

YUKON JUDICIAL COUNCIL ANNUAL REPORT

2015

Executive Summary

The mandate of the Yukon Judicial Council is set out in s. 31 of the *Territorial Court Act*. These functions include:

- (a) the making of recommendations for the appointment of Judges and Deputy Judges, and Justices of the Peace, and
- (b) judicial conduct complaints and discipline.

As well, the Council has broad authority to make recommendations in the areas of judicial education and reform and improvement of the court system.

Pursuant to Council's recommendations six new Deputy Judge appointments were made, seven Deputy Judge re-appointments were made, and a recommendation has been made to the Minister for the appointment of three more Deputy Judges.

There was one formal complaint made to Yukon Judicial Council in 2015, and one complaint that carried forward from 2014. The 2015 complaint was found to be unfounded and vexatious, and was dismissed by Council based on materials reviewed and pursuant to the *Territorial Court Act*. The 2014 complaint has been referred to a Judicial Conduct Tribunal.

Introduction

The Judicial Council of the Territorial Court is a body created by statute, originally in the *Territorial Court Act* of 1985 and continued under the present *Territorial Court Act* R.S.Y. 2002, c. 217. Section 31 of the *Act* sets out the functions of the Council:

31. The functions of the Council are:
- (a) to make recommendations to the Minister respecting appointments of Judges and Justices;
 - (b) subject to Part 5, to deal with complaints respecting Judges and Justices;
 - (c) to make recommendations to the Minister and the Chief Judge on such matters as it considers necessary respecting the efficiency, uniformity or quality of judicial services;
 - (d) to report to the Minister and the Chief Judge respecting proposals for improving the judicial services of the court or on such other matters as may be referred to it by the Minister;
 - (e) after consulting with the Chief Judge and the Minister, to consider and recommend such judicial training as in its opinion may reasonably be necessary;
 - (f) to serve in an educational capacity, in any manner as it sees fit;
 - (g) for the better consideration of justice issues of concern to the community, to establish working committees to consider reform and improvements in the areas of family and young offenders matters and criminal, and civil laws, and to make recommendations on these areas to the Council. The membership of these committees shall be in the discretion of the Council, but the Council shall attempt to include representatives of all interested groups on these committees;
 - (h) at the request of the Supervising Judge, to consider whether a change of residence or occupation of a Justice merits the dismissal of the Justice;
 - (i) at the request of the Supervising Judge, to assess whether or not Justices have satisfactorily completed training opportunities offered by the court or whether or not Justices have engaged in behaviour inconsistent with the due administration of justice and, where it considers advisable, to refer its concerns about a Justice to a tribunal; and
 - (j) to perform such other duties as it may be requested to perform by the Minister or the Chief Judge.

The Judicial Council consists of eight people representing the general public, the legal profession, Yukon First Nations, the Judiciary, and the Justices of the Peace. The statutory provision for the composition of the Judicial Council is contained in section 32 of the *Act*. It provides that the Commissioner in Executive Council shall appoint the Council from:

- (1)(a) two members nominated by the Minister, one of whom shall be a member of the Law Society of Yukon and the other shall be a lay person,
 - (b) two members nominated by Yukon First Nations, at least one of whom shall be a lay person,
 - (c) one member nominated by the Law Society of Yukon,
 - (d) one member nominated by the Chief Judge,
 - (e) one member nominated by Justices, and
 - (f) a Resident Judge of the Supreme Court nominated by the Senior Judge who may, *ex officio*, participate in the affairs of the Council, on matters other than complaints and discipline.
- (2) The Council may recommend the appointment of one further lay member who shall, in so far as it is reasonably possible after considering the existing membership, ensure that the Council reflects the demographics and diversity of Yukon.

The Council selects a chair from its members and where the chair is for any reason unable to act, the other members of the Council choose a member to act in his or her absence. Judge Michael Cozens is the current Chair of the Council.

The Council attempts to operate by consensus whenever possible, however, should it prove necessary, the *Act* provides that the Council is to make its decisions by majority vote and where in a proceeding before Council there is no majority decision, the chair casts a second and deciding vote.

The members of the Council in 2015 were:

Lynn-Marie Matthews, nominated by Yukon First Nations
Gary Burgess, nominated by the Justice of the Peace Association
Brenda Warren, nominated by Yukon First Nations
Linda Steinbach, nominated by the Minister
David Christie, nominated by the Law Society of Yukon
Graham Lang: nomination of the Minister
Michael Cozens, nominated by the Territorial Court of Yukon
Leigh Gower (*ex officio*), nominated by the Supreme Court of the Yukon Territory

Territorial Court Judicial Appointments

One of the major functions of the Judicial Council is assessing applications for the positions of Territorial Court Judge, Deputy Territorial Court Judge and Justice of the Peace.

Judges and Justices of the Peace are appointed by the Commissioner in Executive Council on the recommendation of the Minister of Justice.

When a Judge is to be appointed, the Council is required to submit a list of not less than three and not more than eight qualified candidates to the Minister of Justice. The Minister recommends appointment of a candidate from this list.

When a Judge is to be appointed, the Council must advertise the position in Yukon newspapers and, if it considers it advisable, in other regional and national newspapers. The Council must also give notice of the position to the Yukon Law Society and, as it considers advisable, to other potential candidates.

