



SASKATCHEWAN PROVINCIAL COURT JUDICIAL COUNCIL

MEMBERS:

THE HONOURABLE ROBERT LEURER
CHIEF JUSTICE OF SASKATCHEWAN

THE HONOURABLE MARTEL POPESCU
CHIEF JUSTICE, COURT OF KING'S BENCH

THE HONOURABLE SHANNON METIVIER
CHIEF JUDGE, PROVINCIAL COURT

THE HONOURABLE JUDGE
MARILYN PENNER, PROVINCIAL COURT

THE HONOURABLE JUDGE
MICHELLE MARQUETTE, PROVINCIAL COURT

MR. ADAM TOUET, K.C.
PRESIDENT, LAW SOCIETY OF SASKATCHEWAN

MR. JASON STONECHILD
EXECUTIVE DIRECTOR OF JUSTICE
FEDERATION OF SOVEREIGN INDIGENOUS NATIONS

MS. NADINE BARNES
EXECUTIVE OFFICER

I am pleased to present the Saskatchewan Provincial Court Judicial Council's 2024 Annual Report.

The Council has two main responsibilities.

First, the Council considers the applications of lawyers seeking appointment to the Provincial Court of Saskatchewan and makes recommendations to the Minister of Justice as to whether they are qualified and suitable for appointment. Ultimately, the responsibility for making appointments to the Provincial Court rests with the Lieutenant Governor acting on the advice of the Provincial government.

Second, the Council reviews and investigates complaints of alleged misconduct or incapacity that are made against Provincial Court judges.

The Council discharges all of its duties in the best interests of the people of Saskatchewan.

The Honourable Robert W. Leurer
Chief Justice of Saskatchewan
Chairperson of the Judicial Council

Saskatchewan Provincial Court Judicial Council 2024 Annual Report

1. Constitution of the Provincial Court Judicial Council

The Provincial Court Judicial Council has existed since 1978. It is continued pursuant to s. 53(1) of *The Provincial Court Act*, 1998, SS 1998, c P-30.11. Pursuant to s. 53(2), it is composed of the following members:

- (a) the Chief Justice of Saskatchewan, or a judge of the Court of Appeal designated by the Chief Justice of Saskatchewan, who shall be chairperson;
- (b) the Chief Justice of the Court of King's Bench, or a judge of the Court of King's Bench designated by the Chief Justice of the Court of King's Bench;
- (c) the chief judge, or a judge designated by the chief judge;
- (d) the president of the Law Society of Saskatchewan or a bencher or former bencher of the Law Society appointed by a resolution of the benchers;
- (e) not more than two other persons appointed by the Lieutenant Governor in Council after consultation by the minister with the chairperson of the council and the chief judge;
- (f) two judges elected by the judges at a meeting of the court *en banc*.

2. Members of the Council

In 2024, the Council was composed of the following members:

- The Chief Justice of Saskatchewan, the Honourable Robert Leurer (chairperson);
- The Chief Justice of the Court of King's Bench, the Honourable Martel Popescul;
- The Chief Judge of the Provincial Court, the Honourable Shannon Metivier;
- The Past-President of the Law Society of Saskatchewan, Ms. Andrea Argue, K.C.;
- Two members appointed by the Lieutenant Governor in Council, Ms. Tracy Arno (term expired December 8, 2024) and Mr. Jason Stonechild; and
- Two judges elected by the judges at a meeting of the Provincial Court *en banc*: the Honourable Judge Michelle Marquette and the Honourable Judge Marilyn Penner.

3. Work of the Council

3.1. Assessing Applicants for Appointment to the Provincial Court

The Provincial Court Act, 1998 requires the Council to review applications for appointment to the Court and to make recommendations to the Minister of Justice. Section 54(a) says this:

54 The council shall:

(a) consider and make recommendations to the minister regarding the proposed appointment of a judge

The Council conducts its reviews pursuant to the terms of the following policy:

