



APPENDIX A:
EDUCATIONAL SESSIONS – A REFLECTION

EDUCATIONAL SESSIONS — A REFLECTION

I agreed with pleasure to participate in the education sessions on March 4, 5, and 6, 2020, with His Honour Justice Nadelle, related to judicial integrity, ethics, responsibility, conduct of bail court proceedings, and concern for the defendant's freedoms protected by the Charter. His Honour Nadelle's reputation, experience, and standing in the legal community are well known. He is an eminent retired judge with 35 years of service in our Eastern Ontario Courts of Justice.

Generally, Justices of the Peace have few opportunities for such one-on-one mentorships with our judges about judicial matters. We meet and interact continuously with the public, with lawyers and defendants, and with administrative staff. Except at yearly conferences and regional meetings, we have few opportunities to interact with other Justices of the Peace and certainly fewer opportunities to interact with Judges of the Ontario Court of Justice or of the Superior Court of Justice. I had thus greatly anticipated that His Honour Justice Nadelle would provide to me a unique learning and mentorship experience. I was not disappointed. The education sessions reinforced my understanding of the primacy of Charter-guaranteed rights and freedoms, of the importance of the rulings of our higher courts, and of the meaning of judicial independence.

During his introduction, Justice Nadelle asked many questions about my professional background, education, and accomplishments. He delved into my knowledge of current bail-related case law, i.e., St. Cloud, Antic, Tunney, decisions from our higher courts defining the outlook and principles that are at the heart of the analysis, reasons, and ensuing bail court decisions. We spoke at length about the ladder principle. We reviewed the Cornwall Bail Protocol and its limitations. With clarity and eloquence, His Honour Justice Nadelle spoke of the rights available to all Canadian citizens concerning unnecessary detention and subsequent loss of freedom and that the Cornwall Protocol could not supersede these rights as they are entrenched in our Constitution.

His Honour Nadelle's insistence and emphasis concerning these principles allowed me to further reflect and to further internalize the importance and the meaning of individual rights and freedom. In the future, I will never allow a protocol to override Charter rights and case law. I will never again allow such, as this local protocol, to interfere with sound judgement and my duties as a Justice of the Peace, no matter the circumstances. I know I was wrong to pay such diligent attention to the bail protocol on June 27 and to interpret it as I did, especially that I do fundamentally understand and appreciate the primacy of the rights and freedoms as guaranteed in our Charter.

We discussed the choices and options available to a judicial officer when required documents are not available in bail court. We both agreed that the first remedy is to provide one or more recesses to locate the required documents. We explored whether the court could proceed with photocopies of an Information. We agreed that with the consent of all parties, on record, photocopies could be used in court instead of the original documents deemed lost by administration.

His Honour Justice Nadelle presented a third scenario, as had many months ago Justice of the Peace Louise Rozon, of a diligent but futile search for documents, no photocopies of said documents and no known sworn charges. We concluded that the remedy would be to call the defendant to court, give reasons, dismiss the charges, and release the defendant. It would then be up to the police officers to charge, arrest, etc., and provide required documentation to the court at a future date.

We spoke about my having worked closely with people in different capacities throughout my adult professional life, my enjoyment of and respect for people, my efforts in court to be respectful, to listen carefully, and to respond courteously. He noted there had been no finding of a pattern of my adjourning courts early. His Honour was curious about "WHY", on that particular day, I had reacted hastily and adjourned the court instead of considering the remedies we had just discussed. He asked if problems or difficulties during the morning bails had triggered my decision to adjourn. I told him, "No," that all had proceeded well and that I had worked through my lunch hour on a matter heard the previous Monday in Provincial trials that was to return in September. After adjourning afternoon court, I had continued to work on this decision in chamber and had read the Book of Authorities at home until late that evening.

I described the June 26 meeting, convened by RSJP Leblanc and attended by our LAJP and me, concerning the current Cornwall statistics that had revealed a high number of delays, above the provincial average, in expediting matters in First Attendance Court. His Honour asked me if I had been "frustrated" by RSJP Leblanc's comments and threat about not scheduling the two of us for the First Attendance Court if stats did not improve. I explained that I had not been frustrated with RSJP Leblanc. Understanding why this issue was important to her and especially to defendants who were subjected to unnecessary delays, I was upset about the stats. I felt responsible because we were the only two Justices of the Peace to whom RSJP Leblanc had spoken and I was the most experienced of the two.

