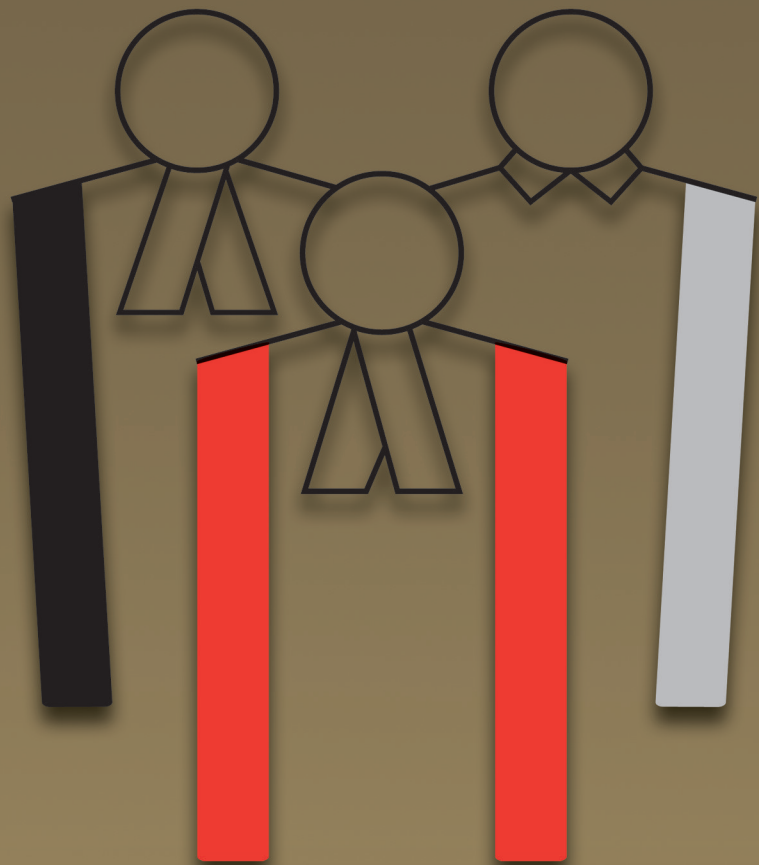


# ACTIVITY REPORT

2005-2006



CONSEIL **DE LA**  
MAGISTRATURE  
**DU** QUÉBEC

2005-2006

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Government of Québec

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# Message

from the President



I am pleased to present the activity report of the Conseil de la magistrature du Québec for the 2005-2006 financial year.

This document covers the main activities through which the Conseil oversees compliance with judicial ethics and ensures that judges have the appropriate means to maintain and upgrade their skills.

By virtue of its mandate to ensure compliance with judicial ethics, the Conseil helps to maintain public confidence in the judicial system and the judiciary in particular. The Conseil ensures compliance not only with judicial ethics but, more particularly, with the *Judicial code of ethics* and the *Code of ethics for municipal judges of Québec*.

Since its creation in 1978, the Conseil has been called on to rule on just over 1300 complaints filed against judges. The reports and decisions of the inquiry committees are available on the Conseil's website and may also be consulted in certain databases.

During the past year, the Conseil contributed to the writing of *Applied Judicial Ethics*, a book that is intended to familiarize the community with the jurisprudence outlined by the Conseil, its inquiry committees, and the courts of general jurisdiction dealing with ethics cases.

The publication of this book provides for an understanding of how the Conseil and its inquiry committees have applied judicial codes of ethics. It is a valuable educational tool and its publication is in line with the Conseil's desire to make its decisions as widely known as possible. I wish to thank the authors of the annotated edition of the code, Pierre Noreau, director of the Centre for Research in Public Law at Université de Montréal, and Chantal Roberge, a research assistant at the Centre for Research in Public Law.

In conclusion, I would like to thank the members and staff of the Conseil for their availability and dedication with respect to carrying out the Conseil's mandate.

A handwritten signature in black ink, appearing to be 'G. Gagnon', written in a cursive style.

Guy Gagnon  
President of the Conseil de la magistrature  
Chief Judge, Court of Québec

Québec City, September 2006



# Message

from the Secretary



The Office of the Secretary of the Conseil de la magistrature supports the Conseil in its mission to maintain public confidence in the administration of justice and, more specifically, in the judiciary. In their work, all members of the Office staff are constantly aware of the importance of this mission.

The Office of the Secretary's day-to-day function is to receive complaints and to inform citizens and judges of the handling of these complaints, as well as the Conseil's role. The Office of the Secretary also manages the budget for documentation and judges' training, and deals with judges' requests. Furthermore, it organizes Conseil meetings and conducts follow-up with regard to decisions. It also supports the various committees formed under the auspices of the Conseil.

Aiming for quality and efficiency, the personnel of the Office of the Secretary ensure that the information provided is pertinent, that the documents produced are well presented and that requests are dealt with expeditiously. In all their dealings, staff members are courteous, tactful and discreet.

The Office of the Secretary strives to help citizens and judges understand the importance of the fair handling of complaints and, in addition, to equip judges with quality tools. The Office thereby contributes to enhancing citizens' opinion of the judiciary and improving the administration of justice.

During the 2005-2006 financial year, the Secretary's Office was extremely busy with two major projects: 1) the development and installation of an intranet site to be used by judges to access legal information, and 2) the joint publishing of a book setting out the decisions of the Conseil and its inquiry committees. Fall 2005 saw the launch of the intranet site and the publication of the Annotated Code of Ethics.

As a proud member of the Office of the Secretary's team, I would like to express my appreciation to the staff for all their hard work on the Conseil's behalf. I would also like to thank the members of the Conseil for their support and understanding.

The Secretary of the Conseil

A handwritten signature in black ink, appearing to read "Jean-Pierre Marcotte". The signature is fluid and cursive.

Jean-Pierre Marcotte, lawyer

Québec City, September 2006



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The Conseil de la magistrature du Québec was created in 1978 under the *Act to amend the Courts of Justice Act and the Code of Civil Procedure and instituting the Conseil de la magistrature* (Chapter T-16 of the Revised Statutes of 1977).

The Act instituting the Conseil de la magistrature was proclaimed on July 19, 1978. As at March 31, 2006, the Act stipulates that the Conseil shall consist of 15 members plus a lawyer who serves as Secretary. Four additional employees assist the Conseil in its functions.

The list of Conseil members and staff is presented in Appendix I.

The Conseils' head office is located at the Palais de justice in Québec City. It also has offices at the Palais de justice in Montréal.

### 1.1 Jurisdiction

The Conseil's jurisdiction is established under the Courts of Justice Act. The pertinent sections are reproduced in Appendix II.

The Conseil's functions are as follows:

- Organize continuing education programs for judges
- Adopt a judicial code of ethics
- Receive and examine any complaint lodged against a judge
- Conduct an inquiry when requested by the Minister of Justice, for the purpose of determining the permanent incapacity of a judge or the end of this incapacity
- Confirm or annul the recommendation of the Chief Judge of the Court of Québec concerning the modification of a judge's appointment with regard to his place of residence or the decision to transfer the judge to another division
- Promote the efficiency and standardization of procedure before the courts
- Receive suggestions, recommendations and requests regarding the administration of justice, study them and make the appropriate recommendations to the Minister of Justice
- Cooperate with any body pursuing similar aims outside Québec

The Conseil has jurisdiction over all provincially appointed judges, namely, the judges of the Court of Québec, the Human Rights Tribunal, the Professions Tribunal and municipal courts, as well as presiding justices of the peace. As at March 31, 2006, approximately 400 judges were under the jurisdiction of the Conseil.

### 1.2 Composition of the Conseil and Appointment of Members

As at March 31, 2006, the Conseil was composed of the following 15 members:

- The Chief Judge of the Court of Québec
- The Senior Associate Chief Judge of the Court of Québec
- Four Associate Chief Judges of the Court of Québec

- One Judge-President of a municipal court
- One judge chosen among persons performing the functions of President of the Human Rights Tribunal or Chairman of the Professions Tribunal
- Two judges chosen among the judges of the Court of Québec and appointed upon the recommendation of the Conférence des juges du Québec
- One judge chosen among municipal court judges and appointed upon the recommendation of the Conférence des juges municipaux du Québec
- Two lawyers appointed upon the recommendation of the Barreau du Québec
- Two persons who are neither judges nor lawyers

The Chief Judge, the Senior Associate Chief Judge and the four Associate Chief Judges of the Court of Québec are all ex-officio members of the Conseil. The other members are appointed by the government for a term of no more than three years. At the end of their mandate, these members remain in office until they are replaced or re-appointed.

As stipulated in the Courts of Justice Act, the Chief Judge of the Court of Québec is the President of the Conseil and the Vice-President is elected by the Conseil from among its members.

Finally, the members of the Conseil who are not judges receive remuneration as determined by the government. Moreover, all members have the right to be reimbursed for expenses incurred in the performance of their duties.

### 1.3 Operating Structure

The members of the Conseil do not serve on a full-time basis. They meet approximately once every five weeks, as convened by the President. During their meetings, the members examine complaints and any other matters brought to their attention. The quorum of the Conseil is eight members, including the President or the Vice-President. The Conseil may hold its meetings in camera anywhere in Québec. During the 2005-2006 financial year, the members of the Conseil met eight times.

The Conseil may adopt bylaws to facilitate its internal governance or to create committees and determine their functions. The Conseil has adopted a set of internal bylaws that generally govern its administration and operation. These internal bylaws are found in Appendix III.

These bylaws notably call for the creation of an Executive Committee composed of five members of the Conseil, including the President and the Vice-President. The other members are designated by the Conseil for a term that it determines. The list of Executive Committee members is found in Appendix IV.

The Executive Committee has the following mandate:

- Examine issues brought before it and to execute the mandates entrusted to it by the Conseil and then to report back to the Conseil
- Examine certain issues when the President of the Conseil's request, in order to present recommendations to the Conseil
- Examine and make decisions regarding administrative matters between meetings of the Conseil, and to submit its decisions for approval at the next Conseil meeting

The quorum of the Executive Committee is three members, including the President or the Vice-President. The Secretary of the Conseil also acts as the Secretary of the Executive Committee. He prepares the notice of meeting and writes up and signs the minutes of the meetings that are then tabled at the meetings of the Conseil. During the 2005-2006 financial year, the Executive Committee met once.

The minutes of the meetings of the Conseil or those of any of its committees are deemed official upon approval by the members of the Conseil or the members of the Executive Committee, as the case may be. The same

applies to any documents or copies that are issued by the Conseil or are part of its archives, provided they are certified by the President or the Secretary.

The President appoints the Secretary of the Conseil for a five-year term from among lawyers who have belonged to the Ordre des avocats for no less than ten years and members of the public service.

The government determines the Secretary's salary, benefits and other working conditions. From the time of his appointment, the Secretary ceases to be subject to the Public Service Act; he remains on leave without pay for the duration of the mandate in order to carry out the duties of his office.

The Secretary performs his functions on an exclusive basis under the authority of the President. At the end of his term, he remains in office until he is replaced or re-appointed.

The Secretary attends meetings of the Conseil and writes up the minutes. He also follows up on the different files and ensures that the Conseil is operating smoothly.

Finally, the staff members of the Conseil other than the Secretary are appointed in accordance with the Public Service Act.

## **1.4 Financing Method**

The *Courts of Justice Act* states that the funds required for the Conseil to carry out its mission are to be taken from the consolidated revenue fund.

In its operating activities and those related to judicial ethics, the Conseil thus enjoys total financial independence. Its budget is not pre-determined so that the Conseil is not influenced by budgetary considerations in its decision-making.

However, the government determines the budget pertaining to the training and continuing education of judges. If the Conseil wishes to change this budget, it must seek the Minister of Justice's approval. During the 2005-2006 financial year, the training and continuing education budget was set at \$1,211,400, of which a one-time sum of \$35,000 was allocated for the organization of an introductory seminar for newly appointed presiding Justices of the Peace.



# 2 Training and Continuing Education

The *Courts of Justice Act* gives the Conseil the mandate to establish information, training and continuing education programs for judges from the courts and tribunals under the legislative authority of Québec and appointed by the government. Moreover, article 3 of the codes of ethics for the judiciary and part-time municipal court judges states that a judge is obligated to maintain his professional competency.

The budget set aside for training and continuing education programs serves to meet the judges' needs with respect to legal documentation and training activities. A portion of this budget is therefore allocated for the purchase of legal documentation needed by judges. A second portion of the budget is used by the courts and tribunals to organize their training activities. A final portion is designated for activities offered to all judges of the courts and tribunals.

## 2.1 Legal Documentation

The funding policy regarding legal documentation recognizes that specific needs may exist with respect to certain regions and jurisdictions exercised by judges. This policy states that chief judges and presidents of tribunals are to receive an overall budget based on amounts determined by the Conseil, taking into consideration the matters to be handled by the judges.

Judges are also able to access various on-line works found on their own intranet site. Developed by the Conseil, this site allows notably for the pooling of information emanating from the courts and tribunals under the Conseil's authority.

In 2005-2006, the Conseil allocated slightly more than \$550,000 for the purchase of legal documentation (hard copy and electronic formats).