Applicants first complete an application form¹ and return it to the Judicial Council. All applications are reviewed by the Judicial Council. The Judicial Council considers information from a number of sources, including a report from the relevant Law Society on the applicant's standing, interviews members of the legal community regarding the reputation and suitability of the applicant and judges who are familiar with the applicant. After reviewing this material, the Judicial Council decides whether it will interview a candidate. After interviewing the applicant, the Judicial Council determines the acceptability of the candidate. Following this process, Council submits a list of qualified candidates to the Minister of Justice.

Candidates are informed that they will not hear about the outcome of their application unless they receive an offer of an appointment by the Commissioner in Executive Council.

At all stages of the proceedings, Judicial Council assesses each applicant against the qualifications set out in section 7 of the *Act*. The applicant must meet the following qualifications:

- normally 10 years in the practice of law (those with less legal practice may be considered if they have a range of related experience);
- is a member or is qualified to be a member of the Law Society of Yukon;
- is under 65 years of age;
- the need to have a bench which is demographically representative of the community it serves;
- the scholarship and other attainments of the applicant;
- the experience and maturity of the applicant;

¹ The current application is attached as Appendix A.

- the familiarity and the involvement of the applicant in northern communities;
- the familiarity and understanding of the applicant with First Nations concerns;
- the applicant's record in the community;
- additional criteria based on the needs of the court or as determined by the Minister to be in the public interest.

Additional criteria identified by the Council are set out in a document entitled Judicial Appointment Criteria which is provided to each applicant as part of the application package. A copy of the Judicial Appointment Criteria is included in Appendix A.

Each of the Territorial Court Judges presides in family, criminal and small claims court. The Judges travel to rural communities on a regular court circuit as assigned by the Chief Judge.

Appointment of Deputy Judges

The Yukon Judicial Council also makes recommendations for appointments of Deputy Judges. Since such appointments are for a five year term, subject to reappointment, Council also makes recommendations for reappointments of Deputy Judges.

Deputy Judges are current, supernumerary or retired judges of other Canadian courts. They sit in the Yukon on an as required basis to deal with times when the resident judges cannot hear cases on a timely basis. As such, Deputy Judges perform a vital role in providing adequate judicial services in the territory.

During the year 2015, there were seven re-appointments of Deputy Judges, six new appointments of Deputy Judges, and a recommendation has been made to the Minister for three new Deputy Judges to be appointed.

Three Deputy Judges retired in 2015.

A current list of all Territorial Court Deputy Judges is annexed as Appendix B.

Justice of the Peace Appointments

The Judicial Council is also responsible for recommending the appointment of Justices of the Peace. Over the past twenty years, Yukon Justices of the Peace have evolved as an indispensable and essential part of Yukon's judicial system. Owing to the widely dispersed Yukon population, a properly functioning and vigorous Justice of the Peace program is essential for the proper administration of justice in the territory.

The Territorial Court is committed to providing more accessible community-based justice. A strong Justice of the Peace program, which is able to ensure there are

trained active Justices in each community, is essential if there is to be access to justice at any time other than during the infrequent visits on court circuit.

The recruitment process for a Justice of the Peace is a community-based process. The circuit Court Judge, local Justices may identify possible candidates who are encouraged to apply to the Council. As well, the Council may bring the availability of a position to the attention of the local community through advertisements in the local newspaper or through local organizations. Persons interested in applying to be appointed as a Justice of the Peace are able to refer to the Yukon Courts website for information on how to apply.

The process for appointing a Justice of the Peace is very similar to the process used to appoint Judges. Applicants first complete an application form and return it to the Judicial Council. Many of the qualifications considered in assessing applicants for the position of Territorial Court Judge are also considered when assessing candidates applying to become Justices of the Peace. More specifically, candidates are assessed by the Judicial Council on the basis of the application form, training and previous work experience, health, reputation in the community, and absence of any conflicts of interest, as well as their commitment to ongoing training and education. Appointments are made as the need for a Justice of the Peace in a particular community arises.

With the amendments to the *Territorial Court Act*, Justices of the Peace are divided into two categories: administrative and presiding. Justices exercising administrative functions may receive informations, issue process, conduct small claims mediations and pre-trial conferences and perform other similar duties as determined by the Supervising Judge. A Justice exercising presiding functions has jurisdiction to exercise all the powers conferred on a Justice of the Peace, or, on two Justices, or, by a Judge of the Court, by or under an enactment of Yukon or Canada, subject to the limitations in child protection matters and imposing custodial sentences set out in section 56(2) of the *Act*.

The duties and responsibilities of each presiding Justice are set out in a letter of authorization issued by the Chief Judge. The letter of authorization system allows the Chief Judge to take account of the individual's training and abilities, as well as the specific needs of a community when assigning responsibilities and duties to a Justice. It also permits both the Justice of the Peace and the Chief Judge to identify the training needs of individual Justices.

During 2009, Judicial Council adopted a revised application form for Justice of the Peace candidates. That form is annexed in Appendix C.

In 2015 there were no Justice of the Peace appointments made.

There was one Justice of the Peace who resigned in 2015, and two who retired due to turning the age of 75 years.

A current list of all Yukon Justices of the Peace is annexed in Appendix D.

Complaints

The principle of judicial independence requires that Judges and Justices of the Peace must be free to make their decisions based only upon the facts in a particular case and the law applicable to those facts, without outside interference. If a Judge or Justice of the Peace errs in the application of the law or the finding of the facts in a particular matter, the result may be appealed or subject to judicial review by a higher court. The principle of judicial independence, however, does not eliminate judicial accountability. Section 38(1) of the *Territorial Court Act* provides that Judges are accountable for conduct that is outside the parameters of proper judicial conduct. Any individual who believes a Judge has behaved improperly, neglected his or her duty or is impaired or diminished in his or her ability to perform his or her responsibilities, may lodge a written complaint.

