



NUNAVUT COURT OF JUSTICE

JUSTICE OF THE PEACE POLICY

1. DEFINITIONS

1.01 “Justice of the Peace” A person appointed as a Justice of the Peace (“JP”) under section 2 of the *Justices of the Peace Act* of Nunavut.

1.02 “Active JP” A JP for Nunavut who meets the requirements for active status set out in paragraph 7 of this policy.

1.03 “Inactive JP” A JP for Nunavut who does not meet the requirements for active status set out in this policy (see paragraph 8).

1.04 “Full Time JP” A JP for Nunavut who works full time as a JP in the JP Program.

1.05 “Part Time JP” A JP for Nunavut who is appointed to be on call as needed.

1.06 “Senior Judge” The Senior Judge of the Nunavut Court of Justice.

1.07 “JP Advisory Committee” The JP Advisory Committee established to review JP applications and composed of two active JPs, one lay community representative nominated by the Law Society of Nunavut, one lay community representative nominated by the Nunavut Minister of Justice, one member of a Nunavut Inuit organization, one RCMP representative recommended by the Inspector of Nunavut V Division, the JP Program Administrator and one judge of the Nunavut Court of Justice to be nominated by the Senior Judge.

1.08 “JP Review Council” The JP Review Council established under section 4 of the *Justices of the Peace Act* and composed of the Senior Judge and one other judge of the Nunavut Court of Justice, a JP, and two representatives of the public.

1.09 “FAIA” The *Family Abuse Intervention Act*, S.Nu. 2006, c. 18.

1.10 “Warrant” Judicial authorization to arrest a person, upon having been provided with reasonable grounds to believe that the arrest is in the public interest.

1.11 “Feeny Warrant” A warrant issued to allow the police to enter a dwelling or other place to apprehend a fugitive or suspect.

1.12 “Statutory Declaration” A form of sworn or affirmed statement, authorized under the *Canada Evidence Act* and the *Nunavut Evidence Act* to stand as evidence of the truth of the matter asserted.

1.13 “Summary Offence Ticket Information (SOTI)” A form written out by a by-law officer as opposed to an information sworn by a police officer. SOTIs may be issued for by-laws infractions, and *Motor Vehicle Act* and *Liquor Act* offences, in addition to the Criminal Code offences.

1.14 “Youth Justice Court” means the judges of the Nunavut Court of Justice, and the justices of the peace designated as youth court judges by the Senior Judge and appointed as Youth Justice Court judges under section 15(1) of the *Justices of the Peace Act*.

2. POLICY OBJECTIVES

As lay members of the judiciary, the JPs must exhibit the same standards of competence, impartiality, personal integrity and institutional independence required of the judiciary by the law and the constitution of Canada.

In order to protect and preserve these institutional values, this policy:

- a. creates a committee, independent of government, to screen all candidates seeking appointment to the office of the JP;
- b. outlines a set of clear criteria for appointment as a JP;
- c. ensures that the powers conferred upon the JP by the Senior Judge, under s.14(2) of the Act, are commensurate with the training and experience necessary for the JP to competently carry out assigned duties;
- d. implements an active and inactive status qualification to ensure that all JPs accumulate the training and experience necessary to keep abreast of changes in the law in a complex legal environment;
- e. implements a Code of Ethics for Nunavut’s JPs.

3. THE APPOINTMENT PROCESS

The JP Administrator will send out a call for JPs by advertising in the newspaper, on the local community radio station, or the Government of Nunavut Intranet, identifying where the services of JPs are necessary to adequately address the needs of the communities of Nunavut (See Appendix A).

Persons wishing to apply for appointment as a JP may apply to the JP Appointments Advisory Committee to be appointed as a JP for Nunavut. An application form is attached to this policy in Appendix E.

All applications will then be reviewed by the JP Appointments Advisory Committee and the names of candidates who have been found suitable will be forwarded to the Commissioner in Executive Council for its consideration.

The Minister of Justice for Nunavut shall only recommend for appointment candidates who have been screened and found to be suitable for appointment by the JP Appointments Advisory Committee.

3.02 The JP Appointments Advisory Committee

The JP Appointments Advisory Committee is comprised of the following members:

- a. two JPs with a minimum of four years' experience (one to be nominated by the Minister of Justice for Nunavut and one to be nominated by the Senior Judge);
- b. one lay community representative to be nominated by the Law Society of Nunavut;
- c. one lay community representative to be nominated by the Minister of Justice for Nunavut;
- d. one police representative to be nominated by the Inspector of V Division RCMP;
- e. the JP Program Administrator;
- f. one judge to be nominated by the Senior Judge; and
- g. one representative to be nominated by a Nunavut Inuit Organization.

