year	27	41 ¹	28	32	14	21
Files continued from previous year	21	11 ²	13	20	32	15
Total open files during year	48	52	41	52	46	36
Files closed during year	37	39 ³	21	20	31	19
Files remaining at year end	11	13	20	32	15	17

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 a review panel of the Council 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.¹

Background to the Complaint

The complaint was received from then-Chief Justice Lise Maisonneuve of the Ontario Court of Justice on April 12, 2023. The complaint letter informed the Council that Justice Currie was charged with one count of assault causing bodily harm pursuant to s. 267(b) of the *Criminal Code*, R.S.C. 1985, c. C-46, and one count of assault contrary to s. 266 of the *Criminal Code*.

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 Justice Currie be suspended with pay pending the final disposition of the complaint. The interim recommendation was accepted, and Justice Currie was suspended with pay pending the final disposition of the complaint.

In June 2023, the criminal charges against Justice Currie were withdrawn by the Crown on the ground that there was no reasonable prospect of conviction.

After the criminal charges were withdrawn, a two-member complaint subcommittee investigated the complaint. Based on the results of this investigation, a four-member review panel of the Council ordered a hearing into the complaint.

Legal Counsel

The Ontario Judicial Council retained Gerald Chan and Alexandra Heine of Stockwoods LLP to serve as presenting counsel at the hearing.

Justice Currie was initially represented in the proceedings by Brennan Smart.

The primary witness in the proceedings was represented by Daniel Goldbloom and Alexa Klein of Goldbloom Ross Cunningham LLP.

¹ Justice Currie's term as the Regional Senior Judge (Central West) ended on August 31, 2025.

Procedural History

The hearing panel was originally composed of Justice Paul Rouleau, a judge of the Court of Appeal for Ontario and 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. Peter Woolstencroft was appointed by the Chief Justice of the Ontario Court of Justice to replace Mr. Palashevski, following Mr. Palashevski's resignation from the Council in July 2025, prior to the commencement of the hearing.

On February 24, 2025, the hearing panel convened for an initial set-date and for argument on two interim motions filed by Justice Currie and one interim motion filed by presenting counsel.

Counsel for Justice Currie filed two motions seeking: (1) an order that Appendix "A" to the Notice of Hearing (containing the particulars of the allegations against RSJ Currie) "be excluded or excised from the public filing"; and (2) an order staying the OJC proceedings pursuant to rule 4.7 of the OJC's Procedures Document.

Presenting counsel filed a motion for directions regarding the procedure for admitting evidence of other sexual activity or private records at the hearing. Presenting counsel also requested a publication ban over the name of the primary witness and any information which could tend to identify the witness.

In a ruling dated March 17, 2025, the hearing panel exercised its discretion to grant a publication ban over the name of the primary witness and over information that would identify this witness.

The panel dismissed Justice Currie's motion to excise Appendix "A" to the Notice of Hearing. The panel also dismissed Justice Currie's motion to stay the Council hearing.

On presenting counsel's motion, the panel provided directions regarding the vetting of any proposed evidence of other sexual activity or private records that Justice Currie may wish to call or tender at the hearing.

The hearing panel directed that dates for the hearing be reserved in April and June 2025.

The hearing panel's [reasons for decision](#) in relation to the interim motions is available on the [Public Hearings Decisions](#) page of the Council's website.

Following the release of the hearing panel's decision on the interim motions, the details of the allegations in the Notice of Hearing were published on the Council's website. In accordance with the panel's publication ban, the primary witness in the proceedings is referred to as A.A.

The allegations in the Notice of Hearing are summarized as follows:

- On or around January 11, 2023, Justice Currie engaged in non-consensual sexual intercourse with A.A. and physically assaulted A.A. causing bodily injury.
- On or around April 5, 2023, Justice Currie pushed A.A., causing bodily injury. A.A. called 911. Justice Currie left prior to the arrival of the police.
- On April 6, 2023, Justice Currie attempted – or could be perceived as attempting – to influence A.A. to decline to give a statement to the police.
- On April 6, 2023, a warrant for Justice Currie’s arrest was issued. Justice Currie did not surrender into custody for 5 days following the issuance of an arrest warrant. (After surrendering to the police, Justice Currie was charged criminally with assault causing bodily harm and assault. On or around June 20, 2023, the criminal charges against Justice Currie were withdrawn.)
- Having been informed that the Ontario Judicial Council was investigating a complaint about his conduct, Justice Currie engaged in conduct that was – or could be perceived as – an attempt to dissuade A.A. from cooperating with the Council’s investigation.
- Justice Currie’s conduct involving the alleged assaults on A.A. is linked to alcohol consumption and anger management issues.
- Justice Currie’s conduct is contrary to the impartiality, integrity and independence of the judiciary and undermines public confidence in the judge and in the administration of justice generally.

On April 9, 2025, the hearing panel heard by way of videoconference a motion by Justice Currie to adjourn the April and June hearing dates. The request to adjourn the hearing dates was based on Justice Currie’s medical condition.

In brief oral reasons, the panel granted the motion to adjourn the hearing dates based on Justice Currie’s medical condition, but reserved the hearing date of June 27, 2025. The hearing panel’s [reasons for decision](#), dated April 22, 2025, are posted on the [Public Hearings Decisions](#) page of the Council’s website.

On June 27, 2025, the hearing panel conducted a case management conference with the parties by way of videoconference. At the appearance, counsel for Justice Currie agreed to provide updated medical information so that the panel could assess the hearing schedule and whether any accommodations were needed to ensure Justice Currie’s meaningful participation in the hearing.

On October 15, 2025, the hearing panel conducted a case management conference with the parties by way of videoconference during which Mr. Brennan Smart advised that he had been discharged as counsel by Justice Currie. Justice Currie confirmed that he would

proceed without counsel on the scheduled hearing dates. The hearing panel confirmed that Mr. Smart was removed as counsel of record.

By order dated October 30, 2025, the hearing panel appointed Erin Dann as counsel to conduct the cross-examination of the primary witness.

The hearing commenced on November 18, 2025 and continued on November 19, 20, 21 and 24. The hearing was conducted at the Federal Court, located at 180 Queen Street West, Toronto.

On November 19, 2025, the panel conducted an *in camera* admissibility hearing to determine the admissibility of evidence in the possession of Justice Currie that the panel determined should be considered private records as contemplated in s. 278.92 of the *Criminal Code*. The materials in issue were screenshots of text messages between Justice Currie and the primary witness. The hearing panel rendered an oral decision, with reasons to follow, allowing the use of all text messages relied on by appointed counsel for the purposes of cross-examination of the primary witness, as supplemented by seven additional screenshots of text messages filed by counsel for the primary witness. The reasons for decision were released following the end of the reporting period.

The evidentiary portion of the hearing ended on November 24, 2025. The hearing panel reserved their decision on the issue whether the allegations in the Notice of Hearing were proven. The reasons for decision were released following the end of the reporting period. Decisions of the hearing panel 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.

OJC-025-23

The complainant was charged with three criminal offences. Two of the charges were resolved by way of a guilty plea before a judge of the Ontario Court of Justice (not the subject judge), in accordance with a plea agreement that had been reached by the complainant's former lawyer and Crown counsel. The third charge was adjourned to a later date.

The complainant subsequently appeared before the subject judge on the third charge for a judicial pretrial, which continued on various dates. The complainant was self-represented at these appearances. Throughout the proceedings, the complainant took the position that the third charge should be withdrawn pursuant to the plea agreement. At the final appearance before the judge, the Crown exercised its discretion to stay the third charge.

In a letter of complaint to the Judicial Council, the complainant raised various allegations about how the judge conducted the proceedings, including that the judge:

- “Inconsiderably and without proper justification” vacated an upcoming court date at which the third charge would be withdrawn.
- Refused to read a letter from the complainant regarding crucial aspects of the complainant's case.
- Favoured arguments presented by the Crown, even though they were misleading.
- Ignored the complainant multiple times, failing to afford the complainant respect and consideration as a self-represented party.
- Exhibited inappropriate behaviour by smiling multiple times when the complainant was speaking in the courtroom. This conveyed a lack of seriousness and professionalism.
- Interrupted the complainant and asked the complainant to stop talking when the complainant was attempting to make a “speech”. This interruption hindered the complainant's ability to effectively present their case.
- Disregarded the complainant's mental disability.

- Failed to address the Crown’s misrepresentation of the terms of the plea deal. This lack of scrutiny resulted in the “stay”, contrary to the original agreement to withdraw the third charge.