The *Territorial Court Act* provides for a complaint process in sections 38 through to 44:

38(1) A person wishing to make a complaint about

- (a) the conduct of a Judge or of a Justice;
- (b) the neglect of duty by a Judge or a Justice; or
- (c) any matter which may lead a person to conclude that the ability or capacity of a Judge or Justice to perform their responsibilities has become substantially impaired or diminished or that they are otherwise unfit for office may file a complaint in writing with the registry of the court.

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

Routing of complaint

39 The registry shall provide a copy of the complaint immediately to the council, the Chief Judge, and to the Judge or Justice who is the subject of the complaint.

Council to deal with complaint

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

Disposition of complaint by council

41(1) On considering the complaint, the Council may

- (a) dismiss the complaint if the Council finds it unnecessary, scandalous, frivolous, vexatious, unfounded, brought in bad faith, or beyond its jurisdiction;
 - (b) refer the complaint to the Chief Judge to be disposed of by the Chief Judge in accordance with section 42;
 - (c) if the Council considers that the complaint is one which should be heard but which it may be able to resolve without referring it to a judicial conduct tribunal, the Council may, with the consent of the Judge or Justice who is the subject of the complaint,
 - (i) give the complainant and the respondent the opportunity to speak to the complaint in the presence of each other, and
 - (ii) dispose of the complaint by way of reprimand or dismiss the complaint; or
 - (d) order an inquiry by a tribunal.
- (2) A Judge or Justice against whom a complaint has been made shall not participate as a member of Council for the purposes of its reviewing a complaint against them.
- (3) The Council may investigate a complaint as it considers advisable to determine the disposition of a complaint under subsection (1).
- (4) If the Council refers a complaint to a judicial conduct tribunal in accordance with paragraph (1)(d), it may recommend the suspension of the Judge or Justice who is the subject of the complaint with or without pay to the tribunal that is to hear the complaint. The tribunal shall determine immediately whether or not the suspension is warranted and, if it considers the suspension is warranted, it shall suspend the Judge or Justice until the complaint is disposed subject to any terms and conditions it considers advisable.

Disposition of complaint by Chief Judge

42 The Chief Judge shall rule on every complaint referred to the Chief Judge under paragraph 41(1)(b) within 30 days of receiving the complaint and shall promptly report the disposition of the complaint to the complainant, the Judicial Council, and to the Judge or Justice who was the subject of the complaint.

Review of Chief Judge's ruling

43 A complainant who believes that the Chief Judge has erred in the disposition of the complainant's complaint may, within 30 days of the receipt of

the Chief Judge's ruling, ask the Council to review the complaint and the Council shall deal with the matter in accordance with either paragraph 41(1)(c) or (d).

Judicial conduct tribunal

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

As a protection for both the complainant and the Judge or Justice, the Council will not make public names or information that would serve to identify those involved.

The first complaint was brought forward from 2014 and was not a formal letter of complaint, but a concern raised regarding the conduct of a Justice of the Peace in a Supreme Court of Yukon action. This matter has been referred to a Judicial Conduct Tribunal.

One letter of complaint was received by Judicial Council in 2015. The letter was reviewed by Judicial Council; it was found to be vexatious and unfounded, and was dismissed. A summary of these complaints are annexed as Appendix G

Education

Another important function of the Council is to ensure that both Judges and Justices of the Peace have opportunities for ongoing education.

As the role for the Justices of the Peace has evolved, individuals require a higher level of training as a precondition of appointment and to maintain authorization. The Council continues to support the Supervising Judge in his/her efforts to develop a formal training process for Justices of the Peace. The Agenda from the Justice of the Peace training college held in 2015 is annexed as Appendix E.

During 2009, a revised Justice of the Peace Training Manual was developed and it continues to be in use. The table of contents is annexed as Appendix F.

The Council has also taken steps toward providing information to the public respecting the Council's role in the Yukon Justice system by posting its Annual Report, as well as detailed information concerning the Council and the appointments and complaints process on the Yukon Courts website, www.yukoncourts.ca.

APPENDIX A
JUDICIAL CANDIDATE APPLICATION FORM

JUDICIAL CANDIDATE APPLICATION FORM

THIS APPLICATION MUST BE TYPED

1. PERSONAL INFORMATION

FULL NAME: _____

BUSINESS ADDRESS: _____

PHONE NUMBER & AREA CODE: (____) _____

RESIDENTIAL ADDRESS: _____

PHONE NUMBER & AREA CODE: (____) _____

Date and Province or Territory of call to bar: _____

Languages spoken or written other than English:
(Indicate level of proficiency – read, write, speak)

Current Speciality of Law, if any: _____

I, _____, hereby authorize the Yukon Judicial Council to make inquiries with respect to my suitability and qualifications for judicial appointment from any source at the appropriate stage of the Council's deliberations.

Signature

Date

2. PROFESSIONAL AND EMPLOYMENT EXPERIENCE:

In chronological order, give a brief account of each position you have held beginning with your pre-law work experience.

(a) Pre-law and Non Legal Experience:

For each position indicate the years you held it and describe briefly the general nature of the work you did and the experience you gained.

(b) Legal Career Experience:

For each position indicate the years you held it and describe briefly the nature of the work you did and the experience you gained.

3. COMMUNITY AND CIVIC ACTIVITIES:

THE COUNCIL IS PARTICULARLY INTERESTED IN ACTIVITIES WHICH IN YOUR VIEW SHED LIGHT ON YOUR SUITABILITY FOR A JUDICIAL APPOINTMENT. Describe briefly your involvement, and the length of time of such involvement in any community or civic activities.