## 2.2 Training and Continuing Education Activities Organized by the Courts and Tribunals

The Conseil entrusts the organization of training and continuing education activities to the courts and tribunals. It allocates to a court or tribunal a budget prorated according to its number of judges. An additional amount is allocated to judges who exercise their jurisdiction concurrently in the Court of Québec and in a specialized tribunal. The courts and tribunals manage these funds, except for those allocated for the seminar organized by the Conseil, second language courses, and the training session on criminal matters for newly appointed judges organized by the Canadian Association of Provincial Court Judges. The Conseil administers these funds.

The funds for the participation of judges in seminars and conferences not organized by the courts and tribunals are disbursed to each court or tribunal. The Conseil has established a rule that no more than 20% of the budget so allocated to a court or tribunal may be used for such external training.

To allow for more flexibility in budgetary allocations, the Conseil has decided to create a reserve fund for the purpose of responding to certain requests or resolving specific situations at the start of or during the financial year. This reserve fund allows the Conseil to take into account notably the situation of courts or tribunals with fewer judges.

With respect to part-time municipal judges, the budget for training and continuing education covers both legal documentation and training activities.

The following sections present the various training and continuing education programs implemented during the 2005-2006 financial year. It should be noted that the programs set up by the courts and tribunals were made possible not only with the help of the budget allocated to the Conseil, but also with the considerable and immeasurable support of many judges who agreed to devote a portion of their time and expertise to helping develop and disseminate educational programs.

## 2.2.1 Court of Québec

### *Jurisdiction*

The Court of Québec is composed of no more than 270 judges, including the Chief Judge, the Senior Associate Chief Judge and four associate chief judges: one for the Civil Division, one for the Criminal and Penal Division, one for the Youth Division and one responsible for municipal courts. In addition, the Chief Judge designates, from among the judges of the Court and with the approval of the government, ten coordinating judges to assist him in the various regions and, when circumstances warrant, a maximum of eight associate coordinating judges.

The Senior Associate Chief Judge performs the same functions as the Chief Judge but under his authority. The three associate chief judges assist the Chief Judge and the judges in each of the matters under the Court's jurisdiction.

The jurisdictions of the three divisions of the Court can be summarized as follows.

### *Civil Division*

The judges who sit in the Civil Division hear cases where the amount involved in the litigation is less than \$70,000, except with respect to applications for support falling under the jurisdiction of the Superior Court and matters reserved for the Federal Court of Canada. They also have jurisdiction over applications for the rescinding or cancellation of contracts or the reduction of obligations when the amount involved in the litigation is less than \$70,000 as well as over applications for cancellation of lease when the amounts claimed for rent and damages total less than \$70,000.

The Civil Division also handles applications for the collection of municipal or school taxes or for a review of property assessment rolls. It can also hear petitions concerning usurpation, detention or illegal exercise of a function in a municipality or school board, as stipulated in the *Code of Civil Procedure*.

The Civil Division also has jurisdiction to hear appeals of decisions rendered by various administrative tribunals, such as the Tribunal administratif du Québec, the Régie du logement, the Comité de déontologie policière du Québec or the Commission d'accès à l'information. This appeal jurisdiction also applies to certain decisions rendered by the Québec Minister of Revenue with respect to provincial taxation.

When sitting in the Small Claims Division of the Civil Division, judges hear any claims not exceeding \$7,000 submitted by individuals or by companies or associations that, during the 12-month period preceding the application, had no more than five people under their direction. The same applies to any application concerning the resolution, rescinding or cancellation of a contract when neither the value of the contract nor the amount claimed exceeds \$7,000.

In this Division, the procedure is simple and informal. The person submitting a claim is not represented by counsel, unless authorized to do so due to the complexity of the case. It is the judge who directs debate, examines witnesses and hears the parties. Judgments are without appeal.

Summary appeals in tax matters can also be filed in the Small Claims Division.

### ***Criminal and Penal Division***

Judges who sit in the Criminal and Penal Division have jurisdiction over proceedings brought under various federal and provincial statutes.

Examples of federal statutes include the *Criminal Code* and the *Controlled Drugs and Substances Act*. In this regard, judges sit alone without a jury and can hear cases involving multiple criminal charges. In fact, they hear all criminal cases except for those heard by a court consisting of a judge and a jury.

Under federal laws, these judges can also hear cases for summary offences and act during preliminary proceedings.

As for provincial laws, the judges concerned act under the *Code of Penal Procedure* and preside over cases involving almost all laws passed by the National Assembly, such as the *Highway Safety Code*, the *Income Security Act*, the *Environmental Quality Act* or the *Consumer Protection Act*.

### ***Youth Division***

The judges who sit in the Youth Division have jurisdiction over all matters involving young people. They deliver their judgment in civil cases, as well as in criminal and penal matters.

In civil matters, they hear, in the main, any proceeding regarding the security or development of children (0-18 years of age) under the *Youth Protection Act*, which allows notably for intervening in cases where the security or development of a child is or may be compromised. They also hear adoption cases in accordance with the *Civil Code of Québec*.

In criminal matters, these judges apply the *Youth Criminal Justice Act*. They also hear, in first instance, cases in which persons who are 18 years of age but over 12 years of age have been accused of offences under the *Criminal Code* (excluding murder) or under a federal or provincial statute.

In penal matters, these judges hear cases in which persons between 14 and 18 years of age are accused of infractions under the *Code of Penal Procedure*.

### ***Presiding Justices of the Peace***

The functions of the presiding justices of the peace are to hear cases brought under part XXVII of the Criminal Code concerning violations of federal laws other than the Criminal Code, as well as cases concerning infractions of Québec and federal laws to which the *Code of Penal Procedure* applies.

These judges also preside over hearings, order remands in custody and issue orders, warrants of arrest and other types of authorizations for searches, frisks, seizures, access to premises and other means of investigation under the *Criminal Code* as well as under other federal and provincial laws over which justices of the peace have jurisdiction.

Finally, these judges grant certain authorizations concerning youth protection.

\* \* \*

Québec municipal courts and their judges come under the authority of a fourth Associate Chief Judge at the Court of Québec, who is responsible for municipal courts. Under the authority of the Chief Judge of the Court of Québec, this judge performs the functions of the Chief Judge with respect to municipal courts.

As at March 31, 2006, the Court of Québec was composed of 279 judges, including 19 supplying judges chosen from among retired judges. These supplying judges have been authorized by the government to continue, for a fixed period, performing the judicial functions assigned to them by the Chief Judge.

### *Training and Continuing Education*

To carry out the court's training activities, the Chief Judge of the Court of Québec designates, for a three-year term served on a part-time basis, one judge responsible for training. In addition, the Chief Judge designates, for a three-year term, a judge responsible for the Court's interprovincial and international activities, which include training provided outside Québec.

The Chief Judge is advised by an advisory committee made up of the three Associate Chief Judges responsible for the Civil Division, the Youth Division and the Criminal and Penal Division, the judge in charge of training, and the judge responsible for the Court's interprovincial and international activities. This committee is presided over by one associate Chief Judge named by the Chief Judge.

In addition, the judge responsible for training is assisted by the judges who organize the seminars listed in the Court Training Program.

Finally, the coordinating judges are responsible for the training sessions in their own regions.

During the 2005-2006 financial year, the judges of the Court of Québec had the opportunity to take part in numerous training activities:

- A seminar on conducting a trial
- A seminar on judicial conciliation in youth-related matters
- A seminar on Native justice
- A seminar on retirement planning
- A seminar on social realities
- A seminar on the Charter and the different forms of discrimination
- A training seminar for newly appointed judges
- A training session for trainers
- A training session on civil law
- A training session on criminal law
- A training session on youth law
- Five periodic training sessions given on a regional basis
- Two seminars on the amicable civil settlement conference
- Two seminars on the formulation of judgments.

The periodic training sessions dealt notably with the following topics:

- Appraising testimony
- Assessing bodily injury
- Assuring individuals
- Genetic data
- Sexual delinquency
- The Act respecting immigration
- The citizen not represented by a lawyer
- The concept of good faith, strict law and fairness
- The onset of problematic sexual behaviour in children.

Also during the 2005-2006 financial year, the presiding Justices of the Peace took part in a training session that notably covered the following issues:

- Conducting a trial
- Ethics and the code of ethics
- Formulating judgments
- Native justice
- The Code of Penal Procedure and the Highway Safety Code
- Warrants and telewarrants.

## 2.2.2 Human Rights Tribunal

### *Jurisdiction*

The Human Rights Tribunal is a specialized judicial tribunal. It has jurisdiction over matters concerning discrimination, exploitation of the elderly and people with disabilities, and affirmative action programs, as defined in the Québec *Charter of Rights and Freedoms*.

The Commission des droits de la personne et des droits de la jeunesse may go before this tribunal to proceed against a person on behalf of a victim of discrimination or exploitation. The Commission pleads the case and pays the legal fees. The Charter also states that individuals may bring an action before the Tribunal when the Commission ceases to act on their behalf.

The Human Rights Tribunal is composed of at least seven members, including the President and ten assessors, who are appointed by the government. The President is chosen, after consultation with the Chief Judge of the Court of Québec, from among the judges of this Court who possess experience, expertise and sensitivity and who have an ardent interest in matters concerning human rights and freedoms.

As at March 31, 2006, not including the President, the Tribunal was composed of two judges and ten assessors selected according to a procedure established by government regulation. The two judges perform their duties concurrently with those of the Court of Québec.

### *Training and Continuing Education*

During the 2005-2006 financial year, the Human Rights Tribunal held a summit and training sessions that notably addressed the following topics:

- Looking for new, more effective means of compensation
- Managing cultural diversity in an educational setting
- Reasonable accommodation as a corollary to the right to equality
- The “customer” perspective with regard to seniors
- Withdrawal of responsibility with regard to seniors.

## 2.2.3 Professions Tribunal

### *Jurisdiction*

The Professions Tribunal principally hears appeals of decisions rendered by the governing bodies, by the disciplinary committees of the various professional orders and by the administrative committees of some of these orders.

The Tribunal consists of eleven judges from the Court of Québec designated by the Chief Judge of this court. From among these judges, the Chief Judge appoints a President, as well as a Vice-President to replace the President in case he is absent or is prevented from assuming his role.

As at March 31, 2006, the Professions Tribunal was composed of eleven judges, including a President and a Vice-President, who perform their duties concurrently with their Court of Québec duties.

### ***Training and Continuing Education***

During the 2005-2006 financial year, the Professions Tribunal held a study session at which the following subjects were discussed:

- Assessing the credibility of witnesses called to testify
- Contempt of court.

## **2.2.4 Municipal Courts**

### ***Structure of Municipal Courts***

There are 86 municipal courts in Québec serving approximately 90% of the population. These courts are governed by the *Act respecting municipal courts* (R.S.Q., c. C-72.01).

Each municipal court is composed of at least one judge. The government may appoint several judges to the same court to ensure that it functions properly. Municipal courts and their judges come under the authority of the Associate Chief Judge of the Court of Québec, who is responsible for municipal courts.

When the court is composed of several judges, the government designates one of them to be in charge of the court. However, in courts where judges perform their duties on a full-time and exclusive basis, as is the case in Laval, Montréal and Québec City, the government appoints, from among them, a judge-president when it considers that this is warranted by the volume of judicial work. It may also appoint an associate judge-president to assist the judge-president in performing his tasks.

### ***Jurisdiction***

In penal matters, municipal courts have jurisdiction notably with regard to ruling on statutory violations of municipal bylaws and hearing cases initiated under the *Code of Penal Procedure*, the *Highway Safety Code*, and various provincial and federal laws. These courts also exercise, in certain cases, i.e., when an agreement to this effect has been reached with the Minister of Justice, their jurisdiction in accordance with part XXVII of the *Criminal Code* concerning summary convictions.

In civil matters, municipal courts have jurisdiction notably over tax collection, permits and licenses, as well as actions involving an amount less than \$30,000 related to the leasing by the municipality of movables and immovables, with the exception of a residential property.

As at March 31, 2006, in addition to the Associate Chief Judge, these courts were composed of 89 judges, including one judge-president in the municipal courts of Laval, Montréal and Québec City, one associate judge-president in the Montréal municipal court, and one judge responsible for the Gatineau and Longueuil municipal courts.

### *Training and Continuing Education*

In 2005-2006, the municipal courts held many training activities:

- A training session regarding the Highway Safety Act
- A training session regarding the Supreme Court of Canada's recent rulings
- Four regional seminars
- One seminar on criminal law
- One seminar on social realities
- One seminar on writing a judgment
- One symposium
- One training seminar for newly appointed judges
- Two seminars on oral judgments
- Two study days.

These activities addressed the following issues:

- Disclosure of evidence
- Judge's duty of reserve
- Prostitution
- Street gangs
- Vested rights
- Violence prevention and remedies.

## **2.3 Other Training and Continuing Education Activities**

### **2.3.1 Specialized Training in Criminal Matters for Newly Appointed Judges**

Each year, the Canadian Association of Provincial Court Judges, in conjunction with the provinces, organizes a specialized training session on criminal matters for newly appointed judges.

During the 2005-2006 financial year, the training session was held in Québec from April 22 to April 29, 2005. Eleven judges from the Court of Québec and one judge from the Laval municipal court participated.