I summarized my answer to His Honour Justice Nadelle as follows: On June 27, I had focused entirely on the content of what I took (mistook) to be the prescriptive laminated Cornwall Bail Protocol written by our RSJP that was present on the dais because I felt compelled to do so in part because of the meeting held on June 26. Very unfortunately and with great regret then and since, I recognize that I had been hasty and that I had not focussed on the individual's rights and freedoms entrenched in the Charter and current case law before adjourning court. Reinforced by the thoughtful teachings of His Honour Justice Nadelle, this will never happen again.

His Honour Justice Nadelle interspersed his teachings with educational examples and anecdotes from his work. He understood well that the public aspect of the JPRC proceedings, the published media articles, and the inevitable loss of reputation weighed heavily upon me. We spoke about the meaning of judicial independence and how it should have been applied on that day of June 27. He explained the importance of providing clarity buttressed by sound legal reasonings. He emphasized note taking and the importance of written communication relying on the reasonings from our higher courts, from legislation emanating from our elected officials, and from the cornerstone of Canadian life, our Constitutional guarantees as expressed in the Canadian Charter of Rights and Freedoms.

I am very grateful that His Honour Justice Nadelle agreed to meet with me on three successive days. I appreciate and will remember his words, his insights, his cautions, and his recommendations. I benefited enormously from my consecutive days working with, learning from, and being mentored by His Honour Justice Nadelle, a distinguished judge and a sensitive human being.

Sincerely,


Claire Winchester



**APPENDIX B:
IMPACT OF NON-PRESIDING ORDER**

IMPACT OF NON-PRESIDING ORDER

In late September 2018, I received a letter informing me that a non-presiding order had been issued until the disposition of my matter before the JPRC. No one had made any enquires to me about the complaints or had spoken to me about them from June 27, 2018, to October 2018, when I sent my first letter to the JPRC.

I was only aware of what had happened on June 27 in the bail court in which I had presided. I did not know what had been said on record in court on June 28 and what was being said in the halls and in the offices of the courthouse at that time. A few days after June 27, a colleague told me about the "attempted suicide" but I had no further details until late January 2019.

I did not understand the issuance of the non-presiding order; my husband did not understand. I only felt pure horror. Surely such an order emanating from the investigation of a complaint to the JPRC, a legislated arm of the Ontario Court of Justice, had to be right. The presumption of guilt associated with this order and the prejudice were overwhelming. I felt keen shame and profound humiliation. This was a crushing personal and professional nightmare for me and the worst experience of my life.

For 18 months, I fretted, thought and rethought, experiencing swings of panic; worried about my own and my husband's well-being; worried about my adult children's feelings; worried about the defendant; worried about being misunderstood; worried about making my way through this unfamiliar process; worried about the outcome; worried about my reputation in my community; and worried about what I had done.

Our extended family comes from and resides in and around Cornwall. All have or have had successful careers in business and in education. Having worked as an educator and served on many community boards initiating and leading many projects in service to the community, I also am well known in our communities of Cornwall and S.D. & G. We all are respected, have exemplary reputations, and enjoy good relationships with many friends and acquaintances. All small towns need to have citizens of whom they can be proud. I had let everybody down. The notice of the hearing in our local newspaper and the ensuing publicity in the Toronto Star were devastating.

I have enjoyed and thrived in all the professional environments in which I have worked. I love my work as a Justice of the Peace. Until June 27, I was thriving and completely engaged in my work, always striving to become a better judicial officer. I love the courtroom, the interplay of personalities, and appreciate the efforts of our administrative team. I love research and writing reasoned decisions. I enjoy and respect the people who work in our Criminal and Provincial courts.

I had made a mistake on June 27, but not through bad faith or seeking personal advantage. I had not rushed out of the courthouse that day. I had continued to work on a decision in my chamber due September 2018 and I had reviewed the book of authorities at home later that evening. I confess that I did not know that my decision amounted to judicial misconduct until the panel ruled that it did but I always knew and acknowledged that I had made a mistake in court. I have paid dearly for this mistake, a mistake that I will never make again.