All persons nominated to the Committee shall serve for a term of **three** years.

A quorum shall be constituted by four members of the Committee.

The Judge shall Chair the JP Appointments Advisory Committee but shall not vote except to break a tie.

The JP Appointments Advisory Committee will meet as required by the Chair to review any applications for appointment.

The JP Appointments Advisory Committee shall review the merits of every application for appointment and shall find the applicant to be either recommended for appointment or unsuitable for appointment.

Under the direction of the JP Appointments Advisory Committee, the JP Program Administrator shall advertise or solicit such applications for appointment as are necessary to adequately address the needs of the communities of Nunavut.

3.03 Persons Who Are Eligible to Apply

The application process is open to all individuals who have attained the age of 19 years and who have been resident in Nunavut for at least six months, provided that they are not a member of the Royal Canadian Mounted Police, or actively practicing law as a barrister and solicitor in Nunavut.

3.04 Selection Criteria

In screening candidates for appointment, the JP Appointments Advisory Committee shall recognize the importance of reflecting the diversity of Nunavut's population.

The JP Appointments Advisory Committee shall evaluate the candidates on the basis of the general criteria set out in Appendix A. All candidates for appointment should also be familiar with, and exemplify, the Inuit societal values set out in Appendix B.

3.05 The Screening Process

All candidates for appointment will be interviewed by at least two members of the JP Appointments Advisory Committee. Interviews may be conducted over the phone if the interviewers and interviewee are located in separate communities. The results of the interviews will be considered by the full Committee before any final decision is made to recommend an applicant.

3.06 Budget

The JP Appointments Advisory Committee budget will be set by the Director of Court Services in consultation with the Senior Judge. Lay members of the Committee shall be paid an honorarium at a rate to be determined by the Minister of Justice. JP members of the Committee shall be entitled to charge their hourly rate for all time that they expend on behalf of the Committee.

4. APPOINTMENT

4.1 Powers Upon Appointment

The JP may exercise only such powers as are conferred by the Senior Judge. The newly appointed JP shall swear the prescribed Oath of Allegiance and Oath of Office as outlined in Form 2, only after they have successfully completed the training requirements for Level One and have been given a Designation of Power by the Senior Judge.

5. DESIGNATION OF POWER

5.1 Application

The training requirements set out in this policy apply in full to all JPs appointed after the date this policy takes effect. JPs appointed before this policy takes effect may not change their level of designation without first meeting the training requirements set out in this policy.

5.2 Designation of previously appointed JPs

JPs appointed before this policy takes effect will have their Designation of Power set by the Senior Judge, in consultation with the JP Program Administrator. A written Designation of Power, signed by the Senior Judge, will be conferred upon all JP's who previously completed the training requirements appropriate to their level of power (See Appendix F)

5.2 Powers

The JP has no inherent or residual jurisdiction. The JP has no powers, other than those specifically granted to them by the Senior Judge through the Designation of Power. JPs have no authority outside the territorial boundaries of Nunavut.

5.3 Levels of Power to be conferred by Designation

There are three basic levels of power available to the JP in Nunavut. In addition, there are a number of special designations available to a JP possessing a Level Two or Level Three designation. They are as follows:

Level One JP

Level Two JP

Level Two Special Designations:

- a. Child Protection Stage 1
- b. Telewarrant
- c. Family Abuse Intervention Act (FAIA)

Level Three JP

Level Three Special Designations:

- a. Youth Justice Court Judge
- b. Child Protection Stage 2

A JP cannot move to a higher level of designation without first completing the training and experience requirements for all lower levels. No special designation is available to a

JP unless or until they have successfully completed all requirements for the level of power upon which the special designation is premised.

The JP Program Administrator shall develop an individual training program for each newly appointed JP. This plan shall be reviewed thereafter on an annual basis to ensure that the JP's training needs are being adequately addressed.

The Senior Judge shall only confer a Designation of Power to a JP upon the written recommendation of the JP Program Administrator. The JP Program Administrator shall certify in writing that the applicant has successfully completed the training requirements for the applied for Designation (See Appendix F).

5.4 Level One Designation Powers – Orientation, Administration and Court Process

5.4.1 Level One JPs shall have the power to:

1. Conduct weddings;
2. Sign statutory declarations and administer oaths;
3. Receive informations;
4. Confirm appearance notices;
5. Issue summons and arrest warrants including *Feeny* warrants;
6. Cancel summons and arrest warrants including *Feeny* warrants;
7. Grant uncontested adjournments;
8. Sign consent releases and committals.