4. PARTICIPATION IN PROFESSIONAL ASSOCIATIONS:

Provide information on your membership in any professional associations, including those associated with the legal profession. Advise of those in which you have been more than a fee-paying member (e.g. serving on committees, holding an executive position).

5. PUBLICATIONS:

The Publications you list here need not be confined to writings on legal topics.

6. PERSONAL SUITABILITY:

- (a) Please advise of any matters of a physical, emotional or psychological nature that may adversely impact on your ability to function as a judge or prevent you from fulfilling your duties on the Territorial Bench.

- (b) Please advise of any professional, business or other interests that could cause a conflict or an appearance of a conflict if appointed to our Territorial Bench.

- (c) Please advise of any civil claims or serious financial difficulties.

- (d) Please advise of any errors and omissions claims or complaints presently on file with the Law Society of Yukon or any other Law Society.

- (e) Please advise if you have ever been found guilty or convicted of a criminal offence (include discharges and offences for which you have been pardoned and/or received a Criminal Record Suspension).

- (f) Please advise if you have ever changed your name. If so, please provide details.

7. DISPUTE RESOLUTION/LITIGATION EXPERIENCE

(a) What judges, if any, have you frequently appeared before in recent years?

(b) What tribunals, agencies or boards, if any, have you appeared before in recent years?

(c) What mediation, alternate dispute resolution, and collaborative law experience, if any, do you have?

(d) Other:

8. TRAVEL REQUIREMENTS:

(a) Do you have a valid driver's licence?

Yes No

(b) Are you able to fly in a small aircraft on a regular basis and without difficulty?

Yes No

(c) Are you able to travel distances to court circuits that require overnight stays?

Yes No

(d) Can you be away from your home to attend judicial training courses or court circuits for up to a week at a time?

Yes No

9. REASONS FOR INTEREST IN A JUDICIAL POSITION:

- (a) Please explain why you are interested in serving on the Territorial Bench.

- (b) What aspects of your education, experience and character would most assist you in discharging the responsibilities of a judge?

10. EDUCATION:

(a) Secondary school – name and location of schools attended:

extra-curricular activities _____

scholarships/awards _____

(b) University other than law school:

(i) name/location from/to degree/diploma

major subject(s) _____

extra-curricular activities _____

scholarships/awards _____

(ii) name/location from/to degree/diploma

major subject(s) _____

extra-curricular activities _____

scholarships/awards _____

(c) Law School name/location from/to degree/diploma

areas of special interest _____

extra-curricular activities _____

scholarships/awards _____

(d) Post Graduate Studies in Law: name/location from/to degree/diploma

focus of study _____

(e) Continuing Education after Call to Bar:

List courses taken.

(f) Law-related memberships, committees and activities after graduation:

REFEREES – INCLUDE ADDRESS AND TELEPHONE NUMBERS

The Council DOES NOT require reference letters. Please provide the names of ONLY FOUR referees. Your referees should include one or more persons who have had direct and recent experience with your participation in community activities and one or more who have had direct and recent experience with your professional work. Your referees may be contacted by members of the Council as may other persons who are aware of your professional experience and abilities.

All information will be kept in confidence by the Council. The Council may wish to obtain information from other sources. In making these inquiries, every effort will be made to maintain confidentiality.

PLEASE SPECIFY WHETHER YOUR REFEREES ARE "LAW RELATED" OR "OTHER" and provide both their current residential and business telephone numbers.

1. Name: _____ Law related/Other
Address: _____

Business No. (____) _____ Residential No. (____) _____

2. Name: _____ Law Related/Other
Address: _____

Business No. (____) _____ Residential No. (____) _____

3. Name: _____ Law Related/Other
Address: _____

Business No. (____) _____ Residential No. (____) _____

4. Name: _____ Law Related/Other
Address: _____

Business No. (____) _____ Residential No. (____) _____

RELEASE OF INFORMATION

I, _____, having applied to the Yukon Judicial Council for consideration for an appointment as a Territorial Court Judge, authorize the Law Society of Yukon and/or any other Law Society of which I am a member, to furnish to the Council all details of formal and informal complaints or charges, insurance or compensation claims, copies of those complaints, charges or claims and the result of such complaints, charges or claims and the present status of same.

I also authorize the Yukon Judicial Council to conduct a criminal records check through the Royal Canadian Mounted Police and to receive such report solely for the purpose of this application.

I release the Law Society and its staff from any and all liability of every nature and kind arising from the release of information and documents to the Council pursuant to this Release.

Dated at _____, this _____ day of _____, 20____.

Signature

Please advise if you have ever changed your name after the age of 18. If so, please provide details.

