

Report of the Judicial Independence Committee –Administrative Independence

Courthouse Security

January 24, 2022

The Judicial Independence Committee – Administrative Independence has as its mandate: *To promote, defend and safeguard the dignity of, respect for and the authority of the Courts and of Judges and their individual and institutional Judicial Independence in Canada and in the world.* To this end the committee is to advise on issues that may effect a Judge's judicial independence and make recommendations to the Board on those issues. *CAPCJ Handbook Judicial Independence ss. 3(b) & 3(d).*

In furtherance of that goal, the committee considered the question of the extent to which courthouse security and security of our persons is a matter of judicial independence. To this end, the committee considered, in particular, the findings of the United Nations High Commissioner of Human Rights where the United Nations adopted as a fundamental principle: *The term of office of judges, their independence, security, adequate remuneration, conditions of service, pensions and the age of retirement shall be adequately secured by law. And further, the judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason.*

Adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985

At the CAPCJ Spring Board Meeting of April 2020 the Board unanimously adopted as a principle that the Security of Judges in the execution of their duties is a principle of Judicial Independence and within the mandate of this committee.

As a result, the committee commenced a study of Security practices in each jurisdiction of the Association. They contrasted those practices with practices in other jurisdictions

and compared those practice with a number of documents prepared in Canada and elsewhere outlining judicial security best practices. The intention of the committee is to provide a reasonable and practical baseline, below which the ability of judges to render fair and impartial decisions without fear of improper influences from any quarter may well rise to a matter of concern.

The committee considered security for Judges both in their personal lives, their access to and from courthouses, as well as the execution of their duties within the Courtroom. The committee carefully considered the varied resources available to judges in smaller jurisdictions, on remote circuit court and in large metropolitan centres. Each sitting environment presents its own unique challenges to security personnel, whether they be dedicated sheriff services or local law enforcement. The committee considered these following guidelines as parameters that may be effectively applied in every sitting location. If the people of a community are entitled to service in their community, whether it be in a remote circuit or a large inner city courthouse, then the judicial officers should have a basic level of security when conducting their impartial proceedings.

Security at Home and In-transit to and from the Courthouse

A: At Home

1. Judges should have access to panic alarms in areas where they feel a risk of personal threat.
2. Each member of the Bench should have a security audit of their home and secondary residences by a security professional.
3. Judges should be allowed to install and maintain security and alarm systems through their professional development resources which allowance ought to continue for a period of time after retirement.
4. Local law Enforcement should be provided with the phone number of Judges in order that they can prioritize emergency security calls.
5. Judges should receive training regarding security issues.

B: Travelling to and From Court

6. Judges should receive training on safest routes to and from their residences to courthouses where they preside, together with training on awareness of potential security risks.

C: Parking

7. Judges should have restricted and secure parking available at all court sitting locations.
8. Preferably parking should be secured behind an enclosure and be limited to members of the judiciary.
9. Access to and from parking must be covered by security surveillance or an escort should be available if requested to the judge's vehicle by security personnel.
10. No signage should indicate that the parking is judicial parking.
11. Security should be provided in all parking areas in the morning, at lunch time and at the end of the court day to monitor access by judicial officers to their vehicles.
12. Parking areas must be monitored by video and that video retained for a necessary period of time for review as necessary in the event an issue arises.

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Commented [HXMB2]: Only judges or other personnel, too?

D: General personal security protocols

13. Judges should receive security training and briefing when first appointed.
14. Judges should be trained in the identification of security risks such as unmarked mail, packages or computer viruses that may affect their judicial offices.
15. Judges should be briefed security protocols for each location they are asked to preside and points of contact should security issues arise during the course of their duties.
16. Similarly Judges should have access to robust psychological services to receive advice and counselling to assist in managing the stress related to the heightened security risks faced by judges.

17. Judges should have a 24/7 security contact number to provide access to security needs whether at the courthouse or at home.
18. Judges should be allowed to redact their personal addresses and information from publicly accessible documents, for example not be required to produce their residential address on their driver's licence.
19. Judges should be updated continuously on any risks arising from the conduct of their work from both the law enforcement agency involved in the investigation of the case and from the Prosecution services charged with advancing the crown case, including assessments of risk posed by an inmate appearing before a **judicial officer** and advising the Judge of that risk in advance of any appearance of that individual.
20. Provide **Judicial officers** with bullet proof equipment on request.

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Commented [HXMB4]: Only judges or other personnel, too?

E: Security requirements in Courthouses

A: In the Courtroom

- a. A security sweep must be conducted before each Court session, both for the morning and afternoon session.
- b. All members of the public must be security checked before entering the courtroom.
- c. Staff should monitor any **intelligence issues** each day.
- d. All sheriffs require radio communications on a constant and uninterrupted basis with their colleagues during the day.
- e. Each bench must be equipped with panic buttons both at the seat of the presiding judge and the court clerk or stenographer and those buttons should be checked regularly.
- f. Furniture must be placed so that there is no easy reach between the public gallery, the accused, witnesses or litigants and the judicial officer.
- g. A sheriff or law enforcement official must be present in any courtroom where the public are entitled to be present and if a witness or accused is in custody one sheriff beyond those needed to conduct the transport of the prisoner, should be present in the courtroom.