During this event, the following topics were notably discussed:

- Assessment of facts and witness credibility
- Child witness before the court
- Conditional sentencing and innovative conditions of the order
- Conducting a trial
- Formulation of judgments
- Justice process applicable to adolescents
- Procedure in criminal matters
- Rules of evidence
- Sentencing Natives
- The Canadian Charter of Rights and Freedoms.

### **2.3.2 Second Language Courses**

The Conseil oversees second language training for judges. Following negotiations with the federal Department of Justice, the Department has agreed to participate in the funding of second language courses as part of the Access to Justice in Both Official Languages Support Fund program. The Conseil has signed a three-year agreement that sets the federal contribution at \$90,000 per year.

The monies disbursed by the federal government together with the amount the Conseil spends on this training allow for the organizing of semi-private courses and participation in immersion sessions.

This year, the Conseil mandated a firm to organize semi-private courses and delegated eleven judges to participate in the immersion session organized by the Office of the Commissioner for Federal Judicial Affairs. Lastly, Concordia University was mandated to organize a one-week intensive course for eleven judges held at the university.

### 2.3.3 Participation in External Seminars

In addition to the training provided by the courts and tribunals, judges participate in training activities organized by other organizations. The courts and tribunals draw on their allocated budgets to cover the costs of these activities.

The Conseil has established criteria for selecting the judges who wish to participate in such activities. During the 2005-2006 financial year, 29 judges participated in the following activities:

- Seminar organized by the Association québécoise de droit comparé entitled “Intervention du juge dans le contrat”, Montréal, April 2005 (1 judge)
- Seminar organized by the Barreau du Québec and the Human Rights Tribunal entitled “Les 15 ans du Tribunal et les 39 ans de la Charte : instances juridictionnelles et réparations”, Montréal, April 2005 (1 judge)
- Seminar organized by Sainte-Justine Hospital (CHU) entitled “Maltraitance envers les enfants et les adolescents”, Montréal, October 2005 (3 judges)
- Conference organized by the Federation of Law Societies of Canada entitled “National Criminal Law Program”, Winnipeg, July 2005 (2 judges)
- Seminar organized by the Canadian Institute for the Administration of Justice entitled “Technology, Privacy and Justice”, Toronto, September 2005 (1 judge)
- Conference organized by the Canadian Institute for Advanced Legal Studies entitled “Cambridge Lectures 2005, Cambridge”, July 2005 (1 judge)
- Seminar organized by the National Judicial Institute entitled “New horizons in tort law”, Toronto, May 2005 (1 judge)
- Seminar organized by National Judicial Institute entitled “Hearing and adjudicating upon Charter issues”, Calgary, July 2005 (2 judges)
- Seminar organized by the National Judicial Institute entitled “Evidence Workshop”, Québec, August 2005 (2 judges)
- Seminar organized by the National Judicial Institute entitled “Newly appointed judges’ skills development”, Niagara, November 2005 (1 judge)
- Seminar organized by the National Judicial Institute entitled “Joint Education Seminar for the Ontario Court of Justice and Court of Quebec”, Ottawa, February 2006 (10 judges)
- Seminar organized by Institut Philippe-Pinel entitled “Congrès international francophone sur l’agression sexuelle”, Gatineau, Octobre 2005 (3 judges)
- Seminar organized by the Société de criminologie du Québec entitled “Vers une société axée sur la sécurité”, Sainte-Adèle, May 2005 (1 judge).

### 2.3.4 Conseil de la magistrature Seminar

The Conseil organized a seminar held in Montréal on November 3 and 4, 2005. A committee established by the Conseil developed the seminar's program.

The committee was made up of the following persons:

- Associate Chief Judge Maurice Galarneau, q.c.j., as chairperson
- Associate Chief Judge Paule Gaumond, q.c.j.

- Judge-President Gilles Gaumont, q.c.j.
- Associate Chief Judge Michel Simard, q.c.j.
- Judge Guy Lecompte, q.c.j.
- Judge Jean-Pierre Lortie, q.c.j.
- Judge Louise Villemure, q.c.j.

Close to 250 judges attended a seminar on the theme “I surf”. The Conseil’s intranet site, designed for the exclusive use of full-time judges under the Conseil’s jurisdiction, was launched at that time, along with the book entitled *La déontologie judiciaire appliquée*.

The seminar enabled the judges to acquaint themselves with the intranet site and to attend several lectures dealing notably with the importance of research and the use of technology.

### **2.3.5 Visiting Trainee Judge**

From February to April 2006, the Conseil welcomed a trainee judge from the École nationale de la magistrature de France for an internship organized by the Court of Québec’s judge responsible for training.

The internship focused mainly on the specificities of the Québec judicial system. During this period, the trainee judge was able to interact with judges working in the various divisions of the Court of Québec and to attend hearings.



# 3 Ethics

## 3.1 Codes of Ethics

In 1981, the Conseil adopted two codes of ethics: one for part-time municipal court judges and the other for full-time judges. The judges of the municipal courts of Laval, Montréal and Québec City are governed by the latter code.

The codes of ethics were developed for an independent judiciary in that they do not dictate standards to judges, but simply establish general principles relating to the judges' behaviour. They are therefore intended as a reference tool for judges. The Conseil evaluates the behaviour of judges according to these general principles.

The Conseil and, where applicable, its inquiry committees are periodically called upon to clarify these principles when examining complaints.

## 3.2 Complaints Process

Anyone may file a complaint against a judge. The complaint must be made in writing to the Secretary of the Conseil and must state the facts relating to the judge's alleged wrongdoing and any other relevant circumstances. The Secretary of the Conseil then forwards an acknowledgement of receipt to the complainant and a copy of the complaint to the judge.

The complaint is examined by the members of the Conseil. At this stage, if additional information is required, the Conseil may assign someone to obtain the desired information and to report to the Conseil. The complainant and the judge are then informed of the Conseil's proceedings. For example, if the incident warranting the complaint took place during a hearing, the designated person will be able to request a complete copy of the file from the court, as well as a copy of the court recordings.

If the complaint has been filed by a member of the Conseil, this person may not participate in examining it.

After examining the complaint, if the Conseil finds that it is unfounded or that its nature and significance do not justify an inquiry, it so advises the complainant and the judge of its decision and the grounds for the decision.

If the Conseil decides that the complaint warrants an inquiry, it sets up a committee consisting of five persons. It should be noted that when a complaint is filed by the Minister of Justice, the Conseil must set up an inquiry committee.

An inquiry committee can be made up of current and past members of the Conseil. However, this committee must include at least three members of the Conseil, one of whom is designated as chairman, and no more than two past members. The quorum of the committee is three members.

For the purpose of the inquiry, the members of this committee are vested with the powers and immunities of commissioners appointed under the *Act respecting public inquiry commissions*, except the power to order imprisonment.

As prescribed by the Courts of Justice Act, the inquiry committee forwards a copy of the complaint to the judge. Within 30 days thereafter, the committee calls the judge in question and the complainant to appear at the

inquiry. It also advises the Minister of Justice. The Minister or his representative may intervene during the inquiry.

At this stage, the Conseil may retain the services of a lawyer or another expert to assist the inquiry committee in its work. The judge in question may also retain the services of a lawyer.

The committee hears the “parties”, their lawyers and their respective witnesses. It may inquire about relevant facts and summon any person qualified to testify with regard to these facts. The witnesses may be examined and cross-examined by the “parties”.

Although the Act uses the word “parties”, it is important to note that the Supreme Court of Canada stated, in the *Ruffo*<sup>1</sup> case, that the process before the inquiry committee is not an adversarial one.

In fact, the committee's inquiry is intended to be the expression of purely investigative functions in search of the truth. Its primary goal is to ensure respect for judicial ethics in order to preserve the integrity of the judiciary. The function of the inquiry committee is to maintain public order.

Depending on the nature of the complaint, the Conseil may suspend the judge for the duration of the inquiry. This suspension, which is not a sanction, is intended to protect the credibility of the justice system.

Once the inquiry is completed, the committee submits its report and recommendations to the Conseil.

If the inquiry report concludes that the complaint is unfounded, the Conseil must send a notification with the grounds of its decision to the Minister of Justice, the judge concerned and the complainant.

On the other hand, if the inquiry report determines that the complaint is founded, the Conseil, following the recommendations of the report, reprimands the judge or makes a recommendation to the Minister of Justice and Attorney General to file a motion in the Court of Appeal asking that it conduct an inquiry. If the committee makes the latter recommendation, the Conseil suspends the judge for a period of 30 days.

Regarding the removal of judges, the Conseil has the power of recommendation. If the Minister of Justice and Attorney General files a motion in the Court of Appeal, the judge is automatically suspended from his position until the Court of Appeal issues its report. After its inquiry, the Court of Appeal sends a report to the government, which has the power to remove a judge from the bench.

The Supreme Court of Canada has ruled on the role of the inquiry committee:

The Comité's mandate is thus to ensure compliance with judicial ethics in order to preserve the integrity of the judiciary. Its role is remedial and relates to the judiciary rather than the judge affected by a sanction. In this light, as far as the recommendations the Comité may make with respect to sanctions are concerned, the fact that there is only a power to reprimand and the lack of any definitive power of removal become entirely comprehensible and clearly reflect the objectives underlying the Comité's establishment: not to punish a part that stands out by conduct that is deemed unacceptable but rather to preserve the integrity of the whole<sup>2</sup>.

### 3.3 Confidentiality of the Complaints Process

The entire complaints process prior to the holding of an initial hearing by an inquiry committee is in camera. This procedure has been upheld by the Superior Court, which concluded in July 1993<sup>3</sup> that the pre-inquiry stage does not constitute a judicial or quasi-judicial procedure.

However, the hearings of an inquiry committee are public, subject to a specific order to the contrary<sup>4</sup>.

<sup>1</sup> *Ruffo v. Conseil de la magistrature et al.*, [1995] 4 R.C.S. 309.

<sup>2</sup> *Ruffo v. Conseil de la magistrature et al.*, [1995] 4 R.C.S. 309.

<sup>3</sup> *Southam inc. v. Procureur général du Québec et l'honorable juge en chef Albert Gobeil*, [1993] R.J.Q. 2374 (C.S.).

<sup>4</sup> *Southam inc. v. Yvon Mercier et al.*, [1990] R.J.Q. 437 (C.S.).

## 3.4 Statistics

### 3.4.1 Complaints Received Since the Creation of the Conseil

From its creation in 1978 until March 31, 2006, the Conseil received 1,335 complaints. Since the 1990s, it has received an average of 73 complaints per year.

Further details on the statistics regarding complaints handled by the Conseil since 1979 can be found in Appendix VI.

### 3.4.2 Data for the 2005–2006 Financial Year

During the 2005-2006 financial year, the Conseil continued the examination of 10 complaints that were at the examination stage as at March 31, 2005 and received 89 new complaints, 20 more than during 2004-2005. The 89 complaints were filed by 98 complainants.

The results of the 10 complaints that were being examined as at March 31, 2005 are as follows: 9 complaints were deemed unfounded, including 5 that required additional information; one complaint was deemed not of a nature or significance as to warrant an inquiry.

Of the 89 complaints received in 2005-2006, 84 were deemed unfounded, 1 was deemed not of a nature or significance as to warrant an inquiry, and 4 were at the examination stage by the end of the financial year.

The following table shows the complaints received during the 2005-2006 financial year according to the jurisdiction exercised by the courts.

| <b>Jurisdiction</b>                                  | <b>Number of Complaints</b> |
|--|-----------------------------|
| Small Claims Division                                | 32                          |
| Civil Division (excluding the Small Claims Division) | 13                          |
| Criminal and Penal Division                          | 21                          |
| Youth Division                                       | 10                          |
| Presiding Justices of the Peace                      | 1                           |
| Municipal Courts                                     | 9                           |
| Specialized tribunals                                | 1                           |
| Other  | 2*                          |

\* These complaints did not concern any jurisdiction in particular.

The number of complaints per jurisdiction has been consistent over the last few years. Approximately one in three complaints received concerned the Small Claims Division, while one in four concerned the Criminal and Penal Division.

According to the data collected, 71 out of the 98 complainants were men (72.5%), 90 were parties to the case (91.8%), and 84 were not represented by a lawyer (85.7%).

The regional origins of the complaints are presented in a table in Appendix VII.

The allegations raised by the complainants can be sub-divided into two groups: those concerning the behaviour of a judge inside the courtroom and those involving his behaviour outside the courtroom. It should be noted that very few complaints concern a judge's behaviour outside the courtroom. In fact, only two complaints were filed in this regard: one concerning a judge's alleged behaviour while he was a lawyer and the other concerning a possible conflict of interest in which a judge allegedly placed himself.

With regard to judges' behaviour inside the courtroom, the complaints filed concern judges' comments, attitude in court, or failure to apply the rules of law, including rendering supposedly erroneous or unfounded judgments. A complaint cannot always be considered a single type since many involve more than one allegation. A complainant may criticize a judge for his attitude in the courtroom and also for having rendered a decision he deems erroneous. To illustrate this point, an analysis of the 87 complaints received concerning the judge's behaviour in the courtroom shows that 13 cite a judge's comments, 44 are objections to a judge's attitude in court and 72 concern how a judge applied the rules of law. Thus, more than 4 out of 10 complaints included multiple allegations.

As for the allegations themselves, the complaints summarized in section 3.5 give an overview of the types of complaints filed.

