

Ontario is keeping secret complaints about JPs

Until the Star started asking, the most recent publicly available information about complaints against justices of the peace was from 2010.



RICK MADONIK / TORONTO STAR FILE PHOTO

James Morton, a lawyer for the Association of Justices of the Peace of Ontario, said he believes the system disciplining justices of the peace is working well.

By: **Rachel Mendleson** News reporter, Published on Mon Jun 16 2014

The province is keeping secret crucial information about complaints against [justices of the peace](#).

Despite efforts to make the disciplinary process more transparent, the most recent publicly available data is several years old, a delay that risks eroding confidence in the system, observers say.

Until the Star began making inquiries last week, the most recent information about complaints available from the Justices of the Peace Review Council, an independent body that oversees the discipline of justices of the peace, was from 2010. The review council posted its [2011 annual report](#) on its website on Friday.

Anthony Moustacalis, president of Ontario's Criminal Lawyers' Association, said several years is too long to wait for this information.

"A stale, anonymous review years later is unhelpful in fixing problems, or identifying reoccurring issues," he said.

Ontario's 345 full and part-time justices of the peace are appointed by the province, and play a vital role in the legal system, issuing search warrants as well as presiding over bail hearings and traffic court, among other responsibilities.

Since 2007, [provincial legislation](#) has required that the Justices of the Peace Review Council provide summaries of all complaints handled during the previous year in an annual report to the attorney general.

That information "remains private" until the attorney general tables the report in the legislature, according to

Marilyn King, registrar for the review council.

The review council then makes public annual reports on its website. The legislation states that the summaries “shall not include information that might identify the justice of the peace, the complainant or a witness.”

The identities of justices of the peace facing specific allegations are not released unless those claims lead to a formal conduct hearing.

(Other professional regulating bodies in Ontario, including the [Law Society of Upper Canada](#), the Ontario College of Teachers and the College of Physicians and Surgeons of Ontario, have similar confidentiality policies.)

Complaints against justices of the peace that were resolved in 2011 include:

- A justice of the peace who allegedly interrupted and “made snide and contemptuous remarks” to a defendant. The review council referred the matter to the chief justice of the Ontario Court of Justice. The justice of the peace explained he had been suffering from a medical condition at the time of the incident, and apologized. The file was closed.
- A justice of the peace who was found to have been impatient and failed to assist a self-represented defendant. The review council issued written advice to justice of the peace to “reconsider his conduct in his dealings with the complainant that day with a view to improving his ability to conduct such matters,” among other suggestions, and closed the file.
- A justice of the peace who was cleared of allegations by a defendant that he was a “Plain Bias J.P.” The review council examined the court record, which showed the justice of the peace “was patient and provided the complainant with full opportunity to participate in his trial and be heard,” and dismissed the complaint.

King said the review council has submitted the 2012 report to the attorney general, but that it “does not have a role in tabling process.”

“Thus, I am not in a position to advise when it was tabled or how the reports get to the legislature once it is delivered to the ministry,” she said in an email.

According to Brendan Crawley, spokesman for the attorney general, the 2012 and 2013 annual reports “are expected to be tabled in the upcoming months.”

Crawley said questions about the review council’s processes, including “the need for confidentiality,” should be directed to the review council.

But Moustacalis said annual reports should be released “promptly . . . so that confidence in the system is maintained.”

As he sees it, the summaries contained in these reports were supposed to provide a means of ensuring accountability without embarrassing justices of the peace named in unsubstantiated complaints.

If there is a delay, “the compromise that was made to protect the integrity of the system is damaged because there is no way to know if the system is working,” he said.

James Morton, a lawyer for the Association of Justices of the Peace of Ontario, said he believes the disciplinary system is working well. Recent information “should be available so that the public does realize that the (review

council) is looking into everything that's put to them," he said.

The review council opened 52 new complaint files in 2011, according to the annual report. Most of the 33 complaints closed in 2011 arose in Provincial Offences Court and intake court. An additional 56 complaints were carried over in the next year.

The review council has ordered 10 formal conduct hearings since 2007, King said.

Sanctions can range from a warning to suspension without pay. The council can also recommend to the attorney general that a justice of the peace be removed from office, which has happened four times since 1989. All four [were fired](#).

By the numbers

345: Full-time and part-time justices of the peace in Ontario

48: Average number of new complaint files opened per year

46: Average number of files closed per year

41: Average number of files carried over in the next year

10: Formal conduct hearings ordered since 2007

4: Justices of the peace fired since 1990

Source: Justices of the Peace Review Council, Office of the Chief Justice, Toronto Star files