The following is a chronology of events to further describe the impact the non-presiding order has had on me:

June 2018

A few days after June 27, 2018, I was informed that a defendant I had not released from Bail Court on June 27, had, it was reported, attempted to commit suicide during the night while in custody. I had no other details except that he seemed fine on the 28th. I was very upset and I reread my copy of the Protocol many times to see where I had misinterpreted what I had taken to be its edict; further, I reviewed it with my mentor, Justice of the Peace Rozon. I knew from then and later, as expressed in my October letter to the JPRC, that I had made a mistake by not declaring a recess. Ultimately, my decision had deprived someone of his right to freedom. I recognized that I was responsible for that mistake. I will never make such a mistake in bail court again.

July 2018

Throughout this time, I was very stressed and worried about the defendant's well-being and the impact of his loss of freedom. No one would speak to me about the June 27 event or provide me with further information.

September to December 2018

At the end of September, 2018, I received the JPRC documents outlining the complaints against me. The non-presiding order was completely unexpected and traumatic because of its implicit assumption of guilt. I felt shunned and punished; no one had spoken to me; I had been given no recourse to appeal the suspension; I had no voice.

I had never had a complaint about my work as a Justice of the Peace; I enjoyed my work and my colleagues, and never complained about workload. The non-presiding order was so immeasurably stressful, I had difficulty concentrating and making sense of the JPRC documents.

I experienced many moments of panic and I was humiliated by the non-presiding order. For months, I could not sleep or eat properly. I was not only coping with the actual allegations against me and with my concern over what I had done but also with the impact the non-presiding order had on my life and my well-being. During the 2018 Fall and Christmas seasons, my husband and I avoided all social events with our friends. There was a confidentiality court order in place and I simply did not know how to answer questions about why I was not at work.

From October, I effectively self imposed house arrest. I did attend my chamber at the courthouse when it was not in use by other Justices of the Peace mainly to keep abreast of current developments re new legislation and case law relevant in Criminal and Provincial courts. Unfortunately, because I was not presiding, I was denied all access to five educational conferences although I had access to their agendas and appendices. Thus, I worked as hard as I could on my own to keep current.

I suffered emotionally, physically, and psychologically. I was continually reviewing the event of June 27 in my mind. I held myself responsible for acting with haste and not providing a recess to clear the confusion and find the missing documents. I held myself responsible for having deprived someone of his freedom. I worried about the defendant's well-being. I wrote to RSJP Leblanc in late October asking about him and her answer was largely about seeking counselling through the Counselling Program available to judicial officers.

My feelings of sorrow and deep shame at having disappointed the Justice of the Peace bench were overwhelming. I saw my doctor on several occasions. In her diagnosis, she indicated that I was well into the pre-depression stage that could lead to a breakdown. She discussed several coping strategies at length and insisted that I book a series of further appointments with her.

It was not until late December 2018 that I received word from the JPRC that my matter would be proceeding to a public hearing.

Winter 2019

In January, I hired Donald Bayne. He conducted a more thorough investigation of the events of June 27. Through direct evidence and admission from the Cornwall Police, Mr. Bayne ascertained that an attempted suicide had not in fact taken place. At that time, my relief for the defendant was palpable. I was thankful that my actions of a June 27 had not had the catastrophic result of an attempted suicide.

Spring 2019

I engaged in a series of private conversations with community leaders who knew me and some who had given glowing references that led to my appointment as a Justice of the Peace. I did the same with our close friends because I felt they should hear from me first and not through the press. I am very blessed that, to this day, community leaders and friends who know me have been very understanding and supportive; nevertheless, facing the community at large has been difficult. My sense of shame has lived with me throughout and, to this day, the non-presiding order continues to be punishing; I continue to restrict my activities outside my home during work hours and avoid social events.

Fall 2019

The public hearing was held in October 2019. I understand and accept the panel's decision concerning the finding of judicial misconduct for the allegation of June 27. I am sorry that the panel members interpreted my description of what had occurred in court on June 27 as "blaming" others in court. That was not my intention or the meaning of my words. I intended just to try and explain my mistaken decision to close the court. I am sorry that people for whom I have great respect will now think that I attempted to blame them. As I said in testimony, I was the sole person responsible for the decision that occurred in court on June 27, a decision that will never be repeated.

