

# The Future of Administrative Justice:

January 17-18,  
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University of  
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Law

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## Administrative Justice Working Group: Administrative Justice Bibliography

### Introduction

The Administrative Justice Bibliography (AJB) is an on-line, categorized and annotated bibliography of articles, chapters of books, text and treatise sections, reports, press clippings, theses, conference presentations, jurisprudence and other materials, selected by the editors as being of special potential interest to scholars, advocates and administrators working in the field of administrative justice tribunal design and reform.

The AJB's mission is to be a central and permanent collection of *administrative justice* materials that are often otherwise found in disparate, and sometimes research-obscure and/or transitory places. Mainstream, administrative law materials that are readily available elsewhere will not, for the most part, be found here.

The AJB is a project of the Administrative Justice Working Group, an *ad hoc* assemblage of Ontario administrative-justice professionals who have come together in an effort to contribute their collective experience to optimizing the fairness, independence, impartiality, competence and efficiency of the administrative justice system and its tribunals through non-partisan advocacy on behalf of that system. The Group's members are current or past administrative-justice practitioners who bring to the work of the Group an independent perspective together with substantial experience in the design of tribunal structures, in the academic analyses of administrative justice issues, in the leadership, management and administration of tribunals, and in advocacy before a variety of such tribunals.

The AJB does not purport to be an exhaustive collection even of administrative justice materials. It is permanently a work in progress and consists only of materials that come to the attention of the editors and are deemed by them to be of special interest. The collection is unabashedly biased towards the Administrative Justice Working Group's reform goals.

The AJB was launched at the Administrative Justice Working Group's Symposium, *The Future of Administrative Law*, held at the Faculty of Law, University of Toronto on January 17-18, 2008.

The AJB is edited by Ron Ellis, Lorne Sossin and Evgeny Zborovsky. The AJB is, as mentioned, a permanent work in progress. There is a standing invitation to anyone working in the field to suggest additional materials for inclusion. In the future, the editors hope to add keywords to facilitate searching, complete annotations, and continue to update and develop the bibliography. Please forward suggestions or candidate materials to [lorne.sossin@utoronto.ca](mailto:lorne.sossin@utoronto.ca).

### Recent Entries

Bryden, Philip. "McKenzie v. British Columbia (Minister of Public Safety and Solicitor General): A Constitutional Guarantee of Tribunal Independence?" (2007) 40 U.B.C. L. Rev. 677.

## Common Law Jurisdictions

- United Kingdom
- Australia
- New Zealand
- U.S.

Christou, Alison. "**The "Good" Member: A Virtue-based Approach to Australian Tribunal Work.**" Presented at the Third International Legal Ethics Conference, July 13-16, 2008.

This article considers the special concerns that the administrative law context presents in defining legal ethics for tribunal members.

- **Law Reform in Canada**
  - Quebec
  - British Columbia
  - Ontario
  - Nova Scotia
  - New Brunswick

Hon. Mr. Justice Louis LeBel. "Some Properly Deferential Thoughts on Deference" (Paper presented to 2007 Administrative Law Conference of the Continuing Legal Education Society of British Columbia, November 2007), online: <<http://www.cle.bc.ca/NR/rdonlyres/A0134F42-F015-422C-89DA-4D04DF2520C1/12+04+Deference.pdf>>.

Sossin, Lorne. "Does Independence Matter?" (2008) Literary Review of Canada 16(2). 3-5. online:<http://lrc.reviewcanada.ca/index.php?page=does-independence-matter>

- **Independent System Centres**

This article canvasses three instances wherein the Harper government has threatened to undermine the independence of administrative agencies, specifically Elections Canada, the Canadian Military Complaints Commission, and the Canadian Nuclear Safety Commission.