5.4.2 Level One Designation Training Requirements

In order to obtain a Level One JP Designation, an individual must have been appointed as a Nunavut JP by the Commissioner in Executive Council and must have completed the following requirements:

1. Introduction to statutes, regulations, and common law in Nunavut course module;
2. Introduction to the *Charter* in Nunavut course module;
3. Judicial ethics for JPs course module;
4. Weddings in Nunavut course module;
5. Statutory declarations and oaths in Nunavut course module;
6. Informations in Nunavut course module;
7. Court Process in Nunavut course module;
8. Arrest warrants (including *Feeny* warrants) in Nunavut course module;
9. Adjournments in Nunavut course module;
10. Consent releases and committals in Nunavut course module;
11. The use of technology in JP Court course module;

12. Administrative responsibilities: completing travel documents, monthly invoices, current contact information etc.
13. Six hours of shadowing a Level One to Level Three JP who is performing his or her Level One specific duties (shadowing via telephone or videoconferencing is also acceptable for the purposes of fulfilling this requirement);

Any of the above requirements may be waived or modified on the written order of the Senior Judge.

5.5 Level Two Designation Powers—Judicial Interim Release Hearings, Search Warrants and Sentencing

5.5.1 Level Two JPs have the power to:

1. Take pleas;
2. Sentence citizens under the *Criminal Code of Canada* and *Summary Conviction Procedures Act*;
3. Conduct judicial interim release hearings;
4. Conduct conditional sentence breach hearings;
5. Impose an uncontested statutory peace bond; and
6. Issue search warrants under the Criminal Code and Territorial legislation;

5.5.2 Level Two Designation Training Requirements

In order to obtain a Level Two Designation of Powers, a JP must first have obtained a Level One Designation, and must also complete the following:

1. Criminal law in Nunavut course module;
2. JP Court procedure in Nunavut Course module;
3. Sentencing in Nunavut course module;
4. Judicial interim release in Nunavut course module;
5. Conditional sentence orders in Nunavut course module;
6. Peace bonds in Nunavut course module;
7. Child protection law in Nunavut course module;
8. The Search warrant (telewarrant) in Nunavut course module;
9. FAIA in Nunavut course module;
10. Twenty hours of recorded time spent performing Level One duties;
11. Forty hours of shadowing a Level Two to Level Three JP who is performing his or her Level Two specific duties;

Any of the above requirements may be waived or modified on the written order of the Senior Judge.

5.6 Level Three Designation Powers – Trials

5.6.1 A JP possessing a Level Three Designation has the power to:

1. Conduct ex-parte trials on SOTI matters;
2. Conduct trials of summary conviction offences under Nunavut Statutes and By-Laws;
3. Conduct contested peace bond applications;
4. Conduct Second Stage child protection hearings (except in cases involving an application for a permanent order of custody).

5.6.2 Level Three JP Designation Training Requirements

In order to obtain a Level Three Designation, an individual must first have obtained a Level Two Designation, and must also complete the following:

1. Criminal procedure in Nunavut course module;
2. *Charter* procedure for JPs in Nunavut course module;
3. Conduct of trials in Nunavut course module;
4. SOTI matters in Nunavut course module;
5. Peace bonds in Nunavut course module;
6. Child protection law in Nunavut course module;
7. Eighty hours of recorded time performing the duties of a Level Two JP;
8. Eighty hours of shadowing a Level Three JP who is performing his Level Three specific duties;

Any of the above requirements may be waived or modified on the written order of the Senior Judge.

The shadowing requirement may also be met by:

- a. being present by telephone or videoconferencing when a Level Two or Three JP is performing his or her Level Two specific duties;
- b. sitting with a Judge during circuit court proceedings.

5.7 Special Designations – FAIA, Telewarrants and Youth Court

Level Two JPs may by designation from the Senior Judge be granted the power to perform the following functions in Nunavut:

1. Designation to work under the *Family Abuse Intervention Act* (FAIA);
2. Designation to grant telewarrant applications under the Criminal Code; and
3. Designation to conduct first stage child protection hearings under the *Child and Family Services Act* (CFSA).