Winter 2020

Throughout, these 18 months, I have missed my work as a Justice of the Peace. I am anxious to return to my work that I love and to the administration of justice that I deeply respect. With His Honour Justice Nadelle's most helpful intervention, I know that my conduct of June 27, 2018, will never be repeated.

Sincerely,

Claire Winchester



APPENDIX C:
REPORT FROM HIS HONOUR JACK NADELLE (RET., OCJ)
CURRICULUM VITAE - HIS HONOUR JACK NADELLE

JUSTICE OF THE PEACE REVIEW COUNCIL

IN THE MATTER OF a complaint respecting

Justice of the Peace Claire Winchester

A Justice of the Peace in the East Region

To The Panel Members

I am Justice Jack Nadelle, a retired judge of the Ontario Court of Justice. I presided primarily in the Ottawa area, on a full time basis for 38 years. Prior to my appointment, I was an assistant Crown Attorney for approximately 9-1/2 years. I have included as an Appendix, a partial resume of my legal/judicial career. Where I am unsure of a date or any other matters, I have so indicated.

I have been asked to provide remedial education and tutoring to Justice of the Peace Winchester on matters arising from her conduct on June 27, 2018 during a bail court in Cornwall. A hearing was held before a panel of the Justices of the Peace Review Council under s.11.1 of the Justices of the Peace Act, R.S.O. 1990, c.J.4, as amended. The panel found that Justice of the Peace Winchester "in disregarding the constitutional procedural and fundamental rights of the accused on June 27, 2018, Her Worship failed to uphold and maintain judicial integrity and undermined public confidence in the integrity of her judicial office and in the administration of justice" (see paragraph 62 of Reasons for Decision Feb. 19, 2020). This constituted "judicial misconduct that undermines public confidence in the judiciary ..." (see paragraph 63).

Prior to meeting with Justice of the Peace Winchester, I was provided with the decision of the Justices of the Peace Review Council panel, the amended Notice of Hearing, a transcript of the June 27, 2018 bail court proceedings and the Principles of Judicial Office.

I met with J.P. Winchester for approximately six hours over the March 4-6 period. I had read the materials provided by Mr. Bayne and the areas of concern were quite obvious.

I began by determining her knowledge of the Criminal Code and Charter provisions with respect to bail. I asked her to tell me what she understood certain terms and concepts meant. For example, I'd asked her what she understood just cause, reasonable bail, confidence in the administration of justice and the ladder principle meant. In all cases, she provided what I considered accurate responses. She informed

me that she kept up with current law and case law during her suspension. In my opinion, there is no issue with respect to knowledge of the law.

We then went on to discuss in court responsibilities and conduct.

I emphasized that her judicial responsibilities go beyond simply deciding between custody or liberty but include defending individual freedom and human rights and stressing the primacy of liberty interests. She was counselled on the importance of keeping the bail court open for late arriving accused. This is especially so when the accused is present in the building and there is plenty of time left in the work day. I stressed to her that her conduct in the June 27, 2018 bail court could only result in a loss of confidence in her and in the administration of justice. Section 2.2 of the Principles of Judicial Office speak to this as well and should be followed.

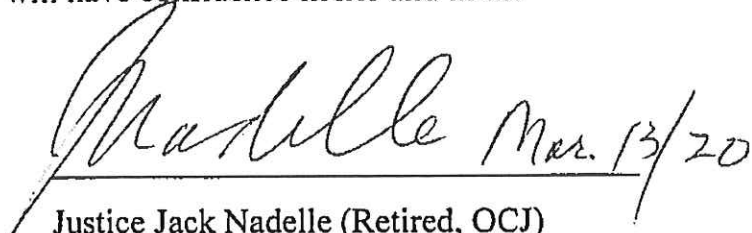
We dealt with possible options she could have taken because of the absence of the information and dealt with options available to her if an information is missing on second or subsequent appearance.

I counselled her on the pitfalls of using sarcasm, humour, flippant or poorly thought out remarks in the context of a criminal proceeding, especially in a hearing where liberty is the immediate issue. This is, in effect s.1.3 of the Principles of Judicial Office and the following commentaries. I provided her with coping techniques to avoid making comments that would likely cause the public to lose confidence in her and the administration of justice.