- **Organizations of Tribunals and Tribunal Members**

## Papers from the Future of Administrative Justice Symposium

- **Submissions by the Administrative Justice Working Group**

Lord Justice Carnwath, "**Administrative Justice Without Borders - Developments in the United Kingdom**" (PDF)

Lord Justice Carnwath, "**Tribunal Reform in the UK: a Quiet Revolution**" (PDF)

Lord Justice Carnwath, "**Some Jottings on Administrative Justice**" (Keynote address) (PDF)

Lorne Sossin, "**Access to Administrative Justice and Other Worries**" (PDF)

Ron Ellis, "**Current Issues in Tribunal Independence**" (PDF)

Lorne Sossin, "**Veils, Isotopes and the Meaning of 'Independence'**"

David Mullan, "**Current Issues in Tribunal Independence**" (PDF)

Philip Bryden, "**New developments in tribunal reform: Lessons from British Columbia**"

Lilian Ma, "**New frontiers of merit in tribunal appointments**" (Powerpoint)

France Houle, "**A Brief Historical Account of the Reforms to the Administrative Justice System in the Province of Quebec**" (PDF)

Laverne Jacobs, "**Reconciling Tribunal Independence and Expertise - Empirical Observations**" (PDF)

Judith McCormack "**What We Talk About When We Talk About Merit (And Why It Isn't Enough)**" (PDF)

## Access to Administrative Justice

Budlender, Geoff. "Accessibility of Administrative Justice" ([1993](#)) *Acta Juridica* 128.

Written prior to the enactment of the South African constitution, this article explores the measures that will be required to ensure fair processes and effective judicial oversight of administrative tribunals. This article provides an overview of important issues in access to administrative justice, relying upon the South African, Canadian, American, and Indian experiences.

*Cappelletti, M., M. Seccombe, et al., eds. Access to Justice and the Welfare State (Alphen aan den Rijn: Sijthoff, 1981).*

This book grew from a series of research projects at the Institute of Comparative Law of the University of Florence, the Florence Center for Comparative Judicial Studies, and the European University Institute. The reports in this text address 1) legal services for the poor, 2) the protection of diffuse and fragmented interests, 3) alternatives to lawyers, courts and regular court procedures, and 4) access to the legal system and the modern welfare state. The empirical focus is American and European.

Clark, Tom. "Legal Aid, International Human Rights and Non-Citizens" 16 Windsor Y.B. Access to Just. 218.

This article examines the role that domestic legal aid schemes (with a particular focus on legal aid for non-citizens before administrative tribunals) must play in fulfilling Canada's international human rights obligations. The author notes that "international rights and international case law can be at issue, but they are buried in obscure administrative procedures," thus leaving some claimants with pressing needs outside the scope of legal aid schemes (221). Using the example of non-citizens, Clark concludes that "the focus [of legal aid schemes] on refugee status examination and appeals reflects the Canadian penchant for burying rights in other administrative matters.... Unless litigating the right themselves becomes the priority for legal aid, there is no way persons can get their remedy for violation of an international right..." (223).

Council of Canadian Administrative Tribunals, "Literacy and Access to Administrative Justice in Canada: A Guide for the Promotion of Plain Language" (Ottawa: Council of Canadian Administrative Tribunals, 2005), online: <http://www.ccat-ctac.org/en/pdfs/literacy/Literacyandjustice.pdf>

A guide for administrative tribunals on how to improve access to justice for people with low literacy skills.

Cromwell, T. A. *Locus Standi: A Commentary on the Law of Standing in Canada* (Toronto: Carswell, 1986).

This text examines the law of standing in Canada, including discussions of these rules in relation to judicial review of administrative decisions.

Dlamini, C.R.M. "Right to Administrative justice in South Africa: Creating an Open and Accountable Democracy (part 1)," in J. S. Afr. L. 697 (2000).

This article addresses the scope and implications of South Africa's constitutional provisions guaranteeing access to administrative justice.

Genn, Hazel; Lever, Ben; and Gray, Lauren. *Tribunals for Diverse Users*. (UK: Research Unit, Department for Constitutional Affairs, Justice Rights and Democracy, 2006). Online: [http://www.dca.gov.uk/research/2006/01\\_2006.pdf](http://www.dca.gov.uk/research/2006/01_2006.pdf)

This empirical study examines the experiences of diverse tribunal users in order to establish how racial and cultural differences relate to perceptions regarding the user's treatment throughout administrative proceedings. The study further inquires as to whether Black and Minority Ethnic users are directly or indirectly disadvantaged in accessing administrative tribunals. This study relies upon extensive interviews with tribunal users, focus groups, and observation of tribunal proceedings at three different UK tribunals.