5.7.1 Special Designation Training Requirements – Level Two

In order to obtain a Level Two Special Designation, a Nunavut JP must have obtained a Level Two Designation of Powers, and must have completed the following requirements that are applicable to the particular Designation for which he is being certified:

1. They must have accumulated twenty hours of recorded time performing the duties of a Level Two JP.
2. For a FAIA designation, they must have accumulated 10 hours of shadowing a Designated Level Two or Three JP who is performing the duties specific to a FAIA JP.
3. For a CFSA Child Protection Stage One designation, they must have accumulated 10 hours of shadowing a Designated Level Two or Three JP who is performing the duties specific to a CFSA Level 1 JP.
4. Completion of the FAIA in Nunavut course module, for JPs who are being designated to work under the *Family Abuse Intervention Act*.
5. Completion of the CFSA Child Protection Stage One in Nunavut course module, for JPs who are being designated to conduct stage one child protection hearings under the CFSA.
6. Completion of the telewarrants in Nunavut Course module for JP's who are being designated to receive applications for telewarrants under the Criminal Code.
There is no shadowing requirement for a telewarrant designation.

5.7.2 Special Designation Training Requirements—Level Three

In order to obtain a Level Three Special Designation, a Nunavut JP must have obtained a Level Three Designation of Power, and must have completed the following requirements that are applicable to this particular Designation:

1. They must have accumulated a minimum of forty hours of recorded time performing the duties of a Level Three JP;
2. For a Youth Court Judge designation, they must have accumulated forty hours of shadowing a Designated Level Three JP (or an NCJ Judge) who is performing the duties of a Youth Justice Court Judge;
3. For a Youth Court Judge designation, they must successfully complete the Youth Justice Court in Nunavut course module.
4. For a CFSA Child Protection Stage Two designation, they must have accumulated 10 hours of shadowing a Designated Level Two or Three JP who is performing the duties specific to a CFSA Child Protection Stage Two JP.
5. For a CFSA Child Protection Stage Two designation, they must successfully complete the CFSA Child Protection Stage Two in Nunavut course module.

Upon completion of the applicable requirements for the Youth Justice Court Judge designation, the Senior Judge shall recommend to the Commissioner in Executive Council that the JP be formally appointed as a Youth Justice Court Judge for Nunavut pursuant to s. 15 of the *Justices of the Peace Act*.

5.8 Course modules

The content of all course modules must be approved by the Senior Judge (or his designate) and the JP Program Administrator. The course modules are not graded, but tests are given and successful completion of the tests (pass/fail) and attendance at all of the lectures and workshops for a particular course module is **mandatory**.

6. DUTIES

6.1 Competent, ethical, and unbiased performance of the JPs' enumerated powers.

All JPs are required to perform the tasks for which they are designated in a manner that accords with the JP Code of Ethics set out in Appendix D, and with a level of competency and impartiality that will enhance respect for the administration of justice in Nunavut. JPs must at all times exemplify honesty and personal integrity in their personal lives.

6.1.1. Designation of practice advisors.

JP practice advisors may be designated by the JP Program Administrator in consultation with the Senior Judge. A JP Practice Advisor shall be compensated at a rate to be determined by the Minister of Justice.

6.1.2. Consultation with practice advisor.

If a JP is not sure that he or she can perform an aspect of his or her function in a manner that is in accordance with the laws of Nunavut, his or her mandate as a JP, or his or her obligations of ethics and impartiality, he or she is obligated to seek out the advice of a more senior JP, or a JP practice advisor.

7. ACTIVE STATUS—Ongoing training and certified practice requirements

The law is complex and it is changing rapidly. The legal training of a JP does not end with a Designation of Power. Competence demands that JPs actively practice their skills and become familiar with changes in the law (both statute and common law) through participation in annual training seminars designed to update their knowledge of the law and criminal procedure.

In order to maintain an “active” status, JPs must complete the following in every 12-month period:

- 7.1 Level One JPs must complete six hours of work for which a Level One Designation is required, and take the Updates on the Law in Nunavut for Level One course modules (if required by the Senior Judge);
- 7.2 Level Two JPs must complete ten hours of work for which a Level Two Designation is required, and take the Updates on the Law in Nunavut for Level Two course modules (if required by the Senior Judge);
- 7.3 Level Three JPs must perform 20 hours of work for which a Level Three Designation is required, and take the Updates on the Law in Nunavut for Level Three course modules (if required by the Senior Judge);
- 7.4 In order to maintain their active status, Special Designation FAIA JPs and Youth Justice Court Judges must complete twenty hours of work in their area of special designation in each calendar year, and complete any prescribed Updates on the Law in Nunavut for Special Designations course modules (if required by the Senior Judge).
- 7.5 No minimum number of hours is necessary to maintain active status for a Telewarrant designation.

The Program Administrator shall maintain an Experience Log (Appendix F) for every JP in Nunavut. Every twelve months, the JP Program Administrator shall review and summarize all timesheets that have been forwarded to JP administration by a JP. Course attendance requirements will be based on attendance records submitted by course instructors.

