

PETER BOWAL

**180 Edg Hill Drive N.W.
CALGARY, Alberta Canada T3A 2W7**

Office telephone: (403) 220-7415
E-mail: bowal@ucalgary.ca

By Fax: (403) 244-1948

David G. Tettensor, Q.C.
Commissioner, Justices of the Peace Compensation Commission
c/o 1413 - 2 Street S.W.
CALGARY, Alberta T2R 0W7

October 20, 2006

Dear Commissioner Tettensor::

RE: Submission

I am a Presiding Justice of the Peace in the Calgary Hearing Office on an Order in Council dated August 13, 1997. I wish to submit these brief written comments for your consideration as a "Presiding" JP (no oral submission/hearing requested). I would like to make two points.

The Unique Role of the Justice of the Peace

I was one of the first set of five lawyers appointed in Southern Alberta in 1997 (I am also a Professor of Law at the University of Calgary). The PJP plays a unique role in that we are the first judicial officer with whom all accused make contact and where police officers represent the Crown. We work in a room adjoining the Arrest Processing Unit in the Calgary Police Service Administration Building so the police have significant control over our work and they comprise our security.

Therefore, not only are we the first judicial contact with the accused, we are the first and primary judicial interface with the police and their power. (ours is a unique position in the judicial hierarchy). Apart from the shortfall of technical training in the law, the police are apt to misunderstand our role and many see us as pesky speed bumps to optimum law enforcement. Over the years, this has resulted in numerous verbal outbursts, passive aggressive behaviours (they may be slow to release an accused we order released), complaint campaigns, various shows of force and disrespect on the part of the police that would never be tolerated in other Canadian courtrooms. I expect that our courtrooms present the most difficult challenges to judicial independence in our system. [Even at this moment, a very senior police officer is facing discipline for a serious verbal attack on a Presiding JP.] This unique workplace stress exists also because we are physically located in the police building, we are hugely out-numbered, we work off hours, we are part timers on a fixed non-renewal appointment, the police alone determine our work and security, we are not furnished with robes or other symbols of authority, and in the last 9 years we have received little support from the Provincial Court judges who are responsible for our administrative supervision.

It is easy for police, accused persons, lawyers and higher, full time tenured career judges to dismiss the very lowest rank of judge on the judicial ladder, and we live with that reality in every shift. Provincial Court judges have not had several police standing over them while they were considering a search warrant and then faced the immediate abuse (including written complaints) when the decision on the warrant was not what was desired. Other judges have not had the police shout at them or subtly threaten them from the Crown's table. They have not had the police line up in force at the back of the courtroom to send a message about the importance of the police position in a given case. Other judges do not have the police put their feet up on their judicial desk, or complain about their lunch breaks. Other judges have secure parking and they do not have to worry about walking across an alley into an unlighted surface lot after midnight where they might confront an accused or be followed by the police.

My point here is that one might be inclined, as many others may be, to dismiss the lowest judicial officer in the hierarchy as not doing important or difficult work. That is not the case. It is extremely challenging to uphold judicial independence in the Arrest Processing Unit and to provide a firm but gentle educational hand to both accused and police in rendering our work as busy first line judges upholding the law and justice.

This Judicial Compensation Process

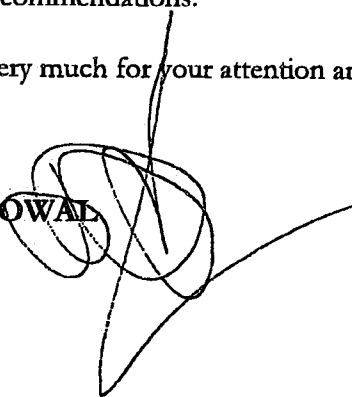
Many of our number, fresh from a defeat in the Supreme Court of Canada on how the Government of Alberta was disregarding the recommendations of the last Compensation Commission (and facing the prospect of costs payable to government as well as our own counsel, and a promise that re-appointment might be considered), seem resigned to accept the current Government of Alberta compensation proposals. It might seem generous because we have been at the \$515 figure for so many years. There is not much appetite right now with this group to advance another serious "case" for compensation. I believe the Government of Alberta has sensed this resignation on our part (the literal resignation comes in just over 2 years) and turned this into a "judges negotiating with the government" compensation round, which is precisely what the Supreme Court of Canada has sought to avoid in the mandating of independent Judicial Compensation Commissions. In this context, there are several issues (eg. a sweeping JP Review, re-introduction of midnight shifts, renewal of some JPs' terms, new work responsibilities) continuing in parallel at this time that may serve to influence our support of the government's compensation proposal.

Accordingly, Mr. Commissioner, despite the apparently massive PJP support for the government's compensation proposals, I would encourage you to consider it in the broader context and act independently, along the lines envisioned by the Supreme Court, in making your final Recommendations.

Thank you very much for your attention and for serving as Commissioner.

Yours truly,

PETER BOWAL

A handwritten signature in black ink, appearing to read "Peter Bowal", written over a printed name. The signature is somewhat stylized and scribbled.