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 and the transcripts of the complainant’s appearances before the judge.

The subcommittee noted that several of the complainant’s allegations concerned the judge’s case management of the proceedings, including the decision to conduct a judicial pretrial and vacate a future court appearance. The subcommittee noted these allegations involved the exercise of judicial discretion and did not raise issues of judicial conduct within the jurisdiction of the Judicial Council to consider.

The subcommittee further noted that judges have a duty to control the proceedings over which they preside to ensure the effective and efficient use of court time, as well as a fair hearing. In matters involving self-represented litigants, judges may need to adopt a more active case management approach to ensure that the proceedings move forward in a timely manner, and to protect the rights and interests of the self-represented party (see the Canadian Judicial Council’s *Ethical Principles for Judges*, [2.D.1](#), [2.D.2](#), [5.A.8](#) and the *Statement of Principles on Self-represented Litigants and Accused Persons*).

Regarding the allegation that the judge refused to review a letter submitted by the complainant, the subcommittee observed from the transcripts that the complainant had written directly to the judge. The judge correctly advised the complainant that it was inappropriate for a party to write directly to the presiding judge. The judge’s refusal to review the letter did not raise ethical concerns within the Council’s mandate to consider. Similarly, the subcommittee noted that the allegation that the judge favoured the Crown’s arguments raised a matter of judicial discretion and decision-making outside the jurisdiction of the Judicial Council.

In addition, the subcommittee found that many of the allegations were inconsistent with the court record. For example, the subcommittee found no support for the allegations that the judge did not let the complainant speak or present the complainant’s case, or the allegation that the judge ignored and interrupted the complainant. To the contrary, the record reflected that the judge provided the complainant with frequent opportunities to make submissions and was patient when the complainant continued to interrupt the court. The record did not support the allegation that the judge behaved with a lack of seriousness or professionalism.

Concerning the allegation that the judge disregarded the complainant’s “mental disability”, the subcommittee noted that the complainant advised the court of a problem remembering things unless the complainant said them out loud. To remedy this issue, the judge suggested that, while waiting for the complainant’s turn to speak, the complainant could write down their thoughts so that the complainant would not forget them. The

subcommittee observed that the judge treated the complainant with respect, patience and professionalism.

Finally, the subcommittee considered the allegation that the judge failed to address the Crown's "misrepresentation of the terms of the plea deal", which resulted in the third charge being stayed rather than withdrawn. The subcommittee observed that, to the extent the complainant was challenging the decision to stay the charge, this was a decision made by the Crown in the exercise of its prosecutorial discretion. The authority to withdraw criminal charges or stay them pursuant to s. 579 of the *Criminal Code* lies exclusively with the Crown.

The subcommittee observed from the record that there was a lack of clarity about the terms of the proposed resolution concerning the third charge. Throughout the proceedings, the judge made efforts to assist the complainant in understanding the process and to protect the complainant's rights and interests as a self-represented party. The subcommittee determined that the judge's conduct did not raise ethical concerns warranting remedial action by the Council.

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 allegations were clearly outside the Council's jurisdiction and were otherwise without merit and therefore frivolous. Accordingly, the complaint file was closed.

OJC-004-24

The complainant was involved in family custody proceedings involving her grandson (the "child"). The complainant appeared before the subject judge on an urgent interim motion filed by the child's mother regarding parenting time for the child.

In her complaint to the Judicial Council, the complainant expressed disagreement with the judge's findings and decision on the motion. The complainant also alleged that the judge, among other things:

- was not impartial, prejudged the matter and took sides;
- was "mean and aggressive" toward her and her lawyer;
- did not let her lawyer speak and was always cutting him off;
- may have discriminated against her due to her Indigeneity; and
- falsely and unjustly accused her of exhibiting "poor judgment" during one of the child's visits.

The complainant further alleged that, because of the judge's decision and/or comments on the motion, she had no choice but to agree to the child's mother assuming custody of the child.

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 letters of complaint, the transcript, and the audio recording of the proceedings in question. The subcommittee also reviewed the materials filed by both parties on the motion, the judge's order and endorsement on the motion, and the final order in the family law proceedings, which was issued by a different judge.

Upon reviewing the materials, the subcommittee was concerned that some of the judge's remarks and the judge's demeanour toward the complainant's counsel might have led the complainant to believe the judge was not impartial. The subcommittee noted that the judge interrupted the complainant's counsel multiple times and made remarks that could be perceived as impatient, flippant, or antagonistic. The subcommittee was concerned that such remarks, and the tone in which they were delivered, may have contributed to the complainant's perception that the judge did not treat the complainant or her counsel fairly or respectfully.

The subcommittee invited the judge to respond to these concerns and reviewed the judge's response. The subcommittee observed from the judge's response that the judge demonstrated careful reflection on the complainant's allegations and understood the subcommittee's concerns about how the judge's remarks were perceived. The judge acknowledged why the complainant might have viewed the judge's tone and language as aggressive and why the complainant may have felt that the judge was biased against her and her counsel. The judge recognized the importance of ensuring that all parties feel heard and treated fairly in the legal process and admitted to failing in this regard. The judge expressed sincere regret for the impact of his conduct on the complainant and requested that an apology be conveyed to her.

The subcommittee submitted a report on its investigation to a four-person review panel of the Council, composed of two judge members, a lawyer member and a community member. The review panel examined the report and the materials considered by the subcommittee, including the correspondence from the complainant, the record of the proceedings before the subject judge, and the judge's response to the complaint.

The review panel agreed with the subcommittee that the complainant's disagreement with the judge's findings and decision on the interim motion were matters of judicial discretion and decision-making, which are issues outside the Judicial Council's jurisdiction. The review panel further agreed that the evidentiary record did not support the allegation of discrimination based on the complainant's Indigeneity.

Regarding the judge's tone and remarks, the review panel was satisfied that the judge had taken this aspect of the complaint seriously and had shown full insight and acknowledgement of the concerns raised by the subcommittee. The review panel noted that the judge, having reviewed the audio of the proceeding, was equally troubled by the conduct and its impact on the complainant.

Based on the judge's response, the review panel agreed with the subcommittee that the remedial purpose of the complaints process had been achieved and that no further action

on the part of the Council was necessary. The review panel directed that the judge's apology be conveyed to the complainant through the Council's letter informing her of the disposition of the complaint. The complaint was dismissed and the file was closed.

OJC-005-24

The complainant was the parent of a defendant in a criminal proceeding before the subject judge. The defendant pled guilty before the judge to three serious offences. Following sentencing submissions, the judge imposed a penitentiary sentence.

In multiple letters to the Council, the complainant alleged that during the sentencing hearing:

- The judge denigrated the defendant even though he pleaded guilty.
- The judge said that the defendant should not receive support from the Ontario Disability Support Program (ODSP). It was not the judge's place to make this kind of assessment.
- The judge commented: "well maybe he's isolated himself, but he won't be able to do that once in jail." This comment showed that the judge had already decided to sentence the defendant to jail.
- The judge did not believe the complainant when, during the sentencing hearing, the complainant described the difficulties the complainant experienced in getting mental health support for the defendant.
- The judge pre-decided the matter and the defendant did not receive an impartial hearing.

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, the transcripts of the sentencing proceedings before the judge, and the audio recording of the proceedings referred to in the complaint letter.

Based on its review of these materials, 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 also received and reviewed the complaint letters, the transcripts, and relevant audio recording of the proceedings.

Based on this review, the review panel agreed with the subcommittee's conclusion that the manner in which the judge discussed the evidence and the offences during the sentencing proceedings was appropriate and did not amount to denigrating the defendant. In reaching this conclusion, the review panel agreed with the complaint

subcommittee's observation that the judge's approach was respectful towards all the participants.

The review panel observed that the judge discussed the evidence and the circumstances of the offences frankly with the Crown and defence counsel as they were making submissions. The judge summarized and quoted directly from a medical report about the defendant's mental condition and referred to the serious circumstances of the offences to which the defendant had pled guilty.

The subcommittee and review panel considered the complainant's allegation that the judge commented that the defendant would not be isolated in jail. The subcommittee and review panel members noted that the judge stated: "Well, he certainly will not be socially isolated in the penitentiary". The review panel observed, as did the complaint subcommittee, that this comment could be considered curt or abrupt when viewed in isolation. However, the review panel agreed with the subcommittee's conclusion that when considered in the context of the judge's broader exchange with defence counsel, the comment did not raise ethical concerns warranting intervention by the Council.