During the 2005-2006 financial year, the Conseil was also seized of one inquiry committee report, which concluded that the judge should be reprimanded. A summary of this report can be found in section 3.5.2.

Lastly, it is worth mentioning the time taken to handle complaints. Cases at the examination stage must be distinguished from cases under inquiry. For cases at the examination stage, data are complete for 2004-2005 because these cases are closed.

Hence, regarding the 69 complaints received during 2004-2005, the results are as follows:

- For the 47 complaints not requiring additional information, the average processing time was 32 days<sup>1</sup>
- For the 22 complaints requiring additional information, the average processing time was 118 days<sup>2</sup>
- For all 69 complaints, the average processing time was 66 days<sup>3</sup>

Still with regard to time frames, for cases that were the subject of an inquiry since the establishment of the Conseil and in which the reports were forwarded before March 31, 2006, a distinction should be made between cases in which common law courts intervened and those in which they did not:

- For the 49 cases in which common law courts did not intervene, the average processing time was 6.5 months<sup>4</sup>
- For the 11 cases in which common law courts intervened, the average processing time was 30.3 months<sup>5</sup>
- For all 60 cases, the average processing time was 11.0 months<sup>6</sup>

### **3.5 Decisions of the Conseil**

This section summarizes all the decisions rendered by the Conseil in 2005-2006 after additional information was gathered, as well as the report of an inquiry committee submitted during the same period.

Complaints not requiring additional information are appeals of judicial decisions or contain no fact likely to constitute a breach of ethics. They are therefore not summarized.

This year, 71 of the 85 complaints examined were considered by the Conseil to be unfounded, with no need to obtain additional information.

Since the Conseil has existed, nearly 60 per cent of complaints received have been considered unfounded, without need to gather additional information, because they were either appeals of judicial decisions or contained no fact likely to constitute a breach of ethics.

Lastly, it is interesting to note that, in the case of 96.6 per cent of complaints examined, the Conseil and the inquiry committees have ruled that the judges against whom a complaint was filed did not fail to fulfill their ethical obligations.

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<sup>1</sup> The period between the date that the Secrétariat du Conseil received the complaint and the date of notification of the Conseil's decision.

<sup>2</sup> See note 1.

<sup>3</sup> See note 1.

<sup>4</sup> The period between the committee's establishment and the date that the report is forwarded.

<sup>5</sup> See note 4.

<sup>6</sup> The period between the committee's establishment and the date that the report is transmitted.

### 3.5.1 Decisions of the Conseil at the Examination Stage

The pre-inquiry process is held in camera. For this reason, the name of the judge mentioned in a complaint is omitted at this stage.

#### **Allegation of aggressive attitude and disrespectful comments**

In their complaint, the complainants notably alleged that the judge had exhibited objectionable physical behaviour in not looking them in the eyes. They also alleged that he had made disrespectful comments in indicating that their claim was childish in nature.

The court recordings revealed that the judge expressed astonishment regarding the nature of the litigation. He expressed himself in a polite tone, however, even though he was clearly astounded.

The Conseil found nothing offensive in this. It was the expression of very human astonishment in view of the litigation. Furthermore, on more than one occasion, the judge offered the parties an adjournment to discuss an out-of-court settlement, but the plaintiffs-complainants insisted on proceeding to judgment.

The Conseil found no evidence of a breach of the Code of Ethics with respect to the judge's behaviour and reactions during the proceedings.

For these reasons, the Conseil ruled that the complaint was unfounded.

#### **Allegation of aggressive attitude, disrespectful comments and bias**

In the complaint filed, the complainant maintained that during the proceedings, the judge had been aggressive and disrespectful and had made sarcastic comments with regard to him while having a completely different attitude with regard to the other party.

The court recordings revealed that the judge had listened to the complainant's lengthy testimony and that of her witness without interrupting. During the proceedings, both parties had had the opportunity to lay out their claims. At all times, the judge was impartial, objective, polite and courteous towards the parties.

For these reasons, the Conseil ruled that the complaint was unfounded.

#### **Allegation of unfair behaviour and unjustified comments**

In the complaint filed, the complainant alleged that the judge had used a haughty tone, had a reproving look and made unjustified comments.

Regarding the first allegation, the complainant stated that she had been suffering from a cold and that, before the first hearing started, she had taken a lozenge to avoid coughing.

The court recordings revealed that at the beginning of the hearing, the judge said, "No. Nothing at all is to be consumed in here [...] outside please; this is a courtroom." [translation] She spoke calmly without insisting further.

The complainant's second allegation concerned "the reproachful look" [translation] that the judge allegedly directed towards her mother when she let out "a little hiccup" [translation]. This allegation could not be verified by listening to the recording, which contained no trace of this occurrence.

Regarding the third complaint, concerning the judge's explanation to the parties that the audio recording of the discussions could pick up their comments made in the courtroom, the judge was above all cautioning them and she invited them to speak outside the room.

All things considered, the Conseil found that the judge had behaved impartially and objectively towards the parties at all times.

For these reasons, the Conseil ruled that the complaint was unfounded.

### **Allegation of disrespectful attitude and abuse of power**

In the complaint filed, the complainant maintained that, during the hearing, the judge had been arrogant, had made comments that were out of place and had abused his authority.

The court recordings revealed that the judge had rarely intervened and had spoken calmly, deliberately and respectfully.

The Conseil found no evidence of aggressiveness, impatience, scorn, unkind insinuations or abuse of authority.

For these reasons, the Conseil ruled that the complaint was unfounded.

\* \* \*

In the complaint filed, the complainant alleged that during the hearing her fundamental right to be heard and to obtain justice had been flouted and that the judge appeared to have abused his authority.

The court recordings revealed that the complainant had been allowed to present the facts and lay out her claims. The judge, despite raising his voice a few times, had listened carefully to the evidence and had not demonstrated aggressiveness.

In addition, after taking the case under advisement, the judge continued his discussion with the complainant in a tone of voice that indicated impatience.

It was the Conseil's opinion that the judge's tone of voice was inappropriate and might have aggravated the complainant, negatively influencing her perception of the administration of justice.

For these reasons, the Conseil ruled that the character and significance of the complaint did not justify an inquiry.

\* \* \*

In the complaint filed, the complainant alleged in her complaint that the judge had "hindered [her] freedom by forbidding [her] to breastfeed [her] ten-day old baby" [translation], that he had committed gross negligence and had abused his authority.

The judge gave his explanation to the Conseil and the complainant provided additional comments with respect to her complaint.

It is recognized that the judge is responsible for maintaining order and decorum in the hearing room in order to ensure that the proceedings run smoothly.

The judge should have been more attentive to the complainant's problem and discussed more calmly a reasonable accommodation, rather than being categorical in upholding the prosecuting lawyer's expeditious solution of obliging the complainant to stop breastfeeding. The least that the Conseil can say is that the situation

put the judge ill at ease, that he was unsympathetic towards the complainant and was more concerned with order and decorum.

The court recordings revealed that neither the judge nor the complainant was in a state of mind favourable to the smooth running of the hearing. The judge was exasperated, while the complainant was visibly annoyed by court procedure and distressed by her child's crying.

Examination of the file showed that although the judge might have handled the situation clumsily, he truly thought that, by acting in this way, he had allowed the complainant to adequately present her defence. He thus thought that justice would be better rendered.

For these reasons, the Conseil determined that the character and significance of the complaint did not justify an inquiry.

### **Allegation of disrespectful attitude and bias**

In the complaint filed, the complainant alleged that the judge had treated him in an offhand manner and was already biased when the hearing began.

The court recordings revealed that the judge had at all times behaved impartially, objectively, politely and courteously with regard to the parties.

For these reasons, the Conseil ruled that the complaint was unfounded.

\* \* \*

In the complaint filed, the complainant alleged that the judge had not given her enough time to explain her position, that he had acted arrogantly towards her and that he had sided with the other party.

The court recordings revealed that the complainant had been given the opportunity to provide all the explanations necessary in support of her claim, without the judge interrupting her. The judge's comments were all made in a calm and measured tone that does not allow for a finding that he was biased in the other party's favour.

For these reasons, the Conseil ruled that the complaint was unfounded.

### **Allegation of inappropriate behaviour**

In the complaint filed, the complainant alleged that, during the hearing, the judge's "verbal behaviour" [translation] and his "non-intervention" [translation] with regard to the other party were unacceptable.

The court recordings revealed that when the defendant (the complainant) put his first question to one of the witness on cross-examination, the prosecuting lawyer objected, considering that the complainant's question aimed to ridicule the witness. In a correct and even tone, the judge explained to the complainant his reasons why he thought the objection was founded.

Despite the judge's explanation, the complainant continued to argue that he was not benefiting from the same treatment as the witness. Throughout the inquiry, the judge had spoken appropriately, often in pedagogical fashion, taking the time to explain the law and the procedures to the complainant.

The complainant defended himself, as was his right. He did so adopting a self-important attitude, he was often aggressive, and he was at times scornful towards the witness, the prosecuting lawyer and even the judge.

For these reasons, the Conseil ruled that the complaint was unfounded.

\* \* \*

In the complaint filed, the complainant alleged that the judge had shown a “casual attitude in signalling his arrival to the court usher” [translation] and demonstrated a lack of judgment.

The Conseil requested more details from the complainant, but he indicated that he would not add any additional facts or circumstances. He did, however, say that the judge had signalled his presence by tapping a doorframe with a pencil. He found this surprising and offhanded. He acknowledged that this form of behaviour did not constitute a breach of ethics, an opinion shared by the Conseil.

The complainant also objected to the tone the judge used at one point when speaking with him. After listening to the court recordings, he agreed that the tone during the exchange was firm, with no raising of the voice. He therefore requested his complaint be withdrawn.

Having examined how the hearing proceeded, the Conseil concluded that the judge had not infringed the Code of Ethics in any way.

For these reasons, the Conseil ruled that the complaint was unfounded.

\* \* \*

In the complaint filed, the complainant alleged that the judge and the prosecuting lawyer had been intimidating, preventing her from presenting her case properly. She also claimed that the judge “scolded” [translation] her because she had arrived 45 minutes late.

The court recordings revealed that the judge had respected the hearing list in entirely appropriate fashion and, in particular, it showed that he had listened charitably to the complainant with regard to the facts and her claims in support of her defence.

The complainant may have found certain decisions rather sudden, but it should be noted that in the court in question, there is a high volume of activity and decisions are rendered from the bench, with the judge’s decision being based on the complainant’s explanations and the police report on file.

For these reasons, the Conseil ruled that the complaint was unfounded.

### **Allegation of discrimination**

In the complaint filed, the complainant alleged that as an English speaker, she had been unable to understand someone’s testimony in French during the hearing and that the judge had not fully assessed several aspects of the evidence.

The court recordings revealed that the complainant testified for almost two hours in English. The other party called two witnesses: one testified in English while the other began testifying in English but finished in French because the person felt more at ease this way.

The complainant did not protest and made remarks to the judge about what the witness had said in English and in French. After letting her explain herself, the judge indicated that he was taking the case under advisement. It was at this point that the complainant objected to the testimony in French.

The other points raised concerning the assessment of the evidence are not within the Conseil’s jurisdiction but, rather, that of the appeals courts, where such recourse is possible.

For these reasons, the Conseil ruled that the complaint was unfounded.

### **Allegation of failure to apply the rules of law**

In the complaint filed, the complainant alleged that, although he had designated himself to represent one of the parties during a hearing, the judge did not allow him to testify or question the witnesses.

The court recordings showed that the judge had invited both parties to present their claims and call their witnesses and that she had addressed the complainant. At no time during the hearing did the complainant or the person he was representing ask that they themselves be allowed to question the witnesses heard.

The file as it stands shows that the judge at all times behaved as prescribed by the law, i.e., she was polite and serene.

For these reasons, the Conseil ruled that the complaint was unfounded.

\* \* \*

In the complaint filed, the complainant stated that her trial had been in French, although she understood and spoke very little French, and that the ruling was written in French.

The court recordings showed that the judge had been careful to determine, when the hearing began, whether the complainant understood French. Given her negative reply and the other party's indicating an inability to speak English, the judge had then said that he would ensure that "everybody understands each other" [translation].

The judge proceeded to translate the testimonies and checked regularly that the complainant fully understood the meaning of the evidence. The complainant was able to testify in English and even had a long discussion with the judge in English.

The judgment was written in French but no request was made to the judge that it be written in English.

For these reasons, the Conseil ruled that the complaint was unfounded.

\* \* \*

In the complaint filed, the complainant alleged that the judge had forced him to plead guilty and had not allowed him to choose his lawyer.

The minutes of the hearing reveal that the judge refused a request for postponement, a request that the witnesses be desummoned and a request to cease representing a party. Lastly, he instructed that the trial be held that same day. During the trial, the complainant, through his lawyer, pleaded guilty to a first count, declaring that he did so "freely" [translation]. The judge granted a request for a pre-sentencing report.

The court recordings did not reveal a breach of ethics on the part of the judge who ruled on the case by virtue of his competency.

For these reasons, the Conseil ruled that the complaint was unfounded.

### **Allegation of failure to respect judicial independence**

In the complaint filed, the complainant, a judge in the municipal division, alleged that two judges in a management position had prejudiced his judicial independence through their conduct and through the implementation of a new procedure for handling decisions by default.