JUDICIAL COUNCIL OF THE TERRITORIAL COURT OF YUKON **Judicial Appointment Criteria**

Judicial Council assesses each candidate on the following criteria:

- A member of the Law Society of Yukon, or qualified to be a member of the Law Society of Yukon
- A minimum of 10 years in the practice of law or other equivalent experience satisfactory to the Judicial Council
- The need to have a Territorial Bench that is demographically representative of the community
- Demonstrated sensitivity to Yukon First Nations' issues
- Experience living and working in northern communities
- Commitment to improving the delivery of judicial services in Yukon
- Legal reputation, including:
 - (a) review of professional record from the Law Society
 - (b) reference from the Canadian Bar Association and judges or decision makers before whom the applicant has appeared
 - (c) reputation among professional peers
- Experience in criminal, family, and civil law
- Willingness to learn and demonstrated commitment to ongoing professional education
- Knowledge of and sensitivity to current dilemmas and issues facing courts and judiciary
- Other professional competence and experience:
 - Scholarship and intellectual ability
 - Analytical and writing skills
 - Ability to listen
 - Ability to maintain an open mind while hearing all sides of an argument
 - Ability to make decisions
 - Capacity to exercise sound judgment
 - Area(s) of professional specialization, specialized experience or special skills
 - Ability to manage time and workload without supervision
 - Capacity to handle heavy workloads
 - Capacity to handle stress and pressures of the isolation of the judicial role
 - Interpersonal skills – with peers, staff and the general public
- Personal suitability including:
 - (a) even temperament
 - (b) fairness
 - (d) common sense
 - (e) compassion for and understanding of those coming before the Territorial Bench
 - (f) maturity, life experience and wisdom
- Respect in the community
- Record of community service

APPENDIX B
TERRITORIAL COURT OF YUKON
DEPUTY JUDGES

TERRITORIAL COURT DEPUTY JUDGES

Name and Court	Expiry Date	Date of Birth
Justice Michael S. Block Ontario Court of Justice	Nov 4, 2020	July 21, 1954 (75 in 2029)
Judge Michel Chartier Provincial Court of Manitoba	May 5, 2020	(75 in ____)
Judge Thomas Crabtree Provincial Court of BC	July 29, 2020	January 31, 1955 (75 in 2030)
Judge Joseph De Filippis Ontario Court of Justice	Feb 25, 2019	July 27, 1956 (75 in 2031)
Judge William Digby Provincial Court of Nova Scotia	July 17, 2017	October 27, 1947 (75 in 2022)
Judge John Faulkner Retired-Territorial Court of Yukon	July 21, 2017	July 21, 1947 (75 in 2022)
Judge Christine V. Harapiak Provincial Court of Manitoba		February 13, 1965 (75 in 2040)
Judge Murray J. Hinds Provincial Court of Saskatchewan	Nov 4, 2020	January 4, 1961 (75 in 2036)
Judge Deborah Livingstone Retired - Ontario Court (Prov. Div)	July 2, 2019	May 21, 1952 (75 in 2027)
Judge Donald S. Luther Retired - Provincial Court of NL	Dec 14, 2020	January 30, 1951 (75 in 2026)
Judge Nancy K. Orr Provincial Court of PEI	Nov 4, 2020	May 19, 1956 (75 in 2031)
Judge James Plemel Provincial Court of Saskatchewan	Feb 25, 2019	Feb 16, 1951 (75 in 2026)
Judge E. Dennis Schmidt Semi-Retired - Provincial Court of BC	Dec 14, 2020	August 31, 1947 (75 in 2022)
Judge Herman Seidemann III Retired: Provincial Court of BC	May 5, 2020	August 19, 1947 (75 in 2022)
Judge Murray P. Thompson Provincial Court of Manitoba	April 22, 2020	April 26, 1961 (75 in 2036)
Judge David C. Walker Provincial Court of New Brunswick	April 22, 2020	(75 in ____)
Judge Pamela Williams Provincial Court of Nova Scotia	May 5, 2020	(75 in ____)
Judge Raymond E. Wyant Provincial Court of Manitoba	Nov 4, 2020	August 17, 1950 (75 in 2025)

As of December 31, 2015

APPENDIX C
JUSTICE OF THE PEACE APPLICATION FORM

YUKON JUSTICE OF THE PEACE PROGRAM

APPOINTMENT PROCESS

Justices of the Peace play an important role in the delivery of court services to their communities. As a lay officer of the court, a Justice of the Peace has a responsibility to perform specific judicial duties based on authorizations granted by the Chief Judge and the Supervising Judge of the Justice of the Peace program.

A Justice of the Peace's conduct must accord to certain acceptable standards which will ensure the maintenance of the position's credibility in the eyes of the public, as well as meeting the requirements of judicial independence inherent in the position.

All Justices of the Peace are trained before taking on responsibility. A strong program of continuing education is offered under the direction of the Supervising Judge of the Justice of the Peace program and the Yukon Justice of the Peace Association.

There is a wide range of responsibilities a JP may undertake. The authorizations a JP acquires depend on the needs in the JP's community, as well as upon the interests of the Justice of the Peace, the training the Justice of the Peace completes, and the demonstrated skills and abilities of the Justice of the Peace.

Responsibilities could include receiving Informations, issuing court summons and warrants, conducting pre-trial conferences, presiding in docket court, conducting judicial interim release hearings and dealing with preliminary applications of various kinds.

Justices of the Peace are also *ex officio* marriage commissioners.

The Justice of the Peace Appointment Process:

Yukon Justices of the Peace are appointed by the Minister of Justice on the recommendation of the Judicial Council. The Judicial Council welcomes applications from qualified persons seeking appointment as a Justice of the Peace (applicants must be resident of Yukon). Applicants will be considered for recommendation based on the following criteria.