In particular, the review panel noted that defence counsel was proposing a conditional sentence with house arrest for the defendant. The judge indicated that the case law did not seem to support a conditional sentence. Defence counsel relied on a medical report to support the proposed conditional sentence, and argued that the defendant's social isolation contributed to the commission of the offences. Viewed in this context, the review panel agreed that the comment did not suggest that the judge had pre-determined the matter or was not keeping an open mind. Rather, the judge seriously considered defence counsel's submissions, and expressed views on the applicable law and whether a sentence of house arrest would be fit given the defendant's circumstances. The review panel determined that in making the impugned comment, the judge was observing that if the defendant's social isolation contributed to the commission of the offences, sentencing him to house arrest might not be appropriate.

The subcommittee and review panel also considered the complainant's allegation that the judge said that the defendant should not receive support from ODSP. The subcommittee and review panel members noted that the judge commented on the defendant's eligibility for a "disability pension" in response to defence counsel's submissions that the defendant's intellectual and social deficits as set out in a medical report were a mitigating factor in determining the appropriate sentence. Considered in this context, the review panel agreed with the subcommittee that this comment was not inappropriate given that the judge was questioning defence counsel on the extent of the defendant's deficits as set out in the medical report.

The subcommittee and the review panel additionally considered the complainant's allegation that the judge was dismissive of the difficulties the complainant and the defendant faced in finding rehabilitative mental health support for the defendant. Based on their review of the record, the subcommittee and review panel observed that initially, the judge challenged the complainant's assertions about these difficulties. However, the subcommittee and review panel members observed that by the end of the exchange in

question, the judge appeared to have accepted the complainant's account of the difficulties involved. In any event, the overall tenor of the exchange was professional throughout.

Accordingly, the review panel determined that the comments and exchanges described above could not support a finding of judicial misconduct.

Regarding the allegation that the judge had pre-judged the matter and did not give the defendant an impartial hearing, the review panel shared the subcommittee's view that the judge had carefully prepared for the sentencing hearing, as demonstrated by the questions the judge posed to the Crown and defence. The judge posed questions to both the Crown and defence in an impartial manner designed to elicit submissions that would be helpful to the court. For example, the judge pointed out to the Crown that the case law the Crown was relying on involved individuals with criminal records, while the defendant had no criminal record. The review panel agreed with the subcommittee's conclusion that the comments and questions posed by the judge did not illustrate that the judge had prejudged the sentencing issue, but rather indicated that the judge was fully prepared for the hearing.

Having regard to these considerations, the review panel accepted the subcommittee's recommendation that the complaint be dismissed pursuant to rule 12.8 of the OJC Procedures Document based on the lack of evidence capable of supporting a finding of judicial misconduct. Accordingly, the complaint was dismissed, and the file was closed.

OJC-006-24

The complainant was the defendant in a criminal trial on various charges including assault with a weapon, uttering threats to cause bodily harm, and assault causing bodily harm. The charges stemmed from alleged altercations between the complainant and his former partner and adult stepdaughter. Following five days of evidence, the subject judge found the complainant guilty of one count of assault with a weapon and not guilty of the remaining counts. The judge imposed a sentence of a conditional discharge with 12 months' probation.

The complainant subsequently complained to the Judicial Council about the conduct of the judge during the trial. The complainant alleged that the judge:

- covered up the failures and mistakes of the police;
- covered up the "perjury and fabrication of evidence" by his former spouse and stepdaughter;
- discriminated against him based on his gender and crossed the line by calling him a "misogynist" in the reasons for judgment;
- looked down on him with disdain throughout the trial, which was "disgusting and prejudicial"; and,

- whined in the courtroom about being overworked and exhausted.

Additionally, the complainant complained about the duration of the trial and the time it took for the judge to deliver judgment:

For a Justice to preside over a five-day trial (3 separate and distinct dates) with a duration of 189 days and the [sic] take an additional 251 days (the ninth month) with 5 adjournment dates to render a verdict is unconscionable...

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 and additional letters submitted by the complainant to the Council. In addition, the subcommittee reviewed the criminal Information, and relevant transcripts and audio recordings from the court proceedings.

Based on its review of the record, the subcommittee observed that the majority of the allegations against the judge were unsubstantiated and/or raised issues of judicial decision-making and discretion that were outside the jurisdiction of the Judicial Council to consider.

Regarding the allegations that the judge covered up the mistakes of the police and the false evidence of the Crown's witnesses, the subcommittee noted that the judge's reasons explicitly addressed the issue of a mistake regarding the manner in which the investigating officer took the witnesses' statements. In addition, the judge's reasons discussed in detail the inconsistencies in the trial testimony of the Crown's witnesses.

The subcommittee also found no support in the record for the allegations that the judge whined in the courtroom and treated the complainant with disdain throughout the trial. While the reasons for judgment were critical of the complainant's evidence and behaviour during the trial, judges are entitled to make negative observations and findings about parties and witnesses who appear before them. The subcommittee observed that the judge treated the complainant with civility and professionalism throughout the trial.

In addition, the subcommittee found that the complainant's allegation regarding the duration of the trial did not raise an issue of judicial conduct within the Council's mandate to review. Issues of trial delay are matters that may be raised with the trial judge on an application under s. 11(b) of the *Charter of Rights and Freedoms*. The complainant was represented by counsel at trial, and counsel did not advance an application under s. 11(b) of the *Charter*.

The subcommittee decided that two of the complainant's allegations warranted inviting a response from the judge. First, the subcommittee invited a response to the allegation that the judge called the complainant a misogynist. In this regard, the subcommittee observed that the judge made the following remark in delivering oral reasons for judgment: "Mr. [complainant] made it very clear that he is a misogynist".

Second, the subcommittee invited the judge to respond to the allegation about the delay in rendering reasons for judgment. The subcommittee observed that the court record did

not contain a clear explanation for the approximately 8-month reserve period between the conclusion of evidence in the trial and the delivery of reasons for judgment.

The subcommittee invited the judge to respond in writing to these two issues, and reviewed the response provided by the judge.

Having regard to the materials before it, including the judge's response, 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 subcommittee's report and the relevant materials considered in its investigation, including the letter from the subcommittee inviting the judge to respond to the complaint and the written response provided.

The review panel agreed with the subcommittee's findings in its report that the majority of the complainant's allegations raised matters of judicial decision-making outside the jurisdiction of the Council and were otherwise unsubstantiated. In particular, the review panel noted that many of the allegations related to the complainant's disagreement with the judge's decisions, credibility assessments, and evidentiary findings, which are all matters of judicial discretion and decision-making outside the jurisdiction of the Judicial Council.

Regarding the judge's characterization of the complainant as a "misogynist" in the reasons for judgment, the review panel agreed with the complaint subcommittee that this comment formed part of the judge's assessment of the evidence in a trial where both Crown and defence counsel made submissions about the complainant's character and credibility. Moreover, having regard to the audio recording of the comment in question, the review panel noted that the judge did not use a rude, mocking, or hostile tone in making this remark, and appeared civil and professional throughout the delivery of the reasons for judgment.

The review panel concluded that the remark was an exercise of judicial discretion in assessing and making findings on the evidence. The review panel observed that the governing ethical principles should not be interpreted in such a way as to impinge on the essential independence of judges in making findings on the evidence. Accordingly, the review panel determined that the judge's characterization of the complainant as a "misogynist" in the reasons for judgment did not raise ethical concerns warranting remedial action by the Judicial Council.

Regarding the duration of the period when the reasons for judgment were on reserve, the judge's response to the complaint subcommittee referred to numerous challenging personal and professional circumstances during the relevant timeframe, which led to the delay. The review panel acknowledged that these external pressures, which were beyond the judge's control, caused the delay in the release of the judgment. However, based on the response provided, the review panel was concerned whether the judge fully appreciated the impact that delay in rendering judgment can have on trial participants and the administration of justice.

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 the issue of the delay in rendering judgment should be referred to the Chief Justice under s. 51.4(18)(c) of the *Courts of Justice Act*.

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 confirmed that the judge demonstrated a clear awareness of the impact that delay in rendering judgment can have on the litigants and on public confidence in the administration of justice. In addition, the Chief Justice observed that the judge expressed an understanding of the measures that can be taken to avoid similar delays in the future.