A. General

1. Professional competence and overall merit are the primary qualifications for appointment to the Provincial Court.
2. The Provincial Court Judicial Council (“Council”) will assess lawyer candidates and places them into one of three categories:
 - not recommended
 - recommended
 - highly recommended
3. Upon receipt of a Judicial Candidate Information Form the Executive Officer will write to the candidate who submitted the Form acknowledging receipt.
4. Once the Law Society and other preliminary background checks are completed, the candidate’s information package will be referred to the Council for assessment.
5. Subject to Articles 8 and 9, assessments are valid and remain in effect for three (3) years.
6. Candidates will be notified by the Executive Officer of the date when they were assessed by Council and that their assessment will remain in effect for three (3) years. They will not be provided with the results of the assessment, which are confidential and solely for the use of the Minister of Justice.
7. In the event that a candidate continues to be interested in a judicial appointment after the three (3) year expiry date, a new Judicial Candidate Information Form must be submitted.
8. When a Judicial Candidate Information Form is submitted within 60 days of the three (3) year expiry date, the previous assessment remains valid until a new assessment is made by Council.
9. A re-assessment during the three (3) years since the candidate was last assessed by Council will not be undertaken, unless, exceptionally,

- a) The Minister of Justice requests a re-assessment of the candidate after receiving information that is at variance with the assessment made by Council; or
- b) Council initiates re-assessment after receiving important new information which is contrary to information on which Council's previous assessment of the candidate was made.

B. Confidentiality

- 10. The evaluation process seeks to protect the reputations and privacy of candidates to the maximum extent possible while also providing accurate and thorough assessments to the Minister of Justice.
 - a) All Council discussions and proceedings shall be treated as strictly confidential, and must not be disclosed to persons outside the Council.
 - b) All documents submitted as part of the assessments process shall be treated as personal and strictly confidential. The contents of such documents are not to be disclosed except to the Minister of Justice, or, in part, and only where necessary, to those consulted by the Council. (Partial disclosure to references, or to others consulted, must only occur after receipt of a verbal undertaking to maintain confidentiality and must only be to the extent necessary to address matters raised by the application.)
 - c) When no longer required for assessment purposes, all documents received in connection with the assessment process, other than those intended for public education on the process or to permit Council to maintain an ongoing historical record, must be shredded. Each member is responsible for ensuring that all documentation is shredded in a secure and confidential manner.
 - d) All information obtained through the consultation of references and from other sources shall be treated as personal and strictly confidential and must not be disclosed to persons outside the Council.
 - e) Applicants are not to be informed of the result of their assessments.
 - f) The obligation of Council members to maintain the confidentiality of applications, discussions and assessments made during a Council's tenure does not end with service on the Council. The obligation of confidentiality is enduring.

C. Conflicts of Interest

11. Given the objectives of a neutral and fair process and the appearance of a neutral and fair process, the following guidelines should be followed to avoid a conflict of interest or the appearance of one:
- a) Council members must not engage in activities outside the Council, which will result in a conflict of interest with their work on the Council, or in the appearance of one.
 - b) Council members must not participate in the appointments process other than through the exercise of their recognized responsibilities as members of the Council or in their capacities as Chief Justice or Chief Judge.
 - c) The role of the Council is to evaluate applications, not to solicit them. Council members who have previously agreed to act as references must abstain from participating in the candidate's assessment.
 - d) Council members must apprise Council of any real or apparent conflict of interest regarding the assessment of a particular candidate.
 - e) The proper course of action for a Council member who finds herself, or himself, in a position of conflict of interest, real or apprehended, is to withdraw from discussions, and abstain from voting on the assessment of any applicant where such a conflict exists, or where such a conflict might reasonably be perceived to exist.
 - f) Abstentions are formally recorded.
 - g) If there are questions on the desirability of abstaining in a given circumstance, the Chair of Council should be contacted. Alternatively, the issue can be put to the Council as a whole for its view.
 - h) Council members shall not accept gifts or other consideration from candidates.
 - i) Council members should try to avoid commenting on individual appointments made by the Minister of Justice and should be circumspect and cautious in what they say if they are not able to avoid commenting.

3.1.1. Overview of Applications Reviewed in 2024

Total Number of Applications Reviewed in 2024

	Female Lawyers*	Male Lawyers*	Total Reviewed
Reviewed	8	16	24
Not Recommended	5	10	15
Recommended or Highly Recommended	3	5	8
Deferred	0	1	1
% Recommended	38%	31%	33%
* Based on Driver's Licence self-identification			

There were 15 recommended candidates on the Minister of Justice's list as of December 31, 2024.