GENERAL QUALIFICATION CRITERIA:

Personal Characteristics:

- A strong sense of fairness
- An ability to listen objectively to all sides of a matter
- Respect for people from all walks of life, regardless of sex, race or social standing
- Strong values and ethical standards
- Common sense
- Patience and compassion
- A reputation for honesty and integrity
- Reliability
- Humility and courtesy
- Not involved in activities, claims or actions in conflict with judicial office

Skills and Abilities:

- High level of achievement in past work and volunteer activities
- Experience and/or education relevant to the work of a Justice of the Peace
- Strong communication skills
- Interpersonal skills
- Intellectual ability
- Analytical skills
- Ability to work independently
- Effective time management
- Capacity to handle the stress and pressures of the isolation of the judicial role, particularly in small communities

Community Awareness:

- A commitment to public service
- Knowledge of Yukon communities
- Cross-cultural awareness
- Interest in alternative methods of dispute resolution
- Awareness of the social problems facing the courts
- Sensitivity to changing social values

Yukon Justice of the Peace Application Process

Step One: Applicant completes attached application
Applicant completes criminal records check through the RCMP
Applicant returns completed application form and criminal records check to:

**Territorial Court of Yukon
Chief Judge
Judges' Chambers
2134 2nd Avenue, 4th Floor
Whitehorse, Yukon Y1A 5H6**

Step Two: The Territorial Court judiciary reviews the application to determine whether the applicant meets the qualification criteria and to assess the needs of the community of the applicant. A judge interviews the candidate and arranges for reference checks to be completed before making a recommendation to the Judicial Council (applicants may be required to attend a JP training conference before a recommendation is forwarded to the Judicial Council)

Step Three: Judicial Council reviews recommendations and selects candidates to recommend for appointment to the Minister of Justice

Step Four: Minister of Justice decides appointment

Step Five: Judge swears-in new Justice of the Peace

Questions regarding the application and appointment process may be directed to Christine Regehr, Senior Judges' Assistant: Telephone: (867) 667-5438, Fax: (867) 393-6400 or E-mail: cregehr@yukoncourts.ca.

**APPLICATION FOR APPOINTMENT
AS A JUSTICE OF THE PEACE**

1. Personal Information:

Full Name:

Date of Birth:

Residential Address:

Telephone:

Cell phone:

Email Address:

Business Address:

(if applicable)

Citizenship:

Number of Years in the Yukon:

Number of Years in current Yukon community:

Languages Spoken:

Languages Written:

2. Professional and Employment Experience:

Provide a brief account of your work experience, the employer, the positions attained and the dates of employment, starting with the most recent.

3. Education:

Provide an overview of your educational experience, including any diplomas or degrees obtained, starting with the most recent.

4. Community and Civic Activities:

Provide a brief account of your volunteer experience, including the names of the organizations and the nature and dates of your involvement, starting with the most recent. The Judicial Council is particularly interested in activities which, in your view, demonstrate your suitability for appointment.

5. Personal Suitability:

- a) Please advise of any matters of a physical, emotional or psychological nature that may adversely impact on your ability to function as a Justice of the Peace or prevent you from fulfilling your duties as a Justice of the Peace.

- b) Please advise of any professional, business or other interests of yourself or your immediate family that could cause a conflict, or an appearance of conflict, if appointed a Justice of the Peace.

- c) Please advise if you are currently involved in any civil litigation.

- d) Please advise if you are the subject of any current court order.

- e) Please advise of any serious financial difficulties, including but not limited to default of a family support obligation, bankruptcy, or arrears with Revenue Canada.

- f) Please advise if you have ever been found guilty or convicted of a criminal or other offence. If so, have you received a pardon?

- g) Please advise if you are currently charged with a criminal or other offence.

- h) Please advise if there is anything in your past or present that could reflect negatively on you or the Territorial Court of Yukon.

6. Reasons for Interest in a Justice of the Peace Appointment:

Please explain why you are interested in serving as a Justice of the Peace and what aspects of your education, experience and character would most assist you in discharging the responsibilities of a Justice of the Peace.

7. Referees: include addresses and telephone numbers

The Judicial Council DOES NOT require reference letters. Please provide the names of ONLY FOUR referees. Your referees should include one or more persons who have had direct and recent experience with your participation in community activities and one or more who have had direct experience with your professional work. Your referees may be contacted by members of the Judicial Council, as may other persons who are aware of your experience and abilities.

All information will be kept in confidence by the Judicial Council. The Judicial Council may wish to obtain information from other sources. In making these inquiries, every effort will be made to maintain confidentiality.

Please specify whether your referees are “work related” or “other” and provide both their current residential and business telephone numbers.

5. Name: _____ Law Related/Other

Address: _____

Business No. (_____) _____ Residential No. (_____) _____

2. Name: _____ Law Related/Other

Address: _____

Business No. (_____) _____ Residential No. (_____) _____

3. Name: _____ Law Related/Other

Address: _____

Business No. (_____) _____ Residential No. (_____) _____

4. Name: _____ Law Related/Other

Address: _____

Business No. (_____) _____ Residential No. (_____) _____

AUTHORIZATION:

I, _____, hereby authorize the Judicial Council to make discreet inquiries with respect to my suitability and qualifications for appointment as a Justice of the Peace from any source at the appropriate stage of the Judicial Council's deliberations.