JPs who dispute the number of certified hours or course attendance notations recorded on their Experience Log have a right of appeal to the Senior Judge.

In the discretion of the JP Program Administrator, the annual Update Seminar on the Law may be delivered through an on-line course, by videoconferencing, by telephone, or by a combination of mediums.

8. INACTIVE STATUS

On written notice to the JP in question, the JP Program Administrator shall classify as inactive any JP who fails to meet the annual training and certified practice requirements of this policy as determined by the JP’s Experience Log (See Appendix F).

8.1 JPs who have been classified as inactive may appeal their classification in writing to the Senior Judge.

8.2 All Designations granted by a Senior Judge to a JP who has been classified as inactive shall be deemed to be revoked.

8.3 JPs who have been classified as inactive may be reclassified as active if they complete the training and practice requirements for the prior twelve month period within nine months of being classified as inactive. Thereafter, reclassification may, in the discretion of the Senior Judge, require the inactive JP to retake and complete the original training requirements set for that specific designation.

8.4 The JP Program Administrator shall immediately advise all RCMP detachments of a JP being designated inactive. The RCMP shall thereafter refrain from soliciting the inactive JP to perform any duties related to his or her work as a JP. The inactive JP shall be ineligible to stand for any on-call duty assignments.

9. ACCOUNTABILITY

JPs are accountable to the general public of Nunavut. Legal decisions of JPs may be appealed to the Nunavut Court of Justice. Ethical complaints about the conduct of individual JPs may be made to the Senior Judge who may refer the matter to the JP Review Council.

9.1 JP Review Council

The JP Review Council is composed of the Senior Judge, a judge of the NCJ appointed by the Commissioner in Executive Council, a JP appointed by the Commissioner in Executive Council, and two representatives of the public, appointed by the Commissioner in Executive Council.

10. THE COMPLAINTS PROCESS

Complaints, with respect to the administration of the JP Program or with regard to the ethical conduct of an individual JP, must be made in writing to the Senior Judge under s.7(1) of the *Justices of the Peace Act*.

JP Review Council
c/o Senior Judge, Nunavut Court of Justice
P.O. Box 297, Iqaluit, Nu X0A-0H0.

Where the senior judge receives a complaint respecting a justice of the peace or becomes aware of a matter respecting a justice of the peace that requires consideration, he or she shall advise the justice of the peace of the substance of the complaint or matter and require the justice of the peace to respond to the complaint or matter within a reasonable time, so that the senior judge may determine whether any further action needs to be taken. (s.7(1.2) *Justices of the Peace Act*)

The Senior Judge may make one of the following decisions after reviewing a complaint (s.7(2) *Justices of the Peace Act*):

1. Dismiss the complaint, if he finds it to be frivolous or an abuse of process;
2. Suspend the Justice of the Peace with or without conditions for up to two weeks; or
3. Refer the complaint or to the Review Council

The Senior Judge must give written notice of his decision to the justice of the peace involved, and where a complaint is made, to the person who made the complaint. (s.7(3) *Justices of the Peace Act*)

Within two weeks of receiving the decision of the Senior Judge, the justice of the peace or person who made the complaint may appeal the decision of the Senior Judge to the Review Counsel. (s.8 *Justices of the Peace Act*).

The Review Counsel shall hold a hearing and inquire into a complaint or matter referred by the Senior Judge or an appeal of the decision of the Senior Judge. The Senior Judge may not consider an appeal of his decision as a member of the Review Counsel. (s.9 *Justices of the Peace Act*).

The Review Counsel may make one of the following decisions after hearing a complaint or matter: (s.11 *Justices of the Peace Act*).

1. Dismiss the complaint;
2. Reprimand the justice of the peace;
3. Suspend, with or without conditions, the justice of the peace for up to 1 year;
4. Recommend the justice of the peace attend training, instruction, or counseling;
5. Otherwise discipline the justice of the peace; or
6. Recommend that the Commissioner in Executive Council revoke the appointment of the justice of the peace

The Review Council will give a written report of its decision to the justice of the peace involved, the Senior Judge, where a complaint is made, the person who made the complaint, and the Commissioner in Executive Council. No right of appeal lies in a decision of the Review Council, the Review Council's decision is final.

Appendices

- Appendix A – Recruitment Criteria
- Appendix B – Inuit Societal Values
- Appendix C- Oaths
- Appendix D – The JP Code of Ethics
- Appendix E – Application Form
- Appendix F – Experience Log