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. 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-007-24

The complainant made various allegations about a judge of the Ontario Court of Justice who conducted a judicial pre-trial and served as a case management judge in relation to criminal charges that proceeded to trial in the Superior Court of Justice. The allegations included that the subject judge:

- did not provide an accredited interpreter who could understand the complainant;
- did not ensure that duty counsel was provided during the proceedings;
- did not order that disclosure be given to the complainant;
- did not provide a judicial pre-trial;
- did not explain the details of the crime that was committed;
- denied the complainant bail;
- set a hearing date without consultation from the complainant; and
- denied the complainant a jury trial.

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

The subcommittee observed that the complainant's allegations concerned judicial decision-making and the exercise of judicial discretion during the case management process. The Council has no jurisdiction to review the exercise of the judge's decision-making function or case management power. That is the role of a reviewing court.

The subcommittee further noted that the complainant's allegations against the judge were in any event not borne out by the record of the complainant's multiple appearances before the judge both at a judicial pre-trial and in case management court. The subcommittee noted that, contrary to the complainant's allegation, the judge did not conduct the complainant's bail hearing.

Regarding the judge's alleged failure to provide an accredited interpreter, the committee observed that an interpreter was present at each appearance before the judge. The judge raised the issue of the adequacy of the interpreter for the complainant's preliminary inquiry; both the complainant and the complainant's counsel confirmed on the record their satisfaction with using this interpreter.

The subcommittee found no basis in the record to support the allegation that the judge denied the complainant the benefit of duty counsel. At the judicial pre-trial, the judge was concerned about ensuring the complainant had legal assistance. The complainant advised the judge that the complainant only wanted a lawyer for a family-related legal matter. At subsequent case management appearances, the complainant had the assistance of counsel, other than at one appearance. On that occasion, the judge stood the matter down to allow the Crown to contact defence counsel's office to inquire as to the status of an application to fund counsel for the complainant.

Contrary to the complainant's allegation that the judge failed to order disclosure, the Crown confirmed at the judicial pre-trial that all disclosure had been provided to the complainant's former defence counsel. The judge then ordered the Crown to disclose all documentary material to the complainant, who refused to accept it. The judge arranged for the complainant to review all audio recordings in the Crown's possession with an interpreter present.

Based on its review of the record of each of the appearances before the subject judge, the subcommittee observed that the judge conducted each appearance professionally and respectfully, demonstrating courtesy and patience throughout. The subcommittee found that the judge showed great concern for protecting the complainant's right to a timely trial.

Based on this review of the record, 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 file was closed.

OJC-008-24

The complainant appeared before the subject judge in a child protection matter involving the complainant's child. The child was initially apprehended by the local children's aid society when both parents were arrested and detained in custody on criminal charges. The judge ordered that the child be made a Crown ward, with no access to the parents.

In a letter to the Council, the complainant alleged:

- The judge displayed bias in the decision against the complainant. The complainant attributed this bias to the judge’s “prior criminal judicial history”.
- The judge showed “evident insensitivity” to individuals with criminal records or those who have undergone incarceration.
- The judge’s interactions with “the criminal population” hindered the judge’s capacity for empathy, compassion, and impartiality, especially towards parents looking to overcome their criminal past.
- The judge’s bias against individuals with criminal records had detrimental effects on the complainant’s family and “countless others”.
- The judge was unable to comprehend the challenges of rehabilitation and reintegration.
- Assigning the judge to preside over child protection matters was “ill-judged” and contrary to the best interests of children.

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 enclosures provided by the complainant. The subcommittee also reviewed the judge’s reasons for decision and relevant excerpts of the audio recordings of proceedings before the judge.

Based on its review of these materials, the subcommittee determined that the complaint reflected the complainant’s disagreement with the judge’s assessment of the evidence and the judge’s decision. The subcommittee noted that the complaints process is not an appeal process, and that the Judicial Council does not have jurisdiction to address allegations about judicial decision-making.

The subcommittee concluded that the allegations of bias and insensitivity were clearly without merit. The subcommittee found that the judge’s reasons for decision did not display any bias or insensitivity. The subcommittee noted that the complainant did not identify any alleged incidents of bias or insensitivity during the proceedings and concluded that the relevant excerpts of the audio recordings of the proceedings did not involve any incidents of bias or insensitivity on the part of the judge.

The subcommittee observed that the allegation of bias was based primarily on the judge’s professional background and experience adjudicating criminal law proceedings. The subcommittee noted that the Supreme Court of Canada has recognized that a judge’s professional background, standing alone, does not compromise a judge’s impartiality: *Yukon Francophone School Board, Education Area #23 v. Yukon (Attorney General)*, 2015 SCC 25, at paras. 31-36. The Canadian Judicial Council’s Ethical Principles for Judges (2021) affirm this view (see 5.A.4). To the extent the complainant alleged that the

judge's professional background and experience with criminal law matters meant the judge must have been biased, this allegation was without merit.

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 without merit and therefore frivolous. Accordingly, the complaint file was closed.

OJC-010-24

The complainant was a defendant in a criminal trial before the subject judge. The complainant was represented by counsel at trial.

In a letter to the Council, the complainant alleged that the judge discriminated against him because he is Black, and that the judge's conduct was unjust and inappropriate. The complainant also alleged that the judge's imposition of a lifetime weapons prohibition was disproportionate and unrelated to the facts of the offence, which did not have any connection to weapons.

The complainant further alleged that the judge appeared to be overly friendly with the Crown Attorney. The complainant asserted that this behaviour raises serious concerns about the fairness and impartiality of the proceedings. According to the complainant, this friendly relationship may have influenced the judge's decision to impose "such a harsh and unrelated penalty".

In a follow-up letter to the Council, the complainant added that he believes that there was "significant procedural bias" during the proceedings. He alleged that "the judge made mention of having a daughter during the case". The complainant believed that this personal reference influenced the judge's "judgment and introduced a bias against me". The complainant alleged that the judge's reference to a daughter suggests that the judge's decisions were not based on the evidence but rather were affected by "personal experiences and emotions".

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 transcript and audio recording of the proceedings before the subject judge.

Based on their review of these materials, the subcommittee determined that the allegations about the appropriateness of the weapons prohibition order imposed on the complainant related to the judge's decision-making and were outside the jurisdiction of the Council to consider. Concerns about the correctness of a judge's sentencing decision are matters that may be raised on appeal but are not matters within the Council's jurisdiction to consider.

The complaint subcommittee further observed, based on their review of the audio recording and transcript of the proceeding, that there was no evidence capable of supporting the allegations that the judge's conduct towards the complainant was inappropriate, unjust, or discriminatory based on the complainant's race. The committee observed that the judge's conduct was appropriate throughout the proceeding. The complainant was represented by counsel during his trial and the complainant did not testify. On the occasions that the complainant spoke to enter a plea, and prior to sentencing, the judge was entirely respectful towards him.

The subcommittee further observed that nothing in the audio recordings supported the complainant's allegation that the judge was overly friendly with the assistant Crown Attorney prosecuting the complainant. The judge was respectful, cordial, and professional with both Crown and defence counsel. Moreover, the subcommittee observed that the judge mentioned having a daughter in the context of a scheduling issue that was unrelated to the complainant's trial. This reference did not suggest that the judge was in any way biased against the complainant.

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. Accordingly, the complaint file was closed.

OJC-011-24

The complainant submitted a letter to the Judicial Council concerning a trial judge's decision in a case where the complainant had served as one of the arresting police officers. In the letter, the complainant alleged that the defendant was confrontational and uncooperative during the arrest, which resulted in the complainant deploying a taser multiple times on the defendant.

In the complaint letter, the complainant alleged that the judge made numerous errors in dealing with the defence's position that the police used excessive force in arresting the defendant, contrary to s. 7 of the *Charter of Rights and Freedoms*. The complainant contended that the judge erred in finding that the taser was deployed without good reason. The complainant further alleged that the judge ignored much of the complainant's evidence and that the judge made a number of findings that diminished the defendant's behaviour and exaggerated the police's behaviour. The complainant also alleged "judicial activism" in the judge's decision, which included a finding that it was understandable for the defendant, who was Black, to fear the police.

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 judge's reasons for decision.

The subcommittee observed that the allegations raised concerns about factual and legal determinations made by the judge based on the evidence led at trial. The subcommittee

noted that the Council does not have the authority to consider complaints about evidentiary findings or the exercise of judicial discretion by a judge. Judicial independence ensures that judges may make decisions based on the law and evidence presented in court, without fear of retribution or external pressure. The appellate system is designed to review and correct potential legal or factual errors in judicial decisions.