3.1.2. Appointments Made in 2024

Appointments to the Provincial Court are made by the Lieutenant Governor acting on the advice of the Provincial government.

Six judges were appointed to the Provincial Court in 2024:

- Judge Alan Jacobson – May 30, 2024
- Judge Mitchell Miller – May 30, 2024
- Judge James Korpan – May 30, 2024
- Judge Cynthia Alexander – December 19, 2024
- Judge Lori O'Conner – December 19, 2024
- Judge Buffy Rodgers – December 19, 2024

3.2. Reviewing Complaints Against Provincial Court Judges

The *Provincial Court Act, 1998* requires the Council to review, investigate and deal with complaints against Provincial Court judges with respect to alleged misconduct or incapacity.

Section 55(1) says this:

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

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

The Council conducts its reviews or investigations pursuant to the terms of the following policy:

- a) *Complaints which clearly do not engage the jurisdiction of the Council, i.e. complaints which clearly do not allege “misconduct” or “incapacity” as per s. 55(1) of The Provincial Court Act, 1998* – under the direction of the Chief Justice of the Court of King’s Bench, and with his or her approval, the Executive Officer of the Council will prepare and send a letter to the complainant stating that the Council has no jurisdiction to deal with the matter.
- b) *Complaints which are either within the jurisdiction of the Council or arguably within the jurisdiction of the Council but which are self-evidently without substance, i.e. complaints which allege, or arguably allege, “misconduct” or “incapacity” but which are devoid of merit. This includes complaints that are trivial, vexatious, manifestly lacking in merit or otherwise clearly not warranting further inquiry* – under the direction of the Chief Justice of the Court of King’s Bench, the Executive Officer of the Council will do necessary background work in relation to the complaint by way of requisitioning transcripts, etc. as the case might be. The background material and the complaint will then be considered by the Chief Justice of the Court of King’s Bench. If the Chief Justice concludes that the complaint should be dismissed, he or she will ask the Executive Officer to circulate a package of materials to all Council members. The package will include (i) an indication that the Chief Justice has looked into the matter, concluded that it is clearly without merit, and recommends that the complaint be dismissed, (ii) an explanation as to why the complaint is seen to be without merit, (iii) a complete file of relevant background information for Council members to consider when determining if they agree that the complaint is without merit, and (iv) a request that Council members indicate to the Executive Officer, by a date to be specified by the Executive Officer, whether they concur with the recommendation to dismiss the complaint. If the majority of Council members agree that the complaint should be dismissed, the Executive Officer will draft an appropriate letter, over his or her signature, for the Chief Justice of the Court of King’s Bench to approve. If approved, the letter will then be sent out. If the majority of Council members do not agree with the recommendation to dismiss the complaint, or if the chairperson of the Council otherwise considers it appropriate, the complaint will be dealt with at a meeting of the Council.
- c) *All other complaints, i.e. complaints which are either clearly or arguably within the jurisdiction of the Council and which have some merit* – complaints falling within this category will be presented to Council for its consideration at a meeting. In advance of the meeting, and at the direction of the Chief Justice of the Court of King’s Bench, the Executive Officer of the Council will do such background work as might be appropriate by way of requisitioning transcripts and so forth.

At the conclusion of the review and any investigation of a complaint, the chairperson of the Council will notify the Minister, the complainant and the judge whose conduct or capacity was in issue of the Council’s decision, all as per s. 55(3) of *The Provincial Court Act, 1998*.

3.2.1. Overview of Complaints for 2024

- Total Number of Complaints Concluded in 2024:

Total Number of Complaints Concluded in 2024

	Complaints Concluded	Jurisdiction (no merit)	Jurisdiction (with merit)	No Jurisdiction
Total	10	0	0	10

3.2.2. Complaints Concluded in 2024: Average Length of Time for Review and Completion

	Days
No Jurisdiction	6
Jurisdiction	n/a

3.3. Summary of Complaints Concluded in 2024

Of the 10 complaints concluded in 2024, all were determined to be outside of the jurisdiction of the Council.