The complaint was examined from the standpoint of judicial independence, which ensures that judges are able to render decisions free of any outside influence, as well as from the standpoint of the role of the judges in a management position.

The Conseil could not agree with the complainant's assertions or his perception that there had been misconduct on the part of the judges in a management position. Pursuant to the Pomerleau<sup>1</sup> ruling at the Court of Appeal, the judges were obliged to design a procedure for the diligent handling of files by default. Further, they presented to their colleagues an opinion favourable to their proposed procedure. They then consulted their colleagues in meetings called for this purpose and obtained their approval regarding a manner in which to proceed. They acted in good faith in carrying out their responsibilities, namely, maximizing judicial resources in the interests of citizens.

Moreover, the complainant judge was permitted to apply the new procedure his own way. The dispute between the parties concerned a work organization problem and had nothing to do with any breach of ethics.

For these reasons, the Conseil found that the complaints were unfounded.

### **Allegation of bias and failure to apply the rules of law**

In their complaint filed, the complainant's main allegation was that, during the hearing, the judge did not respect the rules of law, that he lacked objectivity and partiality, and that he would have acted differently had the citizen been represented by a lawyer.

The court recordings revealed that, on the contrary, the judge had acted respectfully towards the persons appearing before him, that he had been attentive to their explanations and that he had ensured that the parties had the desired time to express themselves.

For these reasons, the Conseil ruled that the complaint was unfounded.

### **Allegation of disrespectful comments**

In the complaint filed, through his lawyer, the complainant alleged that comments in the judge's written ruling were not only unfounded, unjust, unwarranted and vexing, but also wholly lacking in objectivity.

The Conseil investigated the complaint, the judgment and the judge's comments. It noted that the allegations concerned a decision the judge made when assessing evidence.

The judge's words may appear cutting and severe to some people, but they reflect his assessment of the facts and the evidence, an area in which a judge has great latitude. There is no question of imposing a particular discourse or choice of words on a judge since this could be considered the basis of a uniform discourse that runs contrary to the principle of judicial independence. The Conseil cannot, therefore, intervene in this case.

For these reasons, the Conseil ruled that the complaint was unfounded.

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<sup>1</sup> *Pomerleau v. La Reine*, [2004] R.J.Q. 83 (C.A.).

In their complaint filed, the complainant's main allegation was that the judge had been impolite and had, on several occasions, "treated [him] like a criminal" [translation].

The court recordings revealed that the judge had listened to the parties, had given them full possible latitude to express themselves and had handled the inquiry in an exemplary fashion.

For these reasons, the Conseil ruled that the complaint was unfounded.

\* \* \*

In the complaint filed, the complainant alleged that the judge had lacked judgment and called him "a mental case" [translation].

The court recordings revealed that at no time did the judge make the comments that the complainant alleged he did. On the contrary, the judge was reserved, courteous and calm throughout the hearing, even when the complainant interrupted her while she was rendering her judgment.

For these reasons, the Conseil ruled that the complaint was unfounded.

### **3.5.2 Report of an Inquiry Committee**

#### **Complaint concerning Gilles Pigeon, presiding Justice of the Peace**

The Conseil received a complaint in which the complainant alleged that, without valid grounds, the judge had refused to treat a request for a search warrant outside business hours, citing the large number of pages the police officer had taken to set out his motives. The complainant also alleged that, even before reading it, the judge demanded that the police officer reduce the preamble for the warrant.

##### ***Inquiry Committee***

The evidence reveals that, one evening, a Sûreté du Québec (Quebec provincial police) officer contacted the judge, who was on call, to obtain a telewarrant. When informed that the motives to support the search warrant numbered 38 pages, the judge asked the officer to reduce the number of pages of the declaration under oath.

The police officer consulted an Attorney General's substitute who reviewed all the motives and concluded that he could not recommend shortening the text. The police officer and the substitute informed the judge by telephone that they were unable to reduce the content owing, notably, to the scope of the police investigation in process.

Despite the explanations he received, the judge decided not to examine the declaration under oath and offered them three possibilities: reduce the number of pages; wait until the following day to meet with a Court of Québec judge; find another judge available that same evening.

In his testimony, the judge maintained notably that, in his experience, a five-page declaration under oath would have been entirely sufficient. He thus remained convinced that the requirement made was reasonable under the circumstances.

According to an expert witness called to testify before the committee, a judge cannot be satisfied that there are reasonable motives in support of the request purely on the strength of the informant's opinion. The judge must be personally convinced on the basis of the facts that the informant brings to his attention.

The committee found that even before reading the declaration under oath in support of the request, the judge deemed it unreasonably long. He testified that, through experience, he knew that the major part of this declaration under oath consisted of a narrative concerning the shadowing done by the police.

Even when informed of the risk of affecting the quality and, consequently, the viability of the warrant, the judge insisted that the declaration be shortened.

*Decision*

The committee found that the judge had refused to consider the entirety of the evidence available and that his demand that the declaration under oath be shortened amounted to a refusal to act usefully and diligently, as required under article 6 of the Judicial Code of Ethics.

Accordingly, after analyzing the evidence and hearing the lawyers' arguments, the committee unanimously concluded that the complaint was founded.

A recommendation was therefore made to the Conseil de la magistrature that the presiding Justice of the Peace, Gilles Pigeon, be reprimanded.

# 4 **Administratives**

## Activities

During the 2005-2006 financial year, the Office of the Secretary carried out its regular activities, along with being involved in work arising from the specific files of the Conseil.

### **4.1 Enquiries**

Given the Conseil's mandate, the Office of the Secretary receives numerous enquiries, primarily by telephone. The majority of these come from citizens who want to know whether they are addressing their complaint to the right place, how they can lodge a complaint and how a possible complaint will be handled. This is an ideal opportunity to explain to them the mission and operating structure of the Conseil.

To make its mission better known, the Office of the Secretary has developed a web site that can be visited at [www.cm.gouv.qc.ca](http://www.cm.gouv.qc.ca). It provides information on the Conseil's jurisdiction, the complaints process and useful links. The Conseil's publications can also be consulted on the site.

Finally, the Office of the Secretary published one brochure this year in French and English language which concerns the complaints process. These may be requested from the Office of the Secretary and copies are also available to the public in all courthouses.

### **4.2 Handling of Complaints**

The Office of the Secretary is responsible for the processing of all files from the time the complaint is received until a decision is sent. It coordinates the docketing of files for the inquiry committees, organizes the hearings, and manages and keeps files. The Secretary is also responsible for certifying the decisions of the Conseil.

### **4.3 Documentation and Training Activities**

The Office of the Secretary is in charge of acquiring and paying for legal documentation for the use of the judges under its jurisdiction. On an annual basis, the Office of the Secretary handles a few thousand purchase orders and subscription-renewal requests. It also keeps the Conseil informed about expenses in this regard.

The Office of the Secretary is also responsible for following up on the Conseil's decisions regarding the training and continuing education activities carried out by the courts and tribunals.

### **4.4 Introductory Session for Newly Appointed Judges of the Court of Québec**

As part of the training activities organized by the Court of Québec, the Secretary of the Conseil participates in an introductory session for newly appointed judges. During this session, the Secretary presents the Conseil's mission, its operating structure and the activities of the Office of the Secretary to the newly appointed judges.



## 5.1 Presiding Justices of the Peace

The Act creating the position of presiding justices of the peace gives the Conseil the power to determine whether specific provisions are to be included in the Code of Ethics for these judges. Last year, the Conseil set up a committee to examine this issue.

The committee was made up of the following persons:

- Judge-President Gilles Gaumont, m.c.j., as chairman
- Associate Chief Judge Maurice Galarneau, q.c.j.
- Judge Jacques Lachapelle, q.c.j.

The committee concluded that presiding justices of the peace should be subject to the Judicial Code of Ethics and that there was no reason to adopt special provisions with regard to them.

In view of the committee's recommendation, the Conseil decided not to adopt any special provisions.

## 5.2 Second Language Courses

The Conseil mandated a committee to review its eligibility criteria for the semi-private courses and immersion sessions.

The committee was made up of the following persons:

- Judge-President Gilles Gaumont, m.c.j.
- Judge Jean-Pierre Lortie, q.c.j.
- Judge Guy Saulnier, m.c.j.

The committee recommended to the Conseil that there be greater flexibility regarding the type of teaching offered. The committee's main recommendations were as follows:

- Semi-private courses organized by the Conseil or in a school of the judge's choice
- Immersion sessions organized by the Office of the Commissioner for Federal Judicial Affairs or by the Conseil and offered in a Québec university; private courses outside Québec
- Private courses and a mentoring program to help judges who wish to improve their language skills.

Finally, the committee recommended that judges share in the cost of immersion courses outside Québec in order to have as many judges as possible take part in lower-cost activities held in Québec.

The Conseil decided to include the committee's recommendations in its language-training program.

### 5.3 Intranet for the Judiciary

During the 2005-2006 financial year, the Office of the Secretary was engaged in a project to set up an intranet for the exclusive use of the judiciary.

The first section of the site – online documentation – became accessible in April 2005. Other information sections were subsequently developed.

In addition to working with the various committees of judges formed to determine the judiciary's needs, the Office of the Secretary organized regional meetings in which judges participated. During these meetings, a prototype enabled the participants to see how the project was progressing and to offer their comments and suggestions.

The site has been fully operational since November 7, 2005 and was officially unveiled during the Conseil's seminar on new technologies.

### 5.4 Annotated Code of Ethics

In 2004, the Conseil mandated the Centre for Research in Public Law at Université de Montréal to draw up an annotated code from information in the databanks of the Société québécoise d'information juridique.

All the decisions of the Conseil and the inquiry committees were examined, as were the decisions of the courts of general jurisdiction.

Last November, the work culminated in the publishing, in conjunction with publishers Wilson & Lafleur, of a work entitled *Applied Judicial Ethics*. The electronic version is available on the Conseil's web site. The publication's authors are Me Pierre Noreau and Ms. Chantal Roberge.

### 5.5 Judicial Training

During 2004-2005, the Conseil formed a committee to examine the setting up of a body in charge of judicial training.

Originally composed of Judges Paule Gaumond, Paule Lafontaine, Gilles Gaumond and Jean-Pierre Lortie, the committee grew last year to include new members. Judge Paule Lafontaine left the committee upon her retirement at the end of December 2005. Judges Michèle Rivet, Réna Émond, Rémi Bouchard, Jean-François Gosselin, Claude Leblond and Yves Daoust joined the committee presided over by Judge Paule Gaumond.

The committee met seven times and presented an interim report to the Conseil in May 2005. Subsequently, members of the committee were mandated to approach, on an informal basis, groups or partners who might be interested in the project. Meetings took place between representatives of the Conférences des juges, administrative tribunals, universities and the Barreau du Québec.

The committee's work continues and the members will be submitting their recommendations on the subject under study to the Conseil.

### 5.6 Ethics Advisory Committee

The exercising of judicial duties obliges magistrates to carefully re-examine the functions or activities that they might have carried out before being appointed as a judge or those they may be called on to carry out after assuming their duties.

It is acknowledged that judicial ethics are, first and foremost, judges' responsibility. In any given situation, it is up to them to determine what attitude they will adopt or how they will conduct themselves, in accordance with their office. In this regard, judges are free to consult either their peers or the chief judge with regard to assessing the given situation, but essentially the decision rests with the individual judge.

To this end, the Conseil decided to propose an informal, flexible mechanism for the judges. It brought together the Conférence des juges du Québec and the Conférence des juges municipaux in this initiative, which consisted of creating an advisory committee that judges can consult for advice. The Conseil, which is charged with overseeing judicial ethics, cannot, of course, act as an advisor to the judges because it must rule upon complaints submitted to it.

It is of prime importance that the ethics advisory committee be totally independent from the Conseil. For this reason, the Conseil set up a committee to designate the members of this first advisory committee.

The committee was composed of Judge René de la Sablonnière, Senior Associate Chief Judge for the Court of Québec and Vice-President of the Conseil, Judge Hubert Couture, President of the Conférence des juges du Québec, and Judge Paulin Cloutier, President of the Conférence des juges municipaux du Québec.

In September 2005, these three judges designated the members of the first Ethics Advisory Committee. The Committee will itself decide upon its operating guidelines.



# Appendix I

Members and Staff of the  
Conseil de la magistrature as at march 31, 2006

## Members

Honourable Guy Gagnon, Chief Judge of the Court of Québec, President

Honourable René de la Sablonnière, Senior Associate Chief Judge of the Court of Québec, Vice-President

Honourable Maurice Galarneau, Associate Chief Judge of the Court of Québec

Honourable Paule Gaumond, Associate Chief Judge of the Court of Québec

Honourable Michel Simard, Associate Chief Judge of the Court of Québec

Honourable Gilles Charest, Associate Chief Judge of the Court of Québec, responsible for municipal courts

Honourable Michèle Rivet, President of the Human Right Tribunal

Honourable Gilles Gaumond, President-Judge of the Municipal Court of Québec City

Honourable Jean-François Gosselin, Judge of the Court of Québec

Honourable Jean-Pierre Lortie, Judge of the Court of Québec

Honourable Guy Saulnier, municipal Judge

Henri Grondin, Lawyer, Grondin, Poudrier, Bernier

Alain Létourneau, Lawyer, Cain, Lamarre, Casgrain, Wells

Cyriaque Sumu, Consultant

Robert L. Véronneau, Consultant

## Staff

Jean-Pierre Marcotte, Lawyer, Secretary of the Council

Michelle Blanchet, Secretary

Liliane Gouge, Desk Officer

Rachelle Matteau-Désilets, Para-Legal

Carolle Richard, Administrative Assistant



# Appendix II

## Jurisdiction of the Conseil de la magistrature

Excerpts from the Courts of Justice Act (R.S.Q., c. T-16)

### **PART VII**

#### **THE CONSEIL DE LA MAGISTRATURE, REFRESHER PROGRAMMES FOR JUDGES AND JUDICIAL ETHICS**

#### **CHAPTER I : THE CONSEIL DE LA MAGISTRATURE**

#### **DIVISION I ESTABLISHMENT**

#### **Constitution.**

**247.** A body, hereinafter called the “council”, is established under the name of Conseil de la magistrature.  
1978, c. 19, s. 33.