The subcommittee further observed that the allegation of “judicial activism” reflected the complainant’s dissatisfaction with the judge’s decision, without any basis to infer bad faith or lack of professional competence in the law. One of a judge’s most important roles is to assess credibility and make findings of fact about the evidence presented in court. In doing so, some evidence is accepted and other evidence is rejected. The subcommittee concluded that there was no merit to the allegation of judicial activism.

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, as the complaint raised allegations outside the Council’s jurisdiction and that were otherwise unsubstantiated and therefore frivolous. Accordingly, the complaint file was closed.

OJC-012-24

The complainant was a defendant in a criminal trial before the subject judge. The judge convicted the complainant of several offences and sentenced the complainant to a suspended sentence with 12 months’ probation.

In a letter to the Council, the complainant alleged that the judge:

- believed the alleged victims in the complainant’s trial instead of the complainant, despite the video evidence indicating that the complainant acted in self-defence and did not commit any assaults;
- falsely convicted the complainant because the judge “is rude & heinous” and was biased against the complainant;
- “rudely disrupted” and cut off the complainant when speaking;
- is a suspected member of the mafia; and
- damaged the complainant’s health and career by convicting and sentencing the complainant.

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 and audio recordings of the complainant’s trial and sentencing before the judge.

After reviewing these materials, the subcommittee concluded that some allegations

stemmed from the complainant's disagreement with the judge's credibility findings. The allegation that the judge wrongly accepted the evidence of the alleged victims raised an issue of judicial decision-making outside the Council's jurisdiction. The Council does not have any authority to consider whether a judge made the correct decision or correctly assessed the evidence.

The subcommittee further concluded that the audio recordings and transcripts did not support the allegations that the judge rudely interrupted the complainant or otherwise behaved inappropriately during the proceedings. The subcommittee observed that the complainant occasionally interrupted the proceedings, and in that context, the judge intervened to manage the proceedings. The judge's only other interruptions were to seek clarification from the complainant about the complainant's evidence or to ensure that the transcript reflected the complainant's non-verbal responses. In the subcommittee's view, the judge was calm and polite and communicated appropriately throughout the complainant's trial and sentencing.

The subcommittee determined that the allegations that the judge was biased and was a suspected member of the "mafia" were bald and entirely unsubstantiated by the record. Accordingly, these allegations did not warrant consideration by the Council.

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 or an abuse of process. Accordingly, the complaint file was closed.

OJC-013-24

The complainant was a self-represented criminal defendant charged with several firearms offences. The complainant pled guilty before the subject judge to one charge and the judge sentenced the complainant to a conditional discharge with 12 months' probation and imposed a weapons prohibition order for 10 years.

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

- The judge was not impartial. The judge assisted the Crown in "finding a charge that would stick" and allowed the Crown to threaten the complainant.
- After reviewing the *Criminal Code*, the judge determined which charge was warranted. The judge's decision to charge the complainant was not based on written law, but rather on "personal opinion".
- In convicting the complainant, the judge relied on something the complainant had said at a prior judicial pre-trial before a different judge. This prior "testimony" was protected and should not have been used against the complainant.

- The complainant is of Indigenous heritage. The Crown knew this, and still attempted to have the judge prohibit the complainant from possessing bows and crossbows. The judge knew that the complainant hunts for sustenance, but the judge did not object to the Crown's position and only granted the complainant the use of a crossbow after the period of probation ends.
- The complainant has a disability which makes it difficult to process information and provide a considered response. The Crown took advantage of this disability, and the judge did nothing to stop this abuse.

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 transcript and audio recording of the proceeding before the judge.

Based on its review of these materials, the subcommittee determined that some of the complainant's allegations reflected disagreement with the judge's decision to convict and with the sentence imposed. Such allegations did not raise matters of judicial conduct, but rather were matters of judicial decision-making. The subcommittee noted that the complaints process is not an appeal process, and the Judicial Council does not have jurisdiction to address concerns about the merits of decisions made by judges in court proceedings.

In relation to the complainant's allegations that the judge assisted the Crown and was not impartial, the subcommittee observed that the audio recording and transcript of the proceedings before the judge did not provide any support for these allegations. The subcommittee further observed that there was no evidence in the record of any threats by the Crown towards the complainant, as alleged in the letter of complaint.

The subcommittee determined that there was no basis for the allegation that the judge improperly used statements from a prior judicial pre-trial against the complainant. The subcommittee observed that the Crown provided the court with information about the facts of the offence, but at no time did the Crown or the complainant seek to rely on information from a prior judicial pre-trial.

The subcommittee further observed that the record reflected that the judge took appropriate steps to confirm that the complainant's guilty plea was voluntary, fully informed, and unequivocal. At each stage, the judge asked the complainant to confirm the complainant's understanding of their rights and of the process, and the complainant did so. When the complainant asked about retaining a crossbow, the judge assisted the complainant by asking questions about hunting for sustenance. Based on the complainant's responses, the judge varied the weapons prohibition order. The subcommittee concluded that the judge provided appropriate assistance to the complainant as a self-represented litigant throughout the proceeding, including when the

complainant's Indigenous heritage was raised as a basis for an exception to the weapons prohibition order.

Nothing in the record suggested that the judge knew the nature of the complainant's disability. During the sentencing phase of the proceeding, the complainant told the judge that "disability" was the complainant's source of income, without elaborating or requesting any accommodation from the court. Accordingly, the subcommittee determined that there was no basis for the allegation that the judge should have stopped the Crown from taking advantage of the complainant's disability.

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 file was closed.

OJC-014-24

The complainant in a sexual assault trial complained to the Council about the trial judge's conduct and comments during the trial, the content of the judge's reasons for judgment, and the judge's manner in delivering the reasons. At the conclusion of the trial, the judge acquitted the accused of sexually assaulting the complainant.

In a letter to the Council, the complainant alleged:

- The judge violated ss. 276 and 277 of the *Criminal Code* by permitting questions regarding the complainant's sexual history.
- The judge accepted false evidence from the Crown Attorney and the local police regarding the seizure of DNA evidence.
- The judge made discriminatory remarks about the complainant's mental health, and implied that the complainant was searching for ways to obtain illicit substances.
- The judge's ruling contained numerous errors about the evidence at trial.
- In the reasons for judgment, the judge referred to the complainant's profession as an exotic dancer, which was unnecessary and biased.
- In delivering the reasons, the judge "struggled to speak clearly, stuttered, and referred to [the complainant] using the wrong gender on multiple occasions". The complainant wrote that the Crown Attorney advised that the judge has "health issues". The complainant asserted that these issues impaired the judge's "ability to ethically and accurately oversee the trial in an impartial manner".

The complainant wrote that the judge should receive “training regarding sexual assault, intimate partner violence, and trauma informed approach”.

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 transcripts of the trial before the judge and the judge’s reasons for acquitting the accused, and the audio recording of the proceedings before the judge on the day the judge read the reasons.

Based on its review of these materials, 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 subcommittee’s report and the relevant materials considered by the complaint subcommittee.

The review panel agreed with the complaint subcommittee that the Council has no jurisdiction to consider legal, evidentiary, or procedural determinations by a judge. Legal rulings and evidentiary findings by a judge, including credibility findings and what evidence a judge chooses to accept, may be subject to appeal. However, they are not matters of judicial conduct within the Judicial Council’s jurisdiction to consider.

The review panel also agreed with the complaint subcommittee that the court record did not support the allegation that the judge violated ss. 276 and 277 of the *Criminal Code* by permitting questions regarding the complainant’s sexual history. The Crown introduced limited evidence potentially relating to the complainant’s prior sexual history. The review panel agreed with the subcommittee that, although the Crown likely ought to have brought an application to adduce this evidence pursuant to the Supreme Court of Canada’s decision in *R. v. Barton*, 2019 SCC 33, at paragraph 80, there were no ethical concerns arising from the judge not having raised this issue during the trial.

The review panel also concluded that the judge’s assessment of the complainant’s credibility and other comments on the evidence were issues for consideration by an appellate court, not the Judicial Council. In this regard, the review panel noted that it is not the role of Council to consider whether the judge made legal or factual errors in considering the evidence. The review panel agreed with the complaint subcommittee that any errors the judge made in summarizing the evidence did not demonstrate discrimination or bias against the complainant on the part of the judge. In this regard, the review panel observed that the judge did not rely on the complainant’s profession or prior sexual history in making credibility findings.

Finally, the review panel concluded that the complainant’s allegations about the manner in which the judge provided the reasons for judgment did not raise an issue of judicial misconduct. The review panel shared the following observations of the complaint subcommittee:

- As alleged by the complainant, at various points during the delivery of the reasons for judgment, the judge spoke slowly and exhibited poor

enunciation. However, the judge's delivery was intelligible and did not call into question the judge's ability to perform the duties of office in a way that maintains public confidence.