3.3.1. Complaint #1

The Complainant made a complaint against a judge of the Saskatchewan Court of King's Bench. The Complainant was told that complaints respecting judges of the Court of King's Bench must be directed to the Canadian Judicial Council and that the Saskatchewan Provincial Court Judicial Council had no jurisdiction to review the complaint.

3.3.2. Complaint #2

The Complainant made a complaint against a non identifiable judge and a lawyer. The Complainant was told that given the nature of the matter, it may be that the complaint is against a Justice of the Peace, and that such complaints are outside the jurisdiction of the Council to review. The Complainant was further advised that complaints against lawyers must be directed to the Law Society of Saskatchewan.

3.3.3. Complaint #3

The Complainant made a complaint regarding a court matter. The Complainant was told that the Council only has the jurisdiction to review complaints of judicial misconduct or incapacity of Saskatchewan Provincial Court judges. The Complainant was also told that none of the concerns raised were within the jurisdiction of the Council, as they were either complaints against entities other than a Provincial Court judge or concerns about the legal correctness of the decision made, rather than the conduct of the judge.

3.3.4. Complaint #4

The Complainant made a complaint regarding a court matter in which a Provincial Court judge was the presiding judge. The Complainant was told that the Council only has jurisdiction to review complaints of judicial misconduct or incapacity of Saskatchewan Provincial Court judges. The complaint raised concerns regarding legal decisions made by the judge, and the process by which the matter unfolded, none of which falls within the jurisdiction of the Council to review. Finally, the Complainant was advised that concerns regarding other entities, such as the Crown, or the justice system as a whole, are not within the Council's jurisdiction to address.

3.3.5. Complaint #5

The Complainant made a complaint against a judge of the Saskatchewan Court of King's Bench. The Complainant was told that complaints respecting judges of the Court of King's Bench must be directed to the Canadian Judicial Council and that the Saskatchewan Provincial Court Judicial Council had no jurisdiction to review the complaint.

3.3.6. Complaint #6

The Complainant wrote to the Council regarding serving a statement of claim on a judge. The Complainant was told that the Council only has jurisdiction to review complaints of judicial misconduct or incapacity of Saskatchewan Provincial Court judges and that complaints falling within these categories are to be sent in writing to the Council and are not in the nature of a court proceeding. The Complainant was told that the Council had no jurisdiction given the manner of proceeding.

3.3.7. Complaint #7

The Complainant made a complaint regarding various court proceedings. The Complainant was told that the Council only has jurisdiction to review complaints of judicial misconduct or incapacity of Saskatchewan Provincial Court judges. The Council advised that as the complaint centered around the alleged treatment of various persons and entities within the legal system, and did not allege incapacity or misconduct on the part of a Provincial Court judge, it was not within Council's jurisdiction to address. Finally, as to the remedy sought by the Complainant, the Council advised that the scope of the orders that can be made are those set out in s. 62 of *The Provincial Court Act, 1998*.

3.3.8. Complaint #8

The Complainant wrote to the Council regarding a court matter. The Complainant was told that the Council only has jurisdiction to review complaints of judicial misconduct or incapacity of Saskatchewan Provincial Court judges, and that the letter did not raise anything within the jurisdiction of the Council. The Complainant was advised that to pursue a complaint against a Provincial Court judge, the Council must receive information as to what behaviour on the part of the judge is alleged to be misconduct.

3.3.9. Complaint #9

The Complainant wrote to the Council regarding a court matter. The Complainant was told that the Council only has jurisdiction to review complaints of judicial misconduct or incapacity of Saskatchewan Provincial Court judges. As the concerns were not about judicial misconduct or incapacity of a Saskatchewan Provincial Court judge, they were not within the Council's jurisdiction to review. Finally, the Complainant was advised that the Council cannot provide legal advice.

3.3.10. Complaint #10

The Complainant made a complaint regarding Provincial Court staff allegedly speaking in a rude manner. The Complainant was told that the Council only has jurisdiction to review complaints of judicial misconduct or incapacity of Saskatchewan Provincial Court judges. As the concerns were not about judicial misconduct or incapacity of a Saskatchewan Provincial Court judge, they were not with the Council's jurisdiction to review.

Questions regarding the Provincial Court Judicial Council should be directed to:

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