

**2006 ALBERTA JUSTICES OF THE PEACE  
COMPENSATION COMMISSION**

**Submission of J. R. Shaw  
Sitting Justice of the Peace  
The Provincial Court of Alberta  
Traffic Division  
Calgary, Alberta**

The Provincial Court of Alberta, Traffic Court is a competent court of record which was established in 1991 to hear a variety of provincial statute and municipal by-law matters. We have the powers of incarceration, warrants for arrest and like other courts of record the power to find someone in contempt of court. The majority of our case load (and revenues generated) involve the *Traffic Safety Act and Regulations*. However, we also hear diverse cases involving cattle brands, wildlife and fishing, poaching (with forfeiture of firearms, vehicles and game seized to Her Majesty), environment, dangerous dogs, exotic dancers & escorts, *Liquor and Gaming Act* violations or suspended drivers in Alberta. Our jurisdiction overlaps with Provincial Court Judges of the Small Claims Court when we can order damages or restitution resulting in loss from a traffic accident, up to \$2,000.00 dollars.

We have been trained with Provincial Court Criminal Division to issue Apprehension Orders under the *Child, Youth and Family Enhancement Act* to find and detain youth at secure facilities, in addition to our regular duties sitting in Family & Youth Court hearing provincial offences and municipal by-law matters. We are defacto, Magistrates, sitting in a Summary Conviction Court and our jurisdiction is the Province of Alberta.

The Calgary Traffic Court Sitting Justices of the Peace with circuit court sittings in Airdrie, Cochrane, Didsbury, Okotoks, Strathmore; our Calgary sittings in Family and Youth, and adult Traffic court deals with 70% to 75% of the provincial tickets issued in the entire province; that ratio is expected to remain constant with the addition of Banff/Canmore and Turner Valley to our circuit sittings this autumn. Revenue generated (of approximately \$181 million dollars)

follows the same ratio of 70% to 75% generated by Calgary and our circuit sittings, more than the other Courts combined. The sheer volume of the cases and fines imposed reflects the ongoing public safety concerns that we see on Alberta's highways.

In many ways, we are "the little Court that grew", we are no longer a five (5) year non-renewable experimental program, but a multi-million dollar Court serving a large number of Albertans in urban and rural centres. In the hierarchal Court system Traffic Court is the base of the pyramid, beside the other Provincial Court divisions, Small Claims, Family and Youth, and Criminal; all of us serve Albertans at the first or primary level and frequently the Provincial Court level is the only level of Court that the average citizen encounters. Decisions from Traffic Court Sitting Justices of the Peace are accorded equal weight with decisions by Criminal, or Family and Youth Court Judges; their decisions are not binding on us, merely persuasive and the reverse is true. Traffic Court decisions are not binding, merely persuasive on the other Provincial Court divisions. Traffic Court decisions may be appealed to the Court of Queen's Bench, which is the same appellate level for Small Claims Court and all summary convictions from Criminal Court.

Traffic Court Sitting Justices of the Peace undergo the same or similar judicial selection process as Provincial Court Judge's and our disciplinary body would be the Judicial Council, the same as for other levels of Court. The selection process starts with the Alberta Judicial Council, if approved, to the Provincial Court Nominating Committee, and finally with the Ministers approval, and appointment by Order-in-Council.

The Sitting Justices in Traffic Court are not new or inexperienced professionals. The two recent appointments, by Order-in-Council each have at least twenty-five years legal experience, far in excess of the required five years legal experience.

Three former Calgary Traffic Court Justices of the Peace now sit on the Criminal Bench in Provincial Court (Judges Skene, Graham and McIlargey). At the Fall 2006 Convocation of the University of Lethbridge, two honorary Doctorates of Laws were awarded, the first to the Honourable Catherine A. Fraser, Chief Justice, Court of Appeal for Alberta, and the second to Blaine Thacker, QC, Sitting Justice of the Peace in Lethbridge. We are a competent Court, with competent professionals, and should be compensated accordingly.

This Compensation Commission will be our second Commission in fifteen years as a Provincial Court. The last Compensation Commission recommended that we be paid at 66% (or two-thirds) of what the Provincial Court Judges were being paid at that time. In 1991 the Provincial Government set an arbitrary rate of pay at 50%; Justices of the Peace sitting in Traffic Court were to be paid half of what Provincial Court Judges were receiving. The current pay or level of compensation offered de facto maintains the same level or ratio of 50% (or one-half) of what other Provincial Court Judges now receive. The divisions of the Provincial Court, Small Claims, Criminal, and Family and Youth are now compensated at a ratio in excess of 90% of what the Federally appointed Superior Court Justices receive, when historically that ratio varied between 80% to 85%.

### Conclusion

While it is reasonable and expected in the hierarchal court system that Traffic Court Sitting Justices of the Peace should be compensated at a lower rate than it's immediate Appellate Court, the Court of Queen's Bench, it is respectfully submitted that the wide gap or disparity in compensation between Courts or Divisions at the Provincial Court level is not reasonable or rational, simply put, the gap of 50% is too wide. Should this Commission find that because of the summary conviction nature of our Court, or for any other reason that we are not entitled to parity with the other Divisions within the Provincial Court of Alberta, then it is submitted this Commission has evidence before it to reasonably and rationally determine our compensation at 80% to 90% of what the other Provincial Court Divisions are currently receiving. A 10% to 20% gap in pay may itself be construed as too wide, whereas a 50% gap certainly is, and could undermine the public's perception of our Court as an equal and independent Court within the Provincial Court structure. Our Court should not be construed as a "Provincial Court light", we have to be a full Court in order to utilize the Courts powers inherent in a court of record, such as incarcerating citizens, imposing fines, issuing warrants for arrests and speaking to the release of the accused or vacating warrants, to name a few duties, yet we are seen as something less than a full Court (50% less!) when it involves our compensation.

It does not matter what I or the Association feel we should be paid; it shouldn't matter what the Government feels we sold be paid; everyone's interest is protected, including the pubic, by what a fully independent Compensation Commission feels we should reasonably be paid.

**The Sitting Justices of the Peace in Traffic Court have never had any issue with our Compensation Commission report and I urge this Commission to fix a reasonable rate or ratio of compensation to avoid the never-ending litigation that has overshadowed the Provincial Courts and Alberta Justice.**

*Apology:*

*Government statistics have been requested, but not received prior to the deadline, this writer has had to use other sources.*

*Any errors are mine however - mea culpa*