- The judge referred to the complainant by an incorrect title on one occasion. The judge did not refer to the complainant by the wrong gender on multiple occasions as the complainant had alleged. The review panel concluded that this isolated error did not support the complainant's allegation that the judge failed to oversee the trial accurately and impartially.

The review panel concluded that there was no basis to support a finding of judicial misconduct by the judge.

Accordingly, having found that the allegations were unsubstantiated by the record, outside the jurisdiction of the Judicial Council, or otherwise did not raise conduct concerns warranting further action by the Council, the review panel dismissed the complaint and closed the file.

OJC-001-25

The complainant was the former spouse of a defendant who appeared before the subject judge for a criminal trial. The defendant had been charged with multiple offences, including physical and sexual assault against the complainant. The judge convicted the defendant on all of the sexual assault and physical assault charges. In convicting the defendant, the judge accepted the complainant's evidence that the defendant committed the physical and sexual assaults alleged.

In a complaint to the Council, the complainant alleged that the judge made inappropriate comments about the complainant in delivering reasons for conviction. These comments included the judge's expression of disbelief as to why the complainant as an intelligent, fully employed person would stay in a lengthy relationship with such a violent, obsessive and controlling individual. The judge noted that, despite having support systems available, the complainant failed to turn to these support systems for assistance. The judge questioned why the complainant would allow the defendant's criminal behaviour to be inflicted on the complainant and the complainant's children for an extended period of time.

The complainant described the judge's comments as "uncalled for" and "victim-blaming" and said that they "revert back to the old-way of thinking; that an abused person 'allowed' the abuse to happen and that they made the choice to stay". The complainant was appalled and shocked that a judge would make such remarks. The complainant also stated that hearing the judge make these remarks destroyed the complainant's self-worth and self-esteem.

Enclosed with the complaint letter was an academic article about trauma bonding, which described how victims in abusive relationships unconsciously form emotional attachments to their abusers due to fear, dependency, and intermittent acts of kindness by the abuser.

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 enclosed article. In addition, the subcommittee obtained and reviewed the audio recording and transcript of the relevant portions of the court proceedings, including the judge's reasons for decision. The subcommittee observed that the court record confirmed that the judge made the comments referred to in the complaint letter.

Based on the materials reviewed, the subcommittee was concerned that the comments made by the judge as quoted in the complaint letter appeared to rely on stereotypical views, discredited by appellate courts, about how victims of sexual assault would behave, and reflected an inappropriate attitude of victim-blaming. The subcommittee invited the judge to respond to the concerns raised by the complaint.

In the judge's written response, the judge acknowledged the subcommittee's concerns and demonstrated an understanding of why the comments in question were problematic and insensitive. The judge expressed sincere remorse for the significant negative impact the comments had on the complainant. The judge asked that the Council convey an apology directly to the complainant.

The judge also advised the subcommittee that, after being informed of the complaint, the judge engaged in self-study by reviewing several court decisions and academic articles on the dynamics of intimate partner violence and the dangers of stereotypical reasoning in judicial decision-making in this context. This learning contributed to the judge's enhanced understanding about why it is so difficult for victims of violence to extricate themselves from abusive relationships, which in turn helped the judge gain a deeper understanding of why the complainant was hurt by the comments. In addition to conveying regrets to the complainant, the judge expressed a commitment to applying the lessons learned from the complaint in future cases.

Upon conclusion of its 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. In addition to reviewing this report, the review panel reviewed the complaint letter and enclosed article, the transcripts and the audio of the court proceedings, the letter inviting the judge to respond, and the written response provided.

Having considered these materials, both the complaint subcommittee and review panel members were satisfied that the judge took the complaint very seriously. The response demonstrated that the judge had reflected deeply on the problematic and insensitive nature of the comments and the negative impact these comments had on the complainant. The Council members found that the judge demonstrated genuine insight into the concerns raised by the complaint, expressed sincere remorse for the comments, and showed a clear commitment to learning and acting differently in the future.

The subcommittee and review panel members also observed that if a future complaint against the judge raises similar concerns, under r. 8.10 of the OJC Procedures Document, the subcommittee considering the future complaint would be advised of this complaint

and its disposition. Rule 8.10 states:

The judicial discipline process is remedial. The Registrar shall bring to the attention of every complaint subcommittee any previous complaint and disposition history that the subject judge has had with the Judicial Council except dismissed complaints to which the subject judge was not invited to respond, and make available to the complaint subcommittee any materials from previous complaint files that the complaint subcommittee may request.

In light of these considerations, the review panel agreed with the subcommittee that the remedial objectives of the judicial complaints process had been served, and that no further action was necessary. The complaint process having been concluded, the complaint was dismissed under s. 51.4(18)(b) of the *Courts of Justice Act*, and the file was closed.

OJC-002-25

The complainant was a party in a family proceeding before the subject judge. The complainant brought a motion seeking to vary provisions in two final orders regarding, among other things, access and decision-making of the parties' children. The complainant and the complainant's former spouse were each represented by counsel, while their two children were represented by counsel from the Office of the Children's Lawyer (OCL).

In a complaint to the Council, the complainant made various allegations about the judge's decisions and assessment of the evidence on the motion, including that the judge failed to consider the children's well-being and evidence of risk, applied inconsistent reasoning in assessing material changes in circumstances, and failed to prioritize the children's best interests. The complainant further alleged that the judge was biased in dismissing the recommendations and evidence of the children's lawyer, due to the judge's prior professional affiliation with the OCL.

Before the complaint was assigned to a complaint subcommittee, the complainant sent a second letter to the Council, referring to a motion for directions that had been filed in the proceedings before the subject judge. The complainant alleged that the judge's failure to provide timely guidance on the motion had contributed to escalating conflict and anxiety for the complainant and the complainant's children. The complainant asserted that the judge's delay was "reminiscent of the prolonged eight-month period it took for [the judge] to deliver" a decision on the motion to vary.

In accordance with the Council's general policy regarding complaints related to ongoing court proceedings, the complaint was not assigned to a subcommittee while the motion for directions remained before the court.

The complainant subsequently wrote again to the Council and confirmed that the motion for directions had been withdrawn, citing a loss of confidence in the judge's ability to address urgent matters in a timely and effective manner as the reason for the motion being withdrawn.

Upon the Council confirming that the proceedings in question were no longer ongoing, the complaint was assigned to a two-person complaint subcommittee of the Council, composed of a judge and community member, for consideration.

The complaint subcommittee reviewed the complaint letter and subsequent correspondence from the complainant. The subcommittee also reviewed relevant materials from the record of the proceedings before the subject judge.

The subcommittee observed that most of the complainant's allegations related to the judge's assessment of the evidence, and to the judge's findings and decisions. Such allegations involve the exercise of judicial discretion and decision-making, which are beyond the Council's mandate to consider. In addition, the subcommittee found no support in the record for the complainant's allegation that the judge exhibited bias due to the judge's prior professional affiliation with the OCL.

Regarding the judge's alleged delay in responding to the motion for directions, the subcommittee observed that the motion was withdrawn approximately four and a half months after it was filed. The subcommittee recognized that judges are responsible for managing significant caseloads, and that a delay of this length may reasonably be attributed to workload demands or other factors beyond the judge's control.

However, the subcommittee had concerns about the length of the period between when the judge's decision was reserved following the conclusion of the trial and the release of the decision. The subcommittee observed from the transcript of the last day of the hearing that the judge advised the parties that a decision would be released in writing "within the next few weeks". The decision was not released until almost eight months later.

The subcommittee invited the judge to respond to its concerns about the delay in delivering this decision, noting the potential impact of delayed decisions in high-conflict family law matters and the ethical obligations on judges to perform their duties with diligence. The subcommittee received and reviewed the written response provided by the judge.

Upon conclusion of its investigation, the subcommittee provided a report to a four-person review panel of the Council.

The review panel, composed of two judge members, a lawyer member, and a community member, reviewed the subcommittee's report and the relevant materials from the complaint file, including the complainant's correspondence, the subcommittee's letter inviting the judge to respond to the complaint, and the response provided by the judge.

Having reviewed these materials, the review panel agreed with the views expressed by the subcommittee in its report that the judge had demonstrated significant insight and understanding of the concerns raised by the complaint. In particular, the review panel noted from the response that the judge acknowledged having failed to meet their statutory and ethical responsibilities in this instance and apologized for the late delivery of the reasons for decision. By way of context, the judge explained that the delay occurred in

the context of managing a demanding caseload alongside significant professional and personal responsibilities.