#### **Composition.**

**248.** The council shall be composed of 15 members, namely,

- a) the chief judge of the Court of Québec who shall be the chairman of the council;
- b) the senior associate chief judge of the Court of Québec;
- c) the four associate chief judges of the Court of Québec;
- d) a president judge of a municipal court;
- d.1) one judge chosen among the persons exercising the functions of president of the Human Rights Tribunal, or chairman of the Professions Tribunal;
- e) two judges chosen among the judges of the Court of Québec and appointed upon the recommendation of the Conférence des juges du Québec;
- f) one judge chosen among the judges of the Municipal Courts and appointed upon the recommendation of the Conférence des juges municipaux du Québec;

- g) two advocates appointed upon the recommendation of the Barreau du Québec;
- h) two persons who are neither judges nor advocates.

1978, c. 19, s. 33; 1986, c. 48, s. 4; 1986, c. 61, s. 47; 1987, c. 50, s. 8; 1988, c. 21, s. 53; 1991, c. 70, s. 4; 1995, c. 42, s. 42; 1998, c. 30, s. 40; 2002, c. 21, s. 48; 2001, c. 26, s. 172.

### **Appointment of members.**

**249.** The Government shall appoint the members of the council contemplated in paragraphs d, d.1 and e to h of section 248. To sit on the council, those members shall make the oath contained in Schedule III before the chief judge or the senior associate chief judge of the Court of Québec.

### **Vice-chairman.**

The vice-chairman of the council is elected by the council from among its members.

### **Term of office.**

The term of office of the members of the council appointed under the first paragraph is not more than three years; at the expiry of their term, these members remain in office until they are replaced or reappointed.

1978, c. 19, s. 33; 1988, c. 21, s. 54; 1989, c. 45, s. 6; 1995, c. 42, s. 43; 1998, c. 30, s. 41; 1999, c. 40, s. 324.

### **Remuneration and expenses.**

**250.** The members of the council who are not judges are not entitled to any remuneration, except in such cases, on such conditions and to such extent as may be determined by the Government. They are, however, entitled to the reimbursement of expenses incurred in the performance of their duties, on the conditions and within the limits determined by the Government.

### **Indemnity.**

The judges are entitled to the indemnity provided for in section 119.

1978, c. 19, s. 33; 1988, c. 21, s. 55.

### **Quorum.**

**251.** Eight members of the council, including the chairman or vice-chairman, are a quorum.

1978, c. 19, s. 33; 1986, c. 48, s. 5.

### **Meetings.**

**252.** The council meets as often as necessary, when convened by the chairman.

### **Sittings in camera.**

It may sit in *camera* and hold its sittings at any place in Québec.

### **Head office.**

The council has its head office in the territory of Ville de Québec or in the territory of Ville de Montréal, as the Government may decide.

1978, c. 19, s. 33; 1996, c. 2, s. 985.

### **Internal management.**

**253.** The council may make bylaws for its internal management or to establish committees and determine their functions.

1978, c. 19, s. 33.

### **Minutes.**

**254.** The minutes of the sittings of the council or of one of its committees are authentic if they are approved by the members of the council or of the committee, as the case may be; the same rule applies to documents or copies emanating from the council or forming part of its records if they are certified true by the chairman or the secretary.

1978, c. 19, s. 33.

### **Secretary.**

**255.** The chairman shall appoint the secretary of the council, for a five-year term, from among the advocates on the Roll of the Order of Advocates for at least 10 years who are members of the public service. The Government shall determine the salary, the employment benefits and other conditions of employment of the secretary.

### **Leave.**

Upon being appointed, the secretary shall cease to be subject to the Public Service Act (chapter F-3.1.1); the person appointed to the office of secretary shall be on leave without pay for the duration of the five-year term.

1978, c. 19, s. 33; 1978, c. 15, s. 140; 1983, c. 55, s. 161; 1989, c. 45, s. 7; 1997, c. 76, s. 2.

### **Functions.**

**255.1.** The secretary of the council shall exercise the functions of the secretary on an exclusive basis, under the authority of the chairman.

## **Oath.**

The secretary shall, before taking office, make the oath set out in Schedule III, before the chief judge of the Court of Québec.

1989, c. 45, s. 7; 1997, c. 76, s. 2; 1999, c. 40, s. 324.

## **Expiry of term.**

**255.2.** At the expiry of the five-year term of office, the secretary shall remain in office until replaced or re-appointed.

1989, c. 45, s. 7; 1997, c. 76, s. 2.

## **Appointment.**

**255.3.** The members of the personnel of the council, other than the secretary, shall be appointed in accordance with the Public Service Act (chapter F-3.1.1).

1989, c. 45, s. 7; 1997, c. 76, s. 2; 2000, c. 8, s. 242.

## **DIVISION II FUNCTIONS OF THE COUNCIL**

### **Functions.**

**256.** The functions of the council are:

- a) to organize, in accordance with Chapter II of this Part, refresher programmes for judges;
- b) to adopt, in accordance with Chapter III of this Part, a judicial code of ethics;
- c) to receive and examine any complaint lodged against a judge to whom Chapter III of this Part applies;
- d) to promote the efficiency and uniformization of procedure before the courts;
- e) to receive suggestions, recommendations and requests made to it regarding the administration of justice, to study them and to make the appropriate recommendations to the Minister of Justice;
- f) to cooperate, in accordance with the law, with any body pursuing similar purposes outside Québec, and
- g) to hear and decide appeals under section 112.

1978, c. 19, s. 33; 1988, c. 21, s. 56.

## **CHAPTER II REFRESHER PROGRAMMES FOR JUDGES**

### **Programmes.**

**257.** The council shall establish information, training or refresher programmes for the judges of the courts and presiding justices of the peace under the legislative authority of Québec and appointed by the Government.

1978, c. 19, s. 33; 2004, c. 12, s. 9.

### **Preparation.**

**258.** The council shall determine the needs, prepare the programmes and fix the terms and conditions of application; it may, for that purpose, act in cooperation in particular with the Conférence des juges du Québec, the Conférence des juges municipaux du Québec, the association representing presiding justices of the peace, the Barreau du Québec, the law faculties and the Ministère de la Justice.

1978, c. 19, s. 33; 1987, c. 50, s. 9; 2004, c. 12, s. 10.

### **Authorization for expenditures.**

**259.** The Government determines the amounts over which expenditures by the council in the application of this chapter require the approval of the Minister of Justice.

1978, c. 19, s. 33.

## **CHAPTER III JUDICIAL ETHICS**

### **DIVISION I GENERAL PROVISION**

#### **Applicability.**

**260.** This chapter applies to a judge appointed under this act.

The provisions of this chapter applicable to judges also apply to the judges of the municipal courts and to presiding justices of the peace.

1978, c. 19, s. 33; 1980, c. 11, s. 98; 1995, c. 42, s. 44; 2004, c. 12, s. 11.

### **DIVISION II CODE OF ETHICS**

#### **Code of ethics.**

**261.** The council shall, by regulation, adopt a judicial code of ethics.

## Meeting of the judges.

However, it must previously call a meeting of the judges to whom the code of ethics applies to consult them on the draft regulation.

## Approval. Coming into force.

A regulation made under this section is published in the *Gazette officielle du Québec* at least thirty days before it is submitted to the approval of the Government. If it is so approved, it comes into force on the date of its publication in the *Gazette officielle du Québec* or on a later date fixed therein.

1978, c. 19, s. 33.

## Contents.

**262.** The code of ethics determines the rules of conduct and the duties of the judges towards the public, the parties to an action and the advocates, and it indicates in particular which acts or omissions are derogatory to the honour, dignity or integrity of the judiciary and the functions or activities that a judge may exercise without remuneration notwithstanding section 129 or 171 of this Act or section 45.1 of the Act respecting municipal courts ( chapter C-72.01).

## Special provisions.

It may be stipulated in the code that certain of those provisions do not apply to judges of Municipal Courts, or special provisions may be established for those judges. For the purposes of this chapter, the rules set out in section 45 of the Act respecting municipal courts are deemed to be special provisions of the code of ethics applicable to municipal judges. The provisions of the code of ethics applicable to municipal judges may vary according to whether they apply to judges exercising their functions on a part-time basis or to judges exercising their functions on a full-time and exclusive basis. Special provisions for presiding justices of the peace may also be stipulated in the code.

1978, c. 19, s. 33; 1980, c. 11, s. 99; 1988, c. 21, s. 57; 1988, c. 74, s. 8; 1989, c. 52, s. 138; 1998, c. 30, s. 42; 2002, c. 21, s. 49; 2004, c. 12, s. 12.

## DIVISION III EXAMINATION OF COMPLAINTS

Object of complaints.

**263.** The council receives and examines a complaint lodged by any person against a judge alleging that he has failed to comply with the code of ethics.

1978, c. 19, s. 33; 1988, c. 21, s. 58.

## Contents.

**264.** Any complaint is made in writing to the secretary of the council and states the facts with which the judge is charged and the other relevant circumstances.

1978, c. 19, s. 33.

**Necessary information.**

**265.** The council shall examine the complaint; it may, for that purpose, require from any person such information as it may deem necessary and examine the relevant record, even if the record is confidential under the Youth Protection Act (chapter P-34.1).

**Conflict.**

If the complaint is lodged by a member of the council, he cannot participate in the examination of the complaint by the council.

1978, c. 19, s. 33; 1986, c. 48, s. 6; 1988, c. 21, s. 59.

**Copy to judge.**

**266.** The council shall forward a copy of the complaint to the judge; it may require an explanation from him.

1978, c. 19, s. 33.

**Complaint not justified.**

**267.** If the council, after examining a complaint, establishes that it is not justified or that its nature and importance do not justify an inquiry, it shall notify the plaintiff and the judge of it and state its reasons therefor.

1978, c. 19, s. 33.

**Inquiry.**

**268.** The council may, after examining a complaint, decide to make an inquiry. It must make an inquiry, however, if the complaint is lodged by the Minister of Justice or if the latter requests it pursuant to the third paragraph of section 93.1 or the third paragraph of section 168.

1978, c. 19, s. 33; 1988, c. 21, s. 60; 1990, c. 44, s. 24; 2004, c. 12, s. 13.

**DIVISION IV  
INQUIRY****Committee.**

**269.** To conduct an inquiry on a complaint, the council establishes a committee consisting of five persons chosen from among its members and designates a chairman among them.

**Quorum.**

Three persons are a quorum of the committee.

1978, c. 19, s. 33.

## **Composition.**

**269.1.** Notwithstanding the first paragraph of section 269, a committee of inquiry may be composed of members of the council and of persons who have previously been members of the council.

## **Composition.**

However, such a committee must include at least three members of the council, from whose number the committee shall designate a chairman, and not more than two previous council members.

1991, c. 70, s. 5.

## **Oath or solemn declaration.**

**269.2.** Any person who has previously been a member of the council and who is appointed to sit on a committee must, before taking up his functions, make the oath contained in Schedule III, before the chief judge or the senior associate chief judge of the Court of Québec.

1991, c. 70, s. 5; 1995, c. 42, s. 45; 1999, c. 40, s. 324.

## **Inquiry.**

**269.3.** A person who ceases to be a member of the council may continue to sit on a committee of inquiry established under section 269 or 269.1 in order to complete an inquiry undertaken by the committee.

1991, c. 70, s. 5.

## **Remuneration and indemnities.**

**269.4.** A person to whom either of section 269.2 and 269.3 applies is entitled for the time he is a member of a committee to no remuneration other than the remuneration and indemnities council members are entitled to receive under section 250.

1991, c. 70, s. 5.

## **Presiding justice of the peace.**

**269.5** When it establishes a committee to conduct an inquiry into a complaint made against a presiding justice of the peace, the council must designate at least one person who is a presiding justice of the peace to sit on the committee.

## **Oath.**

Before taking up committee functions, that person must make the oath contained in Schedule III, before the chief judge or the senior associate chief judge of the Court of Québec.

## **Indemnity.**

The person so designated is entitled for the time the person is a member of a committee to no indemnity other than the indemnity a council member who is a judge is entitled to receive under section 250.

2004, c. 12, s. 14.

## **Meetings.**

**270.** The committee meets as often as necessary, when convened by its chairman.

1978, c. 19, s. 33.

## **Copy of complaint, or request.**

**271.** The committee communicates to the judge a copy of the complaint or of the request of the Minister of Justice made pursuant to the third paragraph of section 93.1 or the third paragraph of section 168.