Signature

Date

APPENDIX D

**YUKON JUSTICES OF THE PEACE
As of December 31, 2015**

**JUSTICES OF THE PEACE
December 2015**

NAME	LEVEL
Allen, Shawn	2
Ash, Elaine Reta	3
Bigras, Gigi	Admin
Blackburn-Johnson, Judith	2
Bradasch, Robin	Admin
Braga, Valerie	3
Burgess, Gary	3
Clark, Minnie	Admin
Edzerza, Debra	Admin
Frizzell, Shauna	3
Gage, Mildred	Admin
Gorczyca, Justin	3
Graham, Lorraine	2
Guy, Bonnie	Admin
Hare, Barbara	Admin
Harris, Beverley "Lynne"	2
Hett, David	Admin
Holt, James	2
Holway, Helen	Admin
Humberstone, Roberta	Admin
Lawrence, Ruth	Admin
Ledergerber, Beat	3
MacGregor, Linda	2
McDonald, Linda	2
Morrison, Sharman	3
Muff, Guenther Joseph	2
Proctor, Iris	3
Ravensdale, David	2
Reid, John	3
Rowlands, Rosemary	Admin
Rudolph, James "Wess"	3
Smith, Lilly	Admin
Smyth, Steve	3
Tetlich, Joseph	Admin
Wilkinson, Ruth	3

APPENDIX E

YUKON JUSTICE OF THE PEACE TRAINING COLLEGE AGENDA

Justice of the Peace Training College

November 6 & 7, 2015

Westmark Whitehorse - Conference Rooms 1 & 2

Law Courts Building (November 7, afternoon)
Territorial Court Boardroom & Courtroom #3

Agenda

Friday, November 6, 2015

- 6:00 – 6:15 pm Registration *Christine and Liz*
- Name change documents
- Welcome *Judge Cozens*
- Distribution of Criminal Code
<http://laws-lois.justice.gc.ca/eng/acts/C-46/FullText.html>
- 6:15 - 7:00 Justice of the Peace Program *Judge Cozens*
- YG position regarding Senior Presiding
JP position update
- JP's in Communities
- Review JP Letters of Authorization
- Committee Involvement / fundraising / Ethics
- S. 524 Applications at bail hearings
- 7:00 – 7:15 Health Break (Coffee, tea, juices and snacks will be provided)**
- 7:15 – 8:15 JP Association AGM *Gary Burgess*

Saturday, November 7, 2015

- 8:15 - 9:00 am Breakfast**
- 9:00 – 9:45 Prolific Offender Management *Jacqueline Davies, Public Safety*
Presentation *& Crime Reduction Coordinator*
- 9:45 – 10:00 Court Watch Yukon *Judge Cozens/Andrea Bailey*
- 10:00 – 10:30 Victim's Bill of Rights *Judge Cozens/Andrea Bailey*
- 10:30 – 10:45 Health Break**

10:45 – 11:45 Amendments – Summary Convictions Act *Andrea Bailey & Shannon Jensen, Manager Court Operations*
- Presentation re: new tickets and process

11:45 – 12:15 Legal Terminology *Chief Judge Ruddy*

12:15 - 1:30 **Lunch (Westmark)**

Law Centre - Territorial Court Boardroom – Admin JP's

1:30 – 2:45 JP 101 *Steve Smyth*
- Review of Role & Functions
- Signing/Swearing
- Issuing process

2:45 - 3:00 Health Break

3:00 – 4:15 JP 101 continued

4:15 - 4:30 **Joint Q & A (Courtroom #3)**
You ask, we answer *Judge Cozens/Andrea Bailey*

Law Centre – Courtroom #3 - Presiding JP's

1:30 – 2:15 Sentencing 101 *Judge Cozens*
- *Gladue*
- Denunciation & deterrence
- Ancillary Orders
- DVTO/CWC
- FASD / Breach Sentencing
- Joint Submissions
- Youth Sentencing
- Fine Surcharges

2:15 – 2:45 Mock Sentencings *Chief Judge Ruddy/Judge Chisholm*

2:45 - 3:00 Health Break

3:00 – 4:15 Mock Sentencings continued

4:15 - 4:30 **Joint Q & A (Courtroom #3)**
You ask, we answer

5:30 Dinner – Miner's Daughter
103 Main St., Whitehorse

APPENDIX F
JUSTICE OF THE PEACE MANUAL
TABLE OF CONTENTS

TABLE OF CONTENTS

SECTION 1: INTRODUCTION

I. Introduction.....	1-1
II. Training and Development	1-2
A. Introduction	1-2
B. Training.....	1-2
1. Training Modules	1-2
2. Training Database	1-3
3. JP Colleges	1-3
4. Additional Training Opportunities	1-4
5. Funding.....	1-4
III. Authorization	1-5
A. General	1-5
B. Prerequisites to Authorization	1-5
C. Additional Considerations	1-6
D. Maintaining Authorizations	1-7
Appendix A: JP Training Modules	1-8
Appendix B: JP Individual Training Plan.....	1-9

SECTION 2: JUDICIAL INDEPENDENCE, CONDUCT AND ETHICS

I. Independence	2-1
II. Conduct and Ethics	2-2
A. Good Conduct Checklist for JPs	2-3
B. Canadian Judicial Council Ethical Principles for Judges.....	2-4
Appendix A: Canadian Judicial Council Conflict of Interest and Ethical Guidelines.....	2-5

SECTION 3: THE LAW AND THE COURTS

I. Criminal Law	3-1
A. Federal Criminal Law	3-1
B. Territorial Prosecutions	3-2
C. Municipal By-Laws.....	3-3
D. First Nations Laws	3-3
II. The Court System	3-3
A. The Supreme Court of Canada	3-3
B. The Court of Appeal for Yukon Territory	3-4
C. The Supreme Court of Yukon.....	3-4
D. Territorial Court of Yukon	3-4
E. Justice of the Peace Court.....	3-5
F. Deputy Judges	3-6
G. Yukon Courts Web Site	3-6