Commented [HXMB5]: What are intelligence issues?

- h. All courtrooms must be locked when the sheriff or security officer is not present.
- i. Protocols must be established for the event of a power loss and fire drills that preserve **Judicial Officer** security.

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B. In Chambers

- a. All chamber must be inaccessible to the public without authorisation from the judge or senior court administration personnel.
- b. Chambers must be located in areas of the courthouse where judicial conversations can not be overheard by members of the public or the bar.
- c. All cleaning and services provided to chambers must be provided during daylight hours and only by Court Services approved personnel.
- d. Access by court staff to chambers must be limited to swipe cards or limited keys and access to hallways in which chambers are located must be accessible only with a swipe card or limited production keys.
- e. **Members of the judiciary** require private washrooms for their chambers.
- f. All mail to **members of the judiciary** must be screened prior to delivery to chambers.

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Commented [HXMB8]: Only judges or other personnel, too?

C. Movement by Judges within the Courthouse

- a. Judges should have access to their courtrooms or court services without being required to travel in public hallways. In the event that they need to travel in a public hallway then a security escort in those areas must be provided.
- b. Escorts by security personnel should be available to all judges for their movements in any public areas either within or outside the Courthouse.

D. After hours and on weekends

- a. Courthouses and chambers have alarms on weekends and after hours with limited and monitored access to the necessary alarm codes.

F: Security Requirements on Circuit and Remote Courts

A. Travel to circuit court:

- a. Travel by air: the specifications for air charter contracts should be informed by expert input to ensure that consideration is given to any safety issues specific to the geography and climate specific to the jurisdiction, and any air charter contract should meet the operational safety requirements of Subpart 4 of the Commuter Operations of the Canadian Aviation Regulations.
- b. Travel by road: ideally, the **judicial officer** should be transported in properly maintained vehicles with appropriate safety equipment driven by someone with enhanced driver training. (i.e. we travel in sheriffs' vehicles, and all of our sheriffs have received enhanced training for driving in winter conditions)
- c. If travel covers areas with inconsistent cell phone coverage, the court party should have a satellite phone in case of emergency.
- d. Appropriate personnel, at both ends of the journey, should be notified of departure and anticipated arrival times, so that appropriate steps can be taken if the **judicial officer** does not arrive when expected. If a Judge chooses to travel alone, that judge's arrival and departure time must also be monitored so that steps can be taken in the event they do not arrive as scheduled.
- e. All members of the court party should travel with appropriate attire and safety equipment in case of emergency (i.e. cold weather gear in winter!)
- f. If the court party is required to stay in the community, any accommodations booked should meet minimum safety requirements. (i.e. sheriffs staying in reasonable proximity to the judge; appropriate locks, etc.)

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Commented [HXMB10]: Only judges or other personnel, too?

B. Security in facilities used for circuit court:

- a. Appropriate security should be provided in whatever community facility is being used for circuit court, including a sheriff accompanying the court party and use of local RCMP members to provide added security. Either a sheriff or an RCMP member should remain in the 'courtroom' at all times. Similarly the court security officer, be they deputy sheriffs or RCMP should remain until all court staff have vacated the circuit court premises.
- b. Court sheriffs must be provided with the necessary equipment to maintain court security (i.e. pepper spray).
- c. Where enhanced security is required for any matters involving a credible threat, additional sheriffs must accompany the court party and sheriffs should have access to mobile equipment to check for weapons (i.e. wands).
- d. If possible, there should be a relatively secure retiring room for the judge; if not, the sheriff should be in relative proximity to the judge when court is not in session.
- e. Appropriate policies should be in place to safely manage prisoner transport and guarding of prisoners in the 'courtroom' (for us, prisoners are housed at the local detachment until their matter is expected to be called, then they are transported to the 'courtroom' by the RCMP, and guarded by the RCMP in the 'courtroom').
- g. In a perfect world, assessment of the appropriateness of community facilities for court purposes would include a safety assessment (i.e. escape routes in case of a critical incident).
- h. Security policies should be developed in relation to each circuit and reviewed with all members of the court party to ensure everyone knows what to do in case of emergency.

Commented [HXMB11]: Who is speaking here? The committee as a whole?

Conclusion

All of the above is, in the view of the committee a list of both best practices gleaned from the material reviewed by the committee and fairly represent a bare minimum level of security awareness. With the require implementation and review of these guidelines the members of the committee feel comfortable that judicial independence may be secure from interference from security risks posed on their functioning by lax security. The committee recommends that the Board adopt these principles and recommend to the Council of Chief Judges that they ensure that these minimums are implemented, monitored and respected by each Court.

All of which is respectfully submitted,

Appendix

- a. UNHCHR declaration
- b. Canadian council of Chief Judges – Security Checklist
- c. Judicial Security Protocol for the Nova Scotia Judiciary
- d. NCSC Steps to Best Practices for Court Building Security