## **Calling by committee.**

Within thirty days after the communication of the complaint, the committee calls the judge concerned and the plaintiff; it also notifies the Minister of Justice, and the latter or his representative may intervene at the proof or hearing.

1978, c. 19, s. 33; 1988, c. 21, s. 61; 1990, c. 44, s. 24, 2004, c. 12, s. 15.

## **Hearing.**

**272.** The committee hears the parties, their attorneys and their witnesses.

## **Facts and testimonies.**

It may inquire into the relevant facts and call any person apt to testify on such facts.

## **Examination.**

The witnesses may be examined or cross-examined by the parties.

1978, c.19, s. 33.

## **Powers and immunity.**

**273.** The members of the committee enjoy, for the purposes of an inquiry, the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment.

1978, c. 19, s. 33; 1992, c. 61, s. 621.

### **Prohibition.**

**273.1.** An advocate who is a judge of a Municipal Court may not act as a prosecutor for the application of this chapter.

1980, c. 11, s. 100.

### **Recusation of a member of the committee.**

**274.** A party to the inquiry may request the recusation of a member of the committee for one of the causes provided for in articles 234 and 235 of the Code of Civil Procedure (chapter C-25).

### **Obligation to declare.**

Furthermore, a member of the committee who is aware of a ground of recusation to which he is liable is bound to declare it.

1978, c. 19, s. 33.

### **Rules of procedure or practice.**

**275.** The committee may make rules of procedure or rules of practice for the conduct of an inquiry.

### **Orders of procedure.**

If necessary, the committee or one of its members makes the orders of procedure, based on the Code of Civil Procedure (chapter C-25), that are necessary for the carrying out of its duties.

1978, c. 19, s. 33.

### **Suspension of a judge.**

**276.** The council may suspend a judge for the duration of an inquiry on him.

1978, c. 19, s. 33.

### **Report of inquiry and recommendations.**

**277.** The committee submits the report of its inquiry and its recommendations to the council. It transmits that report to the Minister of Justice; in addition, it transmits a copy of its record of the inquiry in the case where the council makes the recommendation provided for in paragraph b of section 279.

1978, c. 19, s. 33.

### **Complaint not justified.**

**278.** If the report of the inquiry establishes that the complaint is not justified, the council notifies the judge concerned, the Minister of Justice and the plaintiff. That notice states the grounds on which it is based.

1978, c. 19, s. 33.

### **Complaint justified.**

**279.** If the report of the inquiry establishes that the complaint is justified, the council, according to the recommendations of the report of the inquiry,

- a) reprimands the judge; or
- b) recommends that the Minister of Justice and Attorney General file a motion with the Court of Appeal in accordance with section 95 or section 167.

### **Suspension.**

If it makes the recommendation provided for in paragraph b, the council suspends the judge for a period of thirty days.

1978, c. 19, s. 33; 1980, c. 11, s. 101; 1988, c. 21, s. 62; 1988, c. 74, s. 9, 2004, c.12, s. 16.

### **Motion to Court of Appeal.**

**280.** If the Minister of Justice and Attorney General, in accordance with section 95 or section 167, files a motion with the Court of Appeal, the judge is suspended from office until the report of the Court.

1978, c. 19, s. 33; 1988, c. 21, s. 63, 2004, c. 12, s. 17.

### **Services of an advocate.**

**281.** The council may retain the services of an advocate or of another expert to assist the committee in the conduct of its inquiry.

1978, c. 19, s. 33.

## **CHAPTER IV MISCELLANEOUS PROVISIONS**

### **Amounts required.**

**282.** The amounts required for the application of this part are taken out of the consolidated revenue fund.

1978, c. 19, s. 33.

## **PART VIII FINAL PROVISIONS**

Minister responsible.

**282.1.** The Minister of Justice is responsible for the administration of this Act.

1988, c. 21, a. 64.

## **Disability.**

**93.1.** A judge suffering from a permanent physical or mental disability which, in the opinion of the Government, prevents the judge from effectively performing the duties. Unless the judge resumes judicial duties under the second paragraph, the judge is deemed to have ceased to hold office on the day preceding the day on which the judge satisfies any of the requirements set out in section 224.3, 228 or 246.3, as the case may be, for eligibility for a pension.

## **Resumption of judicial duties.**

If the judge recovers, the Government may permit the judge to resume judicial duties at the same court, even if all the posts in that court are already filled.

## **Disability.**

The permanent disability is established, after inquiry, by the Conseil de la magistrature, at the request of the Minister of Justice. Termination of permanent disability is established in the same manner.

1990, c. 44, s. 4; 2001, c. 8, s. 3.

## **Disability.**

**168.** A presiding justice of the peace who is suffering from permanent physical or mental disability which, in the opinion of the Government, prevents the justice of the peace from effectively performing the duties of the office shall be relieved from duties. Unless the justice of the peace resumes duties under the second paragraph, the justice of the peace is deemed to have ceased to hold office on the day preceding the day on which the justice of the peace satisfies the requirements for eligibility for his or her pension.

## **Resumption of duties.**

If the justice of the peace recovers, the Government may permit him or her to resume duties.

## **Inquiry.**

Permanent disability is established, at the request of the Minister of Justice, after inquiry by the Conseil de la magistrature. Termination of permanent disability is established in the same manner.

R. S. 1964, c. 20, s. 178; 1992, c. 61, s. 617; 2004, c. 12, s. 1.

## **Removal.**

**95.** The Government may remove a judge only upon a report of the Court of Appeal made after inquiry at the request of the Minister of Justice.

R. S. 1964, c. 20, s. 86; 1988, c. 21, s. 30.

### **Modification to a notice of appointment.**

**108.** Any modification to the notice of appointment of a judge concerning his place of residence shall be decided by the Government on the recommendation of the chief judge. The Government may make such a decision only if the period prescribed in section 112 for filing an appeal is expired or, where an appeal is filed, if the recommendation of the chief judge is confirmed.

R. S. 1964, c. 20, s. 100; 1965 (1st sess.), c. 17, s. 16; 1982, c. 17, s. 76; 1987, c. 50, s. 5; 1988, c. 21, s. 30; 1995, c. 42, s. 26.

### **Assignment to another division.**

**111.** The chief judge may, where the administration of justice so requires and after consultation with the associate chief judges concerned, assign a judge to another division after the judge concerned has been given the opportunity to present his views in that respect.

R. S. 1964, c. 20, s. 103; 1965 (1st sess.), c. 16, s. 21; 1965 (1st sess.), c. 17, s. 18; 1978, c. 19, s. 15; 1988, c. 21, s. 30; 1995, c. 42, s. 29.

### **Notice of decision.**

**112.** The chief judge who makes a recommendation under section 108 or a decision respecting the permanent assignment of a judge to another division under section 111 shall notify the judge concerned. The latter may, within fifteen days, appeal to the Conseil de la magistrature which may confirm or quash the recommendation or the decision of the chief judge.

R. S. 1964, c. 20, s. 104; 1974, c. 11, s. 30; 1977, c. 20, s. 138; 1978, c. 19, s. 16; 1986, c. 95, s. 334; 1988, c. 21, s. 30.

### **Exclusive office.**

**129.** Subject to the provisions of this subdivision, the office of judge shall be exclusive.

### **Incompatibility.**

The office of judge is incompatible, in particular, with the office of director or manager of a legal person or any other constituted body, or with the conduct, even indirect, of commercial activities.

R. S. 1964, c. 20, s. 121; 1965 (1st sess.), c. 17, s. 2; 1978, c. 19, s. 25; 1988, c. 21, s. 30.

### **Exclusivity.**

**171.** Presiding justices of the peace shall devote their time exclusively to duties of the office.

### **Incompatibility.**

The office of presiding justice of the peace is incompatible, in particular, with the office of director or manager of a legal person or any other constituted body, or with the conduct, even indirect, of commercial activities.

R. S. 1964, c. 20, s. 181; 1990, c. 4, s. 888; 2004, c. 12, s. 1.



# Appendix III

## Internal Bylaws of the Conseil de la magistrature

Courts of Justice Act (R.S.Q., c. T-16, s. 253)

### **DIVISION I : GENERAL PROVISIONS**

1. The following definitions shall apply in these bylaws:
  - a) “Act”: the Courts of Justice Act (R.S.Q., c. T-16);
  - b) “Council”: the Conseil de la Magistrature as established under section 247 of the Act;
  - c) “President”: the Chief Judge of the Court of Québec;
  - d) “Vice-President”: a member of the Council, elected by the members of the Council.
2. The head office of the Council shall be located in Québec City at 300 boulevard Jean-Lesage. The Council may also have an office in the City of Montreal.

### **DIVISION II : FUNCTIONS AND POWERS**

3. The Council, in addition to its functions and powers as set forth in the Act, shall assume the following responsibilities:
  - a) approve the training and continuing education programs presented by the Chief Judges and the Presidents of the courts and tribunals under its jurisdiction, in keeping with the operating methods adopted by the Council;
  - b) determine the budget allocated to each court and tribunal for its training and continuing education programs and carry out regular follow-ups during its meetings;
  - c) establish committees and give them the necessary powers to fulfil their mandates;
  - d) approve the Activity Report of the Council.
4. The President of the Council, in addition to managing the operations of the Council, shall exercise the following functions:
  - a) prepare and preside over the meetings of the Council;
  - b) determine which issues shall be brought before the Council;
  - c) oversee the preparation of the budget and take the necessary steps to secure its approval;
  - d) sign, alone or together with any other person designated by the Council, any documents or records that fall under the jurisdiction of the Council;
  - e) assign responsibilities to the members of the Council as well as to the Secretary.
5. The Vice-President, elected by the Council from among its members, shall assume the functions and responsibilities of the President of the Council in the event of the latter’s absence or inability to act.
6. Under the authority of the President, the Secretary of the Council shall carry out the general functions pertaining to his position and those that may be assigned to him by the President or by the Council.

More specifically, the functions of the Secretary shall be the following:

- a) assume, in matters of managing the resources of the Council, which have been devolved upon him according to all applicable Acts and bylaws;
- b) prepare the meetings of the Council, draft the minutes of the meetings, and follow up on decisions made by the Council;
- c) act as the Secretary of the Executive Committee and other committees established by the Council;
- d) prepare an annual budget allocation plan for the Council's training and continuing education programs;
- e) keep and maintain the records of the Council;
- f) prepare, for the benefit of the members, documents concerning points of interest for the Council;
- g) certify the minutes of the meetings of the Council or any of its committees, as well as any documents or copies emanating from the Council;
- h) at the request of the members of the Council, express his opinion on the different issues dealt with at the meetings of the Council;
- i) prepare an annual report on the issues to be brought before the Council.

### **DIVISION III : COUNCIL MEETINGS**

7. The Council shall hold its meetings at the head office of the Council or at any other location specified in the notice of meeting.
8. The number of meetings of the Council shall be determined by the latter in accordance with a timetable that it shall establish.
9. In addition to the regular meetings, the Council may hold special meetings as often as it deems necessary.
10. Meetings of the Council shall be convened by a written notice from the Secretary at the request of the President. The President shall arrange for a special meeting to be convened at the written request of two members of the Council.
11. The Secretary shall forward to the members of the Council, at least three days before the meeting, a written notice of meeting which shall specify the date, time and place of the meeting. This notice of meeting shall be accompanied by an agenda.

In the case of a special meeting, the notice of meeting may be given by telephone 24 hours before the meeting. During these meetings, discussions are based solely on the items on the agenda, unless members agree otherwise.

12. The Council may dispense with notice of meeting formalities if all members of the Council consent to it. A member may, before or after a meeting, waive the notice of meeting. The presence of a member at a meeting constitutes a waiver on his part to a notice of meeting.
13. The members of the Council may participate in a meeting by means that enable all participants to communicate verbally, notably by telephone.
14. The meetings of the Council shall be presided over by the President or, in his absence, the Vice-President.
15. The quorum of the Council shall consist of eight members, including either the President or the Vice-President. If a quorum is not present one half-hour after the time specified in the notice of meeting, the meeting shall be adjourned and a new notice of meeting must be issued. However, the President may extend the deadline before adjourning the meeting.
16. A meeting may, by a majority vote, be adjourned to another time or to a later date and a new notice of meeting shall not be required.

17. The decisions of the Council shall be made by a majority vote of the members present.
18. Votes shall be cast orally or by a show of hands unless the President or two members of the Council request a secret ballot.
19. In the absence of a secret ballot, the declaration by the President that a decision has been made unanimously or by a majority and the recording of this declaration in the minutes of the meeting shall constitute proof of the Council's decision, without the need to divulge the specific way in which members voted, except if a request is expressed to this effect by one of the members of the Council.
20. In case of a tie vote, the President, or the Vice-President in the absence of the President, shall have a deciding vote on any matter submitted to the Council regardless of whether the votes are cast orally, by a show of hands, or by secret ballot. The President or the Vice-President may or may not exercise his right to a deciding vote.
21. The decision to hold all or part of a meeting in camera shall be made by a majority of the members present.
22. The Council shall exercise its powers by means of decisions, except in matters that must be settled by way of a regulation, as prescribed under the Act. A decision signed by all of the members of the Council shall have the same value as a decision made during a Council meeting which was duly convened and held. This decision shall be recorded in the minutes of the meeting following the date on which it was signed.
23. The Secretary of the Council shall draft and sign the minutes of each meeting. The minutes shall contain a summary of the deliberations of the Council as well as the decisions made at each meeting.
24. Apart from the President of the Council, the Secretary may also certify the minutes, excerpts from the minutes and other documents and copies emanating from the Council or forming any part of its records.
25. In the event that the Secretary is not able to attend any of the meetings, the Council may designate a member of the Council or a member of the staff of the Council to draft the minutes. These minutes shall be signed by such person and by the Secretary of the Council.