Houseman, A. W. (1999). Recent Developments: Civil Legal Assistance in the United States. *Legal Aid in the New Millennium: Papers Presented at the International Legal Aid Conference, University of British Columbia, 16-19 June 1999*. J. J. T. Reilly, A. Paterson and W. W. Pue. Vancouver, Legal Beagle: 198 p.

This article surveys the history, current structure, problematic features, and future directions of the American Civil Legal Assistance regime.

MacDonald, Roderick. "Access to Justice in 2003: Scope, Scale and Ambitions," in Bass, J.; Bogard, W.A.; and Zemans, H., eds., *Access to Justice for a New Century- The Way Forward* (Toronto: Irwin, 2005).

This report was originally prepared for the Symposium on Access to Justice, sponsored by the Ontario Law Foundation and Organized by the Law Society of Upper Canada. The report takes a broad view of 'access to justice' questions, addressing administrative, criminal, and civil fora. The report provides an overview of the evolution of the 'access to justice' movement, canvasses barriers to access to justice, and explores contemporary problems.

D. Mullan, *Administrative Law* (Toronto: Irwin, 2001), chapter 18.

This text addresses the question of standing to challenge administrative action in court.

Sossin, Lorne. "Access to Administrative Justice and Other Worries," in Sossin, Lorne and Flood, Colleen, eds. *Administrative Law in Context* (Toronto: Edmond Montgomery Press, 2008), chapter 15.

This chapter canvasses a range of administrative justice issues (ie. standing, guidelines, access to information, legal representation, costs, etc.) through the lens of access to justice.

Sossin, Lorne, and Yetnikoff, Z., "I Can See Clearly Now: Videoconference Hearings and the Legal Limit on how Tribunals Allocate Resources." 2007 Windsor Y.B. Access to Just. 25(2).

This article explores the implications of videoconferencing in administrative proceedings, both with respect to fairness and access to justice, focussing on a case study of the Ontario Landlord and Tenant Tribunal.

Valiante, Marcia and Bogart, W.A. "Helping Concerned Volunteers Working out of Their Kitchens: Funding Citizen Participation in Administrative Decision Making," [31 Osgoode Hall L. J. 687 \(1993\)](#).

This article examines funding of effective participation of a diverse citizenry in administrative decision-making as a means to advancing the goal of participatory democracy.

## Tribunal Independence

### Published Articles and Commissioned Reports

Abella, Rosalie Silverman. "The Independence of Administrative Tribunals" (1992) 26 Law Soc'y. Gaz. 113

The article discusses different models of independence and the unique issues raised by tribunal independence.

Abella, Rosalie Silverman. "Canadian Administrative Tribunals: Towards Judicialization or Dejudicialization?" (1988/89) 2 Can. J. Admin. L. & Prac. 1.

The article argues that administrative tribunals require their own internally designed and implemented process, which need not be entirely modeled on the judicial system, although several features of the judiciary ought to be transplanted into the tribunal area: independence, security of tenure, adequate remuneration, and a commitment to qualified appointees.

Bryden, Philip and Hatch, Ron. *Report on Independence, Accountability and Appointment Processes in British Columbia Tribunals* (1999) 12 Can. J. Admin. L. & Prac. 235, online: <<http://www.bccat.net/assets/downloads/indrep.pdf>>

A report on the practices in relation to appointments, independence and accountability of members of British Columbia's administrative tribunals.

Bryden, Philip. "Structural Independence of Administrative Tribunals in the Wake of *Ocean Port*" (2003) 16 Can. J. Admin. L. & Prac. 125.

The article discusses of the law governing the structural independence of administrative tribunals in the wake of the *Ocean Port* decision.

Des Rosiers, Nathalie. "Toward an Administrative Model of Independence and Accountability for Statutory Tribunals" in Gene Ann Smith and Hélène Dumont, eds., *Justice to Order: Adjustment to Changing Demands and Co-ordination Issues in the Justice System in Canada* (Montreal: Les Éditions Thémis, 1998) 53.