In the response, the judge outlined a series of measures intended to ensure that decisions are issued in a timely manner going forward. In doing so, the judge referenced s. 123(5) of the *Courts of Justice Act*, which provides that if a judge fails to deliver a decision within six months in the case of a judgment, or within three months in other matters, the Chief Justice may either extend the time for delivering the decision or may relieve the judge of their duties until the decision is rendered.

The judge referred to having instituted a system to track reserved judgments. In addition, the judge advised that, following the conclusion of each family law trial, the judge will adjourn the matter to a fixed in-person court date for the oral delivery of the decision, in addition to the release of the written judgment. The judge indicated that this approach is intended to promote accountability and ensure that decisions are provided to the parties in a timely manner.

The judge further advised that, in the event of a potential delay in issuing a judgment, the judge will notify the Regional Senior Judge and seek any available supports to ensure that the decision may be given as soon as possible. The judge also indicated that the parties will be informed of the circumstances and the reason for any delay.

Both the review panel and subcommittee were satisfied with the proactive steps taken by the judge and the level of insight reflected in the response. The review panel concluded that the objectives of the judicial complaints process of promoting accountability, reflection and self-improvement had been met. Accordingly, the panel determined that no further remedial action was necessary in these circumstances. The complaint was therefore dismissed and the file closed.

OJC-003-25

The complainant was a self-represented defendant who appeared before the subject judge in a criminal proceeding. The criminal proceeding concluded with the Crown staying the charges against the complainant following a judicial pre-trial over which the judge presided.

In a letter to the Council, the complainant alleged that the judge:

- denied the complainant an opportunity to make submissions in their own defence.
- did not respond to the complainant's request to have their spouse (the alleged victim) take the stand.
- did not explain the legal consequences of the case being concluded or provide instructions on the complainant's right to appeal or "further contest the matter".

- did not respond when the complainant sought clarification about the judge's authority to terminate the proceedings without giving the complainant the opportunity to make submissions.
- caused the complainant confusion and uncertainty about the outcome of the case.
- failed to uphold the principles of natural justice, procedural fairness and the right to a fair trial.

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 and audio recordings of the appearances before the judge.

Based on their review of these materials, the subcommittee determined that there was no basis to substantiate the complainant's allegations that the judge breached any ethical duties, or otherwise behaved inappropriately during the proceedings.

The subcommittee found that the record did not support the complainant's allegation that the judge failed to provide the complainant an opportunity to make submissions in their own defence, or failed to uphold the principles of natural justice, procedural fairness, and the right to a fair trial. Based on the record of the judicial pre-trial, the subcommittee observed that the judge assisted the complainant throughout the appearance, including by explaining the Crown's position and outlining the next steps. Additionally, the subcommittee noted that the judge provided substantive assistance by suggesting that the Crown consider whether it was in the public interest to proceed with the charges.

The subcommittee further found that the record of the appearance at which the Crown stayed the charges did not support the complainant's allegations that the complainant asked the judge to allow further submissions before ending the proceedings, to allow the complainant's spouse to take the stand, or to explain the legal consequences of the case being concluded and any right of appeal. The subcommittee noted that, after the Crown advised that the charges would be stayed, the judge gave the complainant an opportunity to address the court. While the judge interrupted the complainant to advise that the matter was finished, the subcommittee found that it was within the judge's authority to ensure the efficient use of the court's time. The subcommittee noted there is no procedural right to make submissions in one's defence in a situation where the Crown advises they are staying all charges against the defendant.

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 obviously frivolous, in the sense that they were not supported by the record and were therefore without merit. Accordingly, the file was closed.

OJC-004-25

The complainant was the alleged victim in a criminal trial heard by the subject judge. The defendant was charged with three counts of assault against the complainant. The judge acquitted the defendant of all three counts.

In a letter to the Council, the complainant alleged that the judge's assessment of the defendant and the complainant's credibility demonstrated bias. The complainant offered several examples of concerns about the judge's credibility assessments, including that the judge believed the defendant over the complainant in some instances despite information confirming the complainant's account.

The complainant also referred to information available online, which was critical of a prior decision of the judge in an unrelated matter. The complainant wrote that this information caused "even more concern".

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 reasons for judgment, relevant excerpts of the audio recordings of the proceeding before the judge, and the online material referenced by the complainant.

Based on its review of these materials, the subcommittee observed that the allegations reflected the complainant's disagreement with the judge's decision to acquit the defendant, and in particular, the judge's assessment of and findings on the evidence. The Judicial Council does not have jurisdiction to address allegations that take issue with the exercise of judicial discretion or judicial decision-making. These allegations are matters for an appellate court to consider and are not within the mandate of the Council. Accordingly, the subcommittee determined that the complaint was outside the jurisdiction of the Council to consider.

Regarding the information provided by the complainant about a prior decision of the judge in an unrelated case, the subcommittee noted that the criticism of the judge's prior decision similarly raised issues of judicial discretion and decision-making rather than inappropriate conduct by the 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 are clearly outside the Council's jurisdiction. Accordingly, the complaint file was closed.

OJC-005-25

The complainant was a defendant in a sexual assault trial before the subject judge. At the end of the trial, the judge found the complainant guilty and imposed a suspended sentence and a term of probation.

In a letter of complaint to the Council, the complainant made numerous allegations, including that the judge:

- incorrectly applied the burden of proof;
- failed to provide proper reasons for rejecting defence testimony;
- failed to properly weigh the evidence supporting the defence and rejected defence evidence without proper justification;
- improperly shifted the burden of proof to the defence;
- dismissed defence medical evidence without justification;
- made comments during the trial and in the reasons for judgment that suggested prejudice against the complainant, for example, by stating that the case was “serious” prior to hearing all the evidence;
- expressed uncertainty about an area of law, undermining public confidence in the judge’s competence; and
- made inappropriate and unprofessional character attacks against the complainant in the reasons for judgement, which demonstrates judicial bias.

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 and information from the criminal proceedings, including the Information and transcripts from the trial and the sentencing hearing. The subcommittee also reviewed the judge’s written reasons for judgment as well as the reasons of the appeal court dismissing the complainant’s appeal from conviction.

The subcommittee observed that most of the allegations arose from the complainant’s disagreement with the judge’s assessment of the evidence, legal conclusions, and factual findings. These issues are matters of judicial discretion and decision-making that may be raised on appeal but are outside the jurisdiction of the Council to consider.

The subcommittee observed that the remaining allegations were unsubstantiated and/or did not raise ethical concerns. For example, based on its review of the record, the subcommittee found that the judge’s comment that the case was “serious” was made in

the context of scheduling discussions with counsel and did not suggest the judge had predetermined the complainant's guilt. Nor did the subcommittee have any concerns regarding the allegation that the judge expressed uncertainty about an area of law. The subcommittee noted that the judge sought written submissions from counsel on a discrete legal issue that had arisen during the trial, and commented, "I'm not sure where the law is on that particular point". The subcommittee did not find that this comment raised any concerns about the judge's competence or ability to fairly assess and apply the law.

Regarding the assertion that the judge struggled with the standard of proof, the subcommittee reviewed the passage in the reasons for judgment cited by the complainant in support of this allegation. The subcommittee noted that the judge's comments did not suggest any misunderstanding or misapplication of the standard of proof. Rather, the comments were intended to explain why the judge could not find beyond a reasonable doubt that the complainant had committed the other acts alleged by the Crown.

Finally, the subcommittee considered the allegation that the judge made unfounded and inappropriate comments about the complainant's character, conduct and motives in the reasons for judgment. The subcommittee observed that, while the reasons were critical of the complainant, trial judges are entitled to express opinions on the evidence and make negative credibility findings about witnesses who appear before them, including accused persons.

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 grounds that the allegations were clearly outside the Council's jurisdiction and without merit, as they were unsupported by the record and did not raise any ethical concerns. Accordingly, the complaint file was closed.

OJC-008-25

The complainant appeared before the subject judge in relation to a private prosecution of a criminal charge of uttering threats, which the complainant had initiated against a former neighbour (the "defendant"). The Crown intervened and assumed carriage of the prosecution. The subject judge presided over a few pre-trial appearances. At the final appearance before the judge, the Crown gave reasons for their decision not to proceed with the charge.