I concluded the tutoring by going over the principles of judicial office virtually on a line by line basis and am satisfied she fully understands them. I should note that a number of times during our sessions she expressed to me that she knows she was wrong and that there have been and there could be further consequences,

She is a very bright and accomplished individual and has an outstanding knowledge of the law relating to bail. While she has been under suspension and prohibited from attending conferences, she has kept up her legal knowledge by obtaining conference materials from websites and from a website for Justices of the Peace and based on the Ontario Court of Justice updates, Items of Interest.

I am of the opinion that Justice of the Peace Winchester fully understands the Principles of Judicial Office and her responsibilities as a Justice of the Peace and will perform them in a manner that the public will have confidence in her and in the administration of justice.


Justice Jack Nadelle (Retired, OCJ)

JACK DAVID NADELLE

January 10, 1941; Fort Coulonge, Quebec

B. A – University of Ottawa – 1963
LL.B. -University of Ottawa-1966
Called to the Bar – March 22, 1968

March 1968 to November 1977 – Assistant Crown Attorney – Ottawa
November 1977 – Judge, Ontario Court of Justice

PARTICIPATION IN EDUCATIONAL AND LEGAL-RELATED PROGRAMS

August 16 – 20, 1971	Toronto: Ontario Crown Attorneys' Association – Taught the basic course for Crown Attorneys
1971	Cornwall: Acting Crown Attorney for two months
November 3, 1971	Toronto: Lecture to the Coroners' Association of Ontario
Summer, 1972	Toronto: Ontario Crown Attorneys' Association. – Continuing Education, Course #1
1972	Prepared a paper for the Criminal Justice Subsection of the Canadian Bar Association for the Law Reform Commission's Papers on Evidence
1972	Attended as a representative of the Ottawa Crown Attorney's office a national conference on the <i>Bail Reform Act</i>
Summer 1973	Toronto: Taught at the Ontario Crown Attorneys' summer course at Massey College
June 6 – 8, 1974	Toronto: Panelist on <i>Discovery in a Criminal Case</i> to Ontario Crown Attorneys' Association
August 1974	Toronto: Ontario Crown Attorneys' Association, Summer School, Course #1, Panelist on the <i>Bail Act</i>
November 7 – 8, 1974	Toronto: Panelist on <i>Discovery in a Criminal Case</i> to Ontario Crown Attorneys' Association
February 5, 1975	Ottawa: Lecture at Carleton University on <i>Plea Bargaining</i>
March 13, 1975	Ottawa: Lecture at R.C.M.P. on <i>Current Trends in Law Enforcement and Criminal Intelligence</i>

September 17, 1975	Lecture on <i>Evidence</i> to R.C.M.P. Commercial Crime Investigators - Course #2
October 2, 1975	Lecture at University of Ottawa to Ottawa Student Legal Aid Society
October 13, 1975	Law and Security Program at Algonquin College – <i>Role of the Crown Attorney – Demonstrative Evidence</i>
October 20, 1975	Address to Ministry of Correctional Services, Probation and Parole Officers
1976-77	Law Society of Upper Canada (L.S.U.C.) Bar Admission Course
February 2, 1977	Ottawa: Lecture to the University of Ottawa Law Students on <i>Forgery</i>
1977- 78	L.S.U.C. Bar Admission Course
November, 1978	Lecture - Law Class at Algonquin College
1978-79	Co-Taught Criminology CRM 5103 – University of Ottawa
September, 1979	Member of a Consultation Group at The Consultative Meeting of the Law Reform Commission on <i>Self Incrimination in the Canadian Criminal Process</i>
October, 1979	Panelist at a Seminar Entitled <i>Defending a Criminal Case – Sentencing Panel</i>
November, 1979	Judge at University of Ottawa Moot Court
May 8, 1980	Lecture to Nepean Police Department on <i>Fingerprint Evidence</i>
December 1, 1980	Law Class – Carleton University- <i>The Judges Role in the Courts</i>
1981	University of Ottawa Moot Court Judge
October 17, 1981	L.S.U.C. Continuing Education – <i>Defence of Impaired Driving Cases</i>
January 1982	<i>The Future of Sentencing Practices in Canada – A Speech Presented at the Symposium on The Future of Criminal Law in Canada</i> (this was published in The Provincial Judges Journal, June 1982)