#### **DIVISION IV COMMITTEES OF THE COUNCIL**

26. The Council shall establish an Executive Committee consisting of five members of the Council, including the President and the Vice-President of the Council. The other members shall be designated by the Council from among its members for a mandate that it shall determine.
27. The President of the Council shall be the President of the Executive Committee and the Vice-President of the Council shall be the Vice-President of the Executive Committee.
28. The Executive Committee shall have the following mandate:
  - a) examine the matters and execute the mandates which are entrusted to it by the Council and then report to the Council;
  - b) examine, at the request of the President of the Council, certain matters in order to make recommendations;
  - c) examine and make decisions on administrative matters between meetings of the Council and to submit its decisions for approval at the next meeting of the Council.

29. The quorum of the meetings of the Executive Committee shall consist of three members, including the President or the Vice-President.
30. The Secretary of the Council shall be the Secretary of the Executive Committee and as such, shall prepare the notice of meeting, draft and sign the minutes of the meetings, which shall be presented at the meetings of the Council.
31. With the necessary adaptations, section 7, paragraph 1 of section 11, sections 12, 13 and 14, as well as sections 16 through 25 shall apply to the Executive Committee.
32. The Council may also establish other committees. The Council shall determine the composition, mandates and powers of these committees.
33. Unless the Council decides otherwise, the Secretary shall act as Secretary of the committees established by the Council under section 32.

## **DIVISION V FINAL PROVISIONS**

34. These bylaws shall not be amended without the prior notification of members of the Council of such amendment in a notice of meeting. The text of the proposed amendment must accompany the notice of meeting.
35. The internal bylaws of the Council shall be effective at the time of their adoption by the Council and shall replace any other internal bylaws previously adopted by the Council.

Effective: 15-12-99

# Appendix IV

Members of the Executive Committee as at March 31, 2006

Honourable Guy Gagnon, Chief Judge of the Court of Québec, President

Honourable René de la Sablonnière, Senior Associate Chief Judge of the Court of Québec, Vice-President

Honourable Gilles Charest, Associate Chief Judge of the Court of Québec

Honourable Jean-François Gosselin, Judge of the Court of Québec

Henri Grondin, Lawyer, Grondin, Poudrier, Bernier



### Code of Ethics for Judges<sup>1</sup>

- 1- The judge should render justice within the framework of the law.
- 2- The judge should perform the duties of his office with integrity, dignity and honour.
- 3- The judge has a duty to foster his professional competence.
- 4- The judge should avoid any conflict of interest and refrain from placing himself in a position where he cannot faithfully carry out his functions.
- 5- The judge should be, and be seen to be, impartial and objective.
- 6- The judge should perform the duties of his office diligently and devote himself entirely to the exercise of his judicial functions.
- 7- The judge should refrain from any activity which is not compatible with his judicial office.
- 8- In public, the judge should act in a reserved, serene and courteous manner.
- 9- The judge should submit to the administrative directives of his chief judge, within the performance of his duties.
- 10- The judge should uphold the integrity and defend the independence of the judiciary, in the best interest of justice and society.

### Code of Ethics for Part-Time Municipal Judges

- 1- The judge should render justice within the framework of the law.
- 2- The judge should perform the duties of his office with integrity, dignity and honour.
- 3- The judge has a duty to foster his professional competence.
- 4- The judge should avoid any conflict of interest and refrain from placing himself in a position where he cannot faithfully carry out his functions.
- 5- The judge should be, and be seen to be, impartial and objective.
- 6- The judge should perform the duties of his office diligently.
- 7- The judge should refrain from any activity which is not compatible with his functions of municipal judge.
- 8- In public, the judge should act in a reserved, serene and courteous manner.
- 9- The judge should uphold the integrity and defend the independence of the judiciary, in the best interest of justice and society.

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<sup>1</sup> At March 31, 2006 this code is applicable to the following courts and tribunals: Court of Québec, municipal courts of Laval, Montreal and Québec city, the Human Rights tribunal, the Professions Tribunal, and presiding justices of the peace.

Excerpts from the Act respecting municipal courts (c. C-72.01)

## **Rules of conduct.**

**45.** A municipal judge, in addition to complying with the standards of conduct and fulfilling the duties imposed by the code of ethics adopted pursuant to section 261 of the Courts of Justice Act (chapter T-16), shall observe the following rules:

- 1) He shall not, even indirectly, enter into a contract with a municipality within the territory in which the municipal court has jurisdiction, except in the cases provided for in section 305 of the Act respecting elections and referendums in municipalities (chapter E-2.2), adapted as required, nor shall he advise any person negotiating such a contract;
- 2) He shall not, even indirectly, agree to represent or act against a municipality or a member of the municipal council, an employee other than an employee within the meaning of the Labour Code (chapter C-27) or a police officer of a municipality within the territory in which the municipal court has jurisdiction;
- 3) He shall not hear a case pertaining to a contract described in paragraph 1 to which an advocate with whom he practices as an advocate is a party or a case in which such an advocate is representing or acting against a municipality or person contemplated in paragraph 2;
- 4) He shall not hear a case involving a question similar to one involved in another case in which he represents one of the parties;
- 5) He shall, with respect to every case referred to him, make and file in the record a declaration stating not only the grounds of recusation to which he is aware he is liable and which are set out in article 234 of the Code of Civil Procedure (chapter C-25), but also any grounds indirectly connected with him and arising either from the fact that he is representing one of the parties or from the activities of a person with whom he practices as an advocate.

1989, c. 52, s. 45.

## **Functions.**

**45.1.** Every judge exercising his or her functions in a municipal court to which a president judge has been appointed must exercise such functions on an exclusive basis.

## **Applicability.**

The second paragraph of section 129 of the Courts of Justice Act (chapter T-16) applies to the exercise of such functions.

2002, c. 21, s. 14.



# Appendix VI

## Summary of Complaints Handled Since 1979

### RESULTS AT THE EXAMINATION STAGE

| Years                  | Complaints Received | Complaints Unfounded without additional Information | Complaints Unfounded after additional Information | Others Complaints Not Justifying an Inquiry <sup>a</sup> | Others <sup>b</sup> | Complaints Under Examination | Complaints Warranting an Inquiry <sup>c</sup> |
|------------------------|---------------------|---|---|--|---------------------|------------------------------|---|
| 1979-1980              | 5                   | 1   | 2   | 1  |                     |                              | 1   |
| 1980-1981              | 1                   |   |   | 1  |                     |                              | 1   |
| 1981-1982              | 5                   |   | 4   |  |                     |                              | 1   |
| 1982-1983              | 5                   |   | 4   |  |                     |                              | 1   |
| 1983-1984              | 6                   |   | 4   | 1  | 1                   |                              |   |
| 1984-1985              | 10                  |   | 5   | 1  |                     |                              | 4   |
| 1985-1986              | 10                  | 1   | 4   | 3  |                     |                              | 2   |
| 1986-1987              | 18                  | 1   | 12  | 2  | 1                   |                              | 2   |
| 1987-1988              | 24                  | 2   | 17  | 1  | 1                   |                              | 3   |
| 1988-1989              | 37                  | 4   | 26  | 1  | 3                   |                              | 3   |
| 1989-1990              | 41                  | 16  | 13  | 2  | 5                   |                              | 5   |
| 1990-1991              | 56                  | 33  | 17  | 2  | 2                   |                              | 2   |
| 1991-1992              | 65                  | 50  | 13  |  |                     |                              | 2   |
| 1992-1993              | 51                  | 34  | 14  |  | 3                   |                              |   |
| 1993-1994              | 81                  | 39  | 20  |  | 3                   |                              | 19  |
| 1994-1995              | 88                  | 63  | 21  |  | 1                   |                              | 3   |
| 1995-1996              | 89                  | 66  | 13  | 1  | 2                   |                              | 7   |
| 1996-1997              | 68                  | 48  | 18  |  |                     |                              | 2   |
| 1997-1998 <sup>d</sup> | 70                  | 32  | 27  | 1  |                     |                              | 10  |
| 1998-1999              | 68                  | 44  | 20  | 1  | 1                   |                              | 2   |
| 1999-2000              | 76                  | 53  | 19  |  | 2                   |                              | 2   |
| 2000-2001              | 59                  | 37  | 16  | 2  |                     |                              | 4   |
| 2001-2002              | 87                  | 48  | 32  | 1  |                     |                              | 6   |
| 2002-2003              | 87                  | 49  | 29  | 6  |                     |                              | 3   |
| 2003-2004              | 70                  | 42  | 26  | 1  |                     |                              | 1   |
| 2004-2005              | 69                  | 46  | 16  | 3  |                     |                              | 4   |
| 2005-2006              | 89                  | 71  | 13  | 1  |                     | 4                            |   |
| <b>TOTAL</b>           | <b>1 335</b>        | <b>780</b>  | <b>405</b>  | <b>32</b>  | <b>25</b>           | <b>4</b>                     | <b>89</b>                                     |

a These are complaints whose nature and significance did not justify an inquiry (sec. 267 of the *Courts of Justice Act*).

b These are closed files (complaints no longer applicable).

c In all, 63 committees were established to examine 89 complaints.

d Two open files involved several letters and petitions respectively and were counted as two complaints.

## RESULTS OF THE INQUIRIES

| Years        | Complaints<br>Unfounded After<br>Inquiry | Complaints<br>That Led to a<br>Reprimand <sup>a</sup> | Complaints<br>that Led to a<br>Recommendation<br>of Destitution | Others <sup>b</sup> | Complaints<br>Under<br>Inquiry <sup>c</sup> |
|--------------|--|---|---|---------------------|---|
| 1979-1980    |  | 1   |   |                     |   |
| 1980-1981    |  |   |   |                     |   |
| 1981-1982    | 1  |   |   |                     |   |
| 1982-1983    | 1  |   |   |                     |   |
| 1983-1984    |  |   |   |                     |   |
| 1984-1985    | 2  | 2   |   |                     |   |
| 1985-1986    | 2  |   |   |                     |   |
| 1986-1987    | 1  | 1   |   |                     |   |
| 1987-1988    | 2  |   |   | 1                   |   |
| 1988-1989    |  | 3   |   |                     |   |
| 1989-1990    |  | 2   |   | 3                   |   |
| 1990-1991    | 1  | 1   |   |                     |   |
| 1991-1992    | 1  | 1   |   |                     |   |
| 1992-1993    |  |   |   |                     |   |
| 1993-1994    | 13                                       | 6   |   |                     |   |
| 1994-1995    | 1  | 1   |   | 1                   |   |
| 1995-1996    | 3  | 2   |   | 2                   |   |
| 1996-1997    |  | 1   | 1   |                     |   |
| 1997-1998    | 1  | 9   |   |                     |   |
| 1998-1999    | 2  |   |   |                     |   |
| 1999-2000    | 1  |   | 1   |                     |   |
| 2000-2001    | 2  | 2   |   |                     |   |
| 2001-2002    |  | 4   | 1   |                     | 1   |
| 2002-2003    |  | 3   |   |                     |   |
| 2003-2004    |  | 1   |   |                     |   |
| 2004-2005    |  | 1   | 1   | 1                   | 1   |
| 2005-2006    |  |   |   |                     |   |
| <b>TOTAL</b> | <b>34</b>                                | <b>41</b>   | <b>4</b>  | <b>8</b>            | <b>2</b>                                    |

a The 41 complaints gave rise to 28 reprimands.

b These are files closed by the inquiry committees due to the retirement or resignation of the judges.

c Two committees were established to examine two complaints.

# Appendix VII

## Regional Origin of Complaints

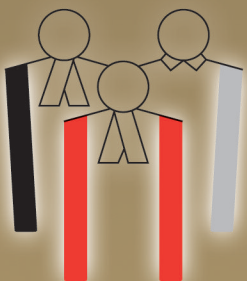
| <b>Regional Origin</b>          | <b>Number</b> |
|---------------------------------|---------------|
| Abitibi-Témiscamingue           | 5             |
| Bas-Saint-Laurent               | 4             |
| Capitale-Nationale              | 6             |
| Centre-du-Québec                | 0             |
| Chaudière-Appalaches            | 3             |
| Côte-Nord                       | 1             |
| Etrie                           | 4             |
| Gaspésie — Îles-de-la-Madeleine | 1             |
| Gatineau                        | 8             |
| Lanaudière                      | 4             |
| Laurentides                     | 6             |
| Laval                           | 4             |
| Mauricie                        | 6             |
| Montréal                        | 24            |
| Montréal                        | 18            |
| Nord-du-Québec                  | 0             |
| Saguenay — Lac-Saint-Jean       | 2             |
| Outside Québec                  | 2             |
| <b>TOTAL</b>                    | <b>98</b>     |





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