In a letter to the Council, the complainant alleged that at the final appearance, the judge engaged in conduct that demonstrates a lack of impartiality and fairness, specifically:

- **Improper communication with the defendant:** The judge acknowledged receiving and reading a document submitted directly by the defendant, without confirming whether the Crown or the complainant had received a copy.
- **Failure to ensure procedural fairness:** The judge did not provide the complainant with an opportunity to present evidence directly, while

the defendant was permitted to submit materials outside the established process.

- **Prejudicial handling of evidence:** By reviewing documents from the defendant that were not disclosed to the Crown or the complainant, the judge compromised the fairness of the proceeding.
- **Unequal treatment of parties:** The complainant was instructed to communicate only through the Crown, while the defendant was permitted to communicate directly with the judge, resulting in a biased process.

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, transcripts of the court appearances before the judge, and the criminal Information for the private prosecution.

Based on the record, the subcommittee observed that at one of the pre-trial court appearances, the judge raised that the defendant had sent a document by email to the judge's office. The judge acknowledged receipt, confirmed that the Crown had also received the document, and advised the defendant that it was improper to send documents directly to the presiding judge. The judge directed the defendant to follow proper procedures in the future.

The subcommittee determined that the judge responded appropriately to having been sent a document by a self-represented defendant. The subcommittee noted that the judge did not rely on the document to make any findings or decisions in relation to the prosecution.

The subcommittee further observed that the complainant's concerns about not being permitted to present evidence or communicate directly with the judge reflect a misunderstanding of the procedural framework governing private prosecutions once the Crown has intervened. When the Crown assumes carriage of a private prosecution, it exercises full prosecutorial discretion, including decisions about what evidence to present and whether to proceed with the charges.

The subcommittee concluded that the judge's conduct was consistent with the role of a pre-trial judge and also reflected the Crown's supervisory role over the prosecution. The subcommittee found no indication that the judge acted with bias or failed to respect the boundaries of the judicial role.

Finally, the subcommittee observed that the transcripts reflect that the judge was consistently courteous and respectful and gave both the complainant and the defendant an opportunity to state their positions on the record regarding the Crown's decision.

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 did not raise an issue of judicial misconduct. Accordingly, the complaint was dismissed and the complaint file was closed.

OJC-010-25

The complaint related to a plea and sentencing hearing before the subject judge. The defendant was charged with harassing communications under s. 372(3) of the *Criminal Code*. The complainant was the alleged victim of the harassment.

At a remote appearance before the subject judge, the defendant pled guilty to the offence and the judge imposed a conditional discharge with a period of probation. The defendant was self-represented at the hearing, but was assisted by amicus counsel.

In a letter to the Council, the complainant indicated that she was present during the plea and sentencing hearing and read a victim impact statement to the court. The complainant alleged that the judge failed to maintain control over the proceedings and allowed the defendant to make a mockery of the process. The complainant provided several examples of the defendant's alleged conduct, including that the defendant:

- insisted she did not want to hear the complainant's victim impact statement and would put headphones on;
- insisted that she needed to go walk her dog during the hearing;
- made jokes during the proceeding and suggested the complainant was not a "real victim";
- spoke directly to the complainant in a hostile and mocking tone, including statements such as, "have your 15 minutes, babe";
- interrupted the complainant while she attempted to read her victim impact statement and commented about the length of it;
- interrupted the judge and questioned when she would be allowed to make her own victim impact statement; and
- referred to her social media following and intention to make TikTok content about the case.

According to the complainant, the Crown requested an adjournment due to the defendant's ongoing disruptive behavior and the inappropriateness of proceeding by Zoom. The judge allowed the hearing to continue so that the matter could be completed that day. The complainant asserted that the judge failed to protect her by permitting the defendant's disrespectful behaviour to escalate without consequence, leaving the complainant exposed and retraumatized.

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 and information from the court record, including the transcript and audio of the proceeding before the subject judge.

Upon conclusion of its 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 subcommittee's report and the materials reviewed by the subcommittee.

The review panel observed from the subcommittee's report that the allegations regarding the defendant's conduct and comments in court were supported by the record. The review panel accepted the subcommittee's findings that the defendant acted in a manner that was disrespectful to the complainant, the court and the legal process. The review panel noted that judges have an obligation to ensure that the courtroom remains a respectful environment for all participants. The review panel also noted that judges have discretion in managing their courtrooms, including during proceedings involving difficult litigants, to ensure that proceedings are conducted in a fair and efficient manner.

The review panel observed from the subcommittee's report that the judge made numerous attempts to curb the defendant's disruptive and disrespectful behaviour throughout the hearing. The record reflected that the judge repeatedly told the defendant not to interrupt the proceedings and firmly admonished the defendant when she interrupted the complainant's victim impact statement. On several occasions, the judge adopted a stern tone toward the defendant and warned her repeatedly that she would be required to attend court in person if her behaviour persisted.

The review panel observed that judicial officers must exercise discretion in deciding how best to manage proceedings, including those involving difficult litigants. Judges may adopt a variety of approaches, consistent with their obligations to ensure that the courtroom remains a respectful environment and that proceedings are conducted both fairly and efficiently. While it may have been preferable had the judge adjourned the proceedings and/or ordered the defendant to appear in person, the review panel noted that an adjournment would have further prolonged the proceedings and the defendant's conduct may not have improved in any event. The review panel concluded that the judge made reasonable efforts to control and manage a difficult litigant, and that any shortcomings in this regard did not amount to judicial misconduct.

While sympathetic to the complainant's concerns and frustration, the review panel determined that the complaint should be dismissed on the basis that the evidence could not support a finding of judicial misconduct. Accordingly, the file was closed.

OJC-012-25

The complainant, a member of the public, alleged judicial misconduct by the subject judge in a criminal sentencing matter involving a defendant who later committed a serious crime. The defendant had appeared before the judge to enter a guilty plea and for sentencing. The judge imposed a conditional discharge with probation. The complainant was married to a family member of the defendant, who was tragically murdered by the defendant after the sentencing hearing before the subject judge.

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

- The judge failed to include sufficient public safety measures in the defendant's probation order and failed to consider ordering psychiatric evaluation, despite the defendant's reported hallucinations and history of violence.
- The judge's decision to release the defendant without "a pre-sentence on the terms of parole" was "very irregular". The complainant asserted that the defendant should have remained in custody to allow for a proper assessment.
- The judge failed to take reasonable steps to protect the murder victim, such as directing that the victim be notified of the defendant's mental state or the threats the defendant reported hearing.

The complainant also enclosed a news article about an unrelated prior decision of the subject judge, asserting that it was "proof" that this was not the first complaint against the judge.

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 enclosures provided by the complainant, as well as the transcript and audio recording of the sentencing hearing. It also reviewed relevant court documents, including the probation order and the sentencing decision in the defendant's subsequent murder conviction.

Following its review, the subcommittee determined that the allegations regarding the lack of sufficient conditions in the probation order and the failure to consider the need for a psychiatric evaluation pertain to judicial decision-making and the exercise of judicial discretion. The Council does not have jurisdiction to assess whether a judge erred in exercising sentencing discretion or in not ordering a psychiatric evaluation. Similarly, the subcommittee found that the allegation that it was "very irregular" not to have "a pre-sentence on the terms of parole" relates to judicial discretion and not to judicial conduct. These matters fall within the purview of appellate courts and not the Judicial Council.

Regarding the allegation that the judge failed to take reasonable steps to protect the murder victim, such as directing that the victim be warned, the subcommittee concluded

that this allegation does not raise an issue of judicial conduct, particularly having regard to the information available to the judge at the time of sentencing.

Moreover, the subcommittee observed that neither the Ontario Court of Justice's *Principles of Judicial Office* nor the Canadian Judicial Council's *Ethical Principles for Judges* (2021) establish a duty on judges to warn third parties of a risk of harm based on information disclosed in open court. To the contrary, the subcommittee noted that a judge's impartiality could potentially be compromised by directing that a third party be warned about the defendant. The subcommittee emphasized that other justice system participants are better placed to contact the police or warn third parties about a threat posed by a defendant.

Regarding the news article referenced by the complainant, the subcommittee noted that the unrelated judicial decision mentioned in the article had been appealed and any concerns about the judge's decision-making and exercise of judicial discretion had been addressed through the appellate process. The fact that an unrelated prior decision of the same judge was overturned on appeal does not, in itself, establish that a previous complaint was made against the judge, nor does it establish that the judge previously engaged in judicial misconduct.

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 allegations were clearly outside the Council's jurisdiction and did not raise an issue of judicial conduct warranting consideration by the Council. Accordingly, the complaint file was closed.