May, 1982	L.S.U.C. Criminal Law Education Seminar-Lecture on <i>Offences Involving Violence</i>
1984	Arranged and Chaired the Forensic Science Program at the Provincial Judges Association Annual Conference
1984	Consultant with Law Reform Commission on <i>Questioning Suspects Paper</i>
1986	Carleton County Law Association (C.C.L.A.) and Defence Counsel Association of Ottawa (D.C.A.O.)- Criminal Law Conference-Panelist on <i>Credibility Issues</i>
December 13, 1987	L.S.U.C. --Continuing Education Seminar- <i>Impaired Driving Update/Charter Developments</i>
May 9-12, 1988	Spring Conference of the Ontario Association of Community Correctional Residences – Panelist on <i>Adult Offenders</i>
1989	D.C.A.O./C.C.L.A.Criminal Law Conference-Panelist on <i>Identification Issues</i>
1990	D.C.A.O./C.C.L.A.Criminal Law Conference-Panelist on <i>Driving Offences</i>
April, 1991	Participant in Mock Trial as Part of Law Day
1991	D.C.A.O./C.C.L.A. – Criminal Law Conference-Panelist on <i>Alibi Defence</i>
October 22, 1991	University of Ottawa-Faculty of Law Seminar
June 14-19, 1992	Judicial Education Program (Criminal) University of Western Ontario – Admissibility of Confessions Test
February 10-12, 1993	Ontario Judges Association – Sentencing Seminar – Moderator on <i>Latest Trends in Fraud Presentation</i>
February, 1993	University of Ottawa Faculty of Law – Moot Court Judge
June 1993	LS,U.C. Bar Admission Course – <i>Criminal Advocacy</i>

1993	D.C.A.O./C.C.L.A. Criminal Law Conference - Panelist on <i>Mental Disorder Issues</i>
1994	L.S.U.C. Bar Admission Course
1994	University of Ottawa – Moot Court Judge
April, 1994	Job Shadowing Program Participant
1994	D.C.A.O./C.C.L.A. – Criminal Law Conference – Panelist on <i>Martin Report and Stinchcombe Issues</i>
November, 1994	D.C.A.O. – Five O'Clock Series – <i>Views From the Provincial Court Bench</i>
1995	L.S.U.C. Bar Admission Course – Demonstrator
February 11 – 14, 1997	Ontario Court of Justice – Regional Seminar — <i>Sentencing - Panelist</i>
October 17 – 18, 1997	Montebello: D.C.A.O./C.C.L.A. Criminal Law Conference – Panelist on <i>Current Issues</i>
October 27 – 30, 1998	Ontario Court of Justice – Regional Seminar – Panelist on <i>Top Ten Cases of 1998</i>
1993, 1995 -1998	Judge at Gale Cup (2 to 3 of these 5 years)
May 3 – 5, 2000	Ontario Court of Justice Regional Seminar – <i>Managing the Longer Trial</i> (Main lecturer)
February 9, 2002	D.C.A.O./C.C.L.A. – Panel on <i>Defending Drinking and Driving Cases</i>
November 6, 2004	Montebello: D.C.A.O./C.C.L.A. Criminal Law Conference – <i>Gloves Off</i> – Panelist
April 19, 2007	5 O'Clock Series – <i>Mental Health Court and Criminal Court</i>
May 28, 2009	Legal Writing Presentation to the Paralegal Class from Everest College

October 17 – 18, 2009	Montebello: D.C.A.O./C.C.L.A. Criminal Law Conference – <i>Judges' Top 10 Cross-Examination Do's and Don'ts</i>
February 11 – 12, 2011	Member of the Faculty at the Intensive Trial Advocacy Program – Lectures on <i>Ethics and Civility</i>
January 25, 2012	Minor Case Management Group [a program for junior Crown Attorneys]
February 10 – 11, 2012	D.C.A.O. Junior Advocacy Program for Criminal Lawyers in Practice for less than five years
October 5 – 6, 2013	Montebello: D.C.A.O./C.C.L.A. Criminal Law Conference - <i>Dangerous Offenders</i>
October 17, 2015	Montebello: D.C.A.O./C.C.L.A. Criminal Law Conference – <i>Adverse Witness Panel</i>