SECTION 4: POWERS AND DUTIES OF A JUSTICE OF THE PEACE

I. Introduction.....	4-1
A. Administrative Justices.....	4-1
B. Presiding Justices	4-1
II. Authorizations.....	4-1
A. Senior Presiding Justice of the Peace	4-1
B. Letters of Authorization	4-2
C. Levels 1, 2, and 3.....	4-2
D. Training and Billing Guidelines.....	4-3
E. Sitting Fees	4-3
F. Performing Marriages	4-4
G. Family Violence Prevention Act	4-4
H. Small Claims Court Act	4-5
Appendix A: Letter of Authorization	4-6
Appendix B: Guidelines for Persons Performing Marriages.....	4-7

SECTION 5: RECEIVING INFORMATIONS: CRIMINAL CODE SECTIONS 504,505, 506, 789

I. Information..... 5-1

II. Ticket..... 5-1

III. What to Look For When Receiving An Information 5-2

 A. Checklist for Receiving Informations 5-2

 B. Classifying Offences 5-4

 C. Classifying Offences Checklist 5-5

 D. Correcting Typographical Errors..... 5-6

 E. Steps in Receiving an Information..... 5-6

 F. Information Received by Fax 5-8

 G. Other “Stuff” 5-8

 1. Oaths and Affirmations 5-8

 2. French Side..... 5-8

 3. Multiple Charges 5-8

 4. SCOT Ticket 5-9

 5. Multiple Accused 5-9

 6. Changes in the Law 5-9

Figure 5-1: Adult Information 5-10

Figure 5-2: Youth Information 5-11

Figure 5-3: Summary Conviction Ticket 5-13

SECTION 6: ISSUING PROCESS

I. Introduction..... 6-1

 A. The Role of the JP 6-1

 B. Issuing Process: Procedure Checklist..... 6-2

 C. Summons (Criminal Code sections 507, 508, 509, 510 and form 6) 6-4

 D. Endorsed Warrant (Criminal Code sections 469, 499, 507, 5089, 511, 512, 524, and forms 7 and 29)..... 6-5

 E. Unendorsed Warrant (Criminal Code sections 507, 508, 512, 524, and Form 7)..... 6-6

 F. Confirming or Cancelling Process 6-7

G. Warrant to Enter a Dwelling House (Feeney Warrant – Criminal Code section 529.1, 529.2, 529.3)	6-7
H. Warrants From Outside the Yukon (Criminal Code sections 528 and Form 28).....	6-8
Figure 6-1: Summons	6-10
Figure 6-2: Endorsed Warrant.....	6-12
Figure 6-3: Confirmed Process Information.....	6-13
Figure 6-4: No Process Issued Information	6-14
Figure 6-5: Feeney Warrant	6-15
Figure 6-6: Endorsement of Out of Territory Arrest Warrant	6-17

SECTION 7: PRESIDING IN COURT

I. Introduction.....	7-1
II. Courtroom Decorum and Procedure.....	7-1
III. First Appearance (Arraignment).....	7-2
A. Procedure to Follow.....	7-2
B. Other Situations You May Encounter	7-8

SECTION 8: YOUTH CRIMINAL JUSTICE

I. Introduction.....	8-1
II. YCJA Procedures	8-1
A. Arraignment Procedure	8-1
B. Detention or Release Procedure	8-3

SECTION 9: SUMMARY CONVICTIONS ACT

I. General Information	9-1
II. Swearing or Receiving SCOT Tickets.....	9-2
A. General Process	9-2
B. Municipal By-Laws	9-3
C. Application to Young Offenders	9-3
B. Check-list for Dealing with SCOT Tickets in Court	9-4

Figure 9-1: Summary Conviction Ticket 9-9
Figure 9-2: Parking Ticket 9-10

APPENDIX G
SUMMARY OF COMPLAINTS
TO JUDICIAL COUNCIL

The complaint that was brought forward from 2014 was received by Judicial Council in May 2014 by way of a memo to Judicial Council from the then JP Supervising Judge with respect to the conduct of a Justice of the Peace while she was involved in a Supreme Court action.

Council met in June 2014. At that time Council attempted to contact the subject Justice of the Peace by placing ads in the Yukon News and Whitehorse Star asking that the subject Justice of the Peace contact Council as soon as possible. The subject JP did contact Council and a letter was sent to her (by mail and by email), along with the memo from the JP Supervising Judge, and the Supreme Court decisions setting out the facts of the action. After the subject Justice of the Peace received the documentation she again contacted Judicial Council and requested time in order to respond to the allegations. She was given until July 11, 2014 to respond to Council. The subject JP never did respond to Council in 2014 despite numerous attempts to contact her by email and by phone. Council met numerous times in later 2014 and throughout 2015 to discuss this complaint, and various avenues were explored by Council. In November 2015 this matter was referred to a Judicial Conduct Tribunal and is expected to be heard in February 2016.

The one 2015 complaint that was received by Judicial Council was in May 2015. The complainant was a self-represented party who had filed a private prosecution. Crown had taken conduct of the prosecution, then entered a stay of proceedings. The complainant alleged that the judge was inappropriate or unprofessional in his treatment of the complainant, that he made up his mind before the hearing, that there was racial bias, conspiracy, obstruction of justice, and/or conflict of interest.

Judicial Council met on June 4, 2015 and reviewed the letter of complaint, the court file involving the complainant and the subject judge, and a response letter from the subject judge.

It was the determination of Council that the complaint was unfounded. Council also determined that the listed complaints were vexatious in nature, and that they appeared to be based on the complainant's annoyance and frustration with being unable to proceed with her action rather than on any sufficient grounds. The complaint was dismissed pursuant to S. 41(1)(a) of the *Territorial Court Act*.