The article offers a critique of the judicial model of independence and proposes an administrative model for independence better suited to nature and role of administrative tribunals.

Ellis, S. Ronald. "The Justicizing of Quasi-Judicial Tribunals, Part I" (2006) 19 Can. J. Admin. L. & Prac. 303 & "The Justicizing of Quasi-Judicial Tribunals, Part II" (2007) 20 Can. J. Admin. L. & Prac. 69.

The article, published in two parts, argues for the recognition of quasi-judicial tribunals as part of the judicial branch and "justicizing" of tribunals through the creation of structures to guarantee independence and impartiality and optimize adjudicative competence.

Gagnon, Jean Denis. "L'indépendance judiciaire: fondement du principe et son application aux tribunaux administratifs" (2004) 83(3) Can. Bar Rev. 895,  
online: <[http://www.cba.org/cba\\_barreview/Search.aspx?VoidDate=12/01/2004](http://www.cba.org/cba_barreview/Search.aspx?VoidDate=12/01/2004)>.

The article examines the application of the principle of judicial independence to the administrative tribunals.

Heckman, Gerald and Sossin, Lorne. "How Do Canadian Administrative Law Protections Measure up to International Human Rights Standards? The Case of Independence" (2005) 50 McGill L. J. 193.

The article examines whether existing protections for tribunal independence in Canada measure up to international human rights standards and suggests reforms to strengthen independence inspired by international sources.

Houle, France. "Indépendance et impartialité des organismes de régulation économique : droit positif et droit prospectif. Étude sur la Commission du droit d'auteur" dans Y. Gendreau, dir., *Institutions administratives du droit d'auteur* (Cowansville: Éditions Yvon Blais, 2002) 3-30.

This article reviews the criteria of individual and institutional independence in the context of the Copyright Board of Canada.

Jacobs, Laverne. "Tribunal Independence and Impartiality: Rethinking the Theory after *Bell and Ocean Port Hotel* – A Call for Empirical Analysis" in Laverne A. Jacobs and Anne L. Mactavish, eds., *Dialogue Between Courts and Tribunals – Essays in Administrative Law and Justice* (2001-2007) (Montreal: Les Éditions Thémis, forthcoming in 2007).

McCormack, Judith. "The Price of Administrative Justice" (1998), 6 C.L.E.L.J. 1.

The article examines the importance of security of tenure to independence and suggests improvements to the appointment process.

Ratushny, Ed. *Report of the Canadian Bar Association Task Force on the Independence of Federal Administrative Tribunals and Agencies* (Ottawa: Canadian Bar Association, 1990).

Sossin, Lorne. "Speaking Truth to Power? The Search for Bureaucratic Independence" (2004) U. Toronto L. J. 1.

A discussion of the nature and scope of bureaucratic independence, its sources in Canada's constitutional order, and its implications for public law and public administration.

Sossin, Lorne. *The Independent Board and the Legislative Process* (Report commissioned by the Alberta Federation of Labour, 2006),  
online: <<http://www.afl.org/upload/sossinreport.pdf>>.

A report on the appropriate scope for the Chair or Vice Chair of the Alberta Labour Relations Board (or for Board members more generally) to participate in the legislative process.

Sossin, Lorne. "The Uneasy Relationship between Independence and Appointments in Canadian Administrative Law" in Grant Huscroft and Michael Taggart, eds., *Inside and Outside Canadian Administrative Law: Essays in Honour of David Mullan* (Toronto: University of Toronto Press, 2006) 50.

The article reviews the law on tribunal independence and the role of the appointment process within it, and suggests a better framework for integrating appointments into the law of independence.

Sprague, James L.H. "The Quest for the Holy Grail of Agency Institutional Independence: A Case Comment on *Bell Canada v. Canadian Telephone Employees Association*" (2003) 16 C.J.A.L.P 315.

A comment on the Supreme Court of Canada decision in *Bell* and review of characteristics found to guarantee independence.

Thomson, George M. "Agencies, Boards and Commissions: Accountability and Independence" (1992) Spec. Lect. L.S.U.C. 93.

A comment on the article by Margot Priest in the same volume, which discusses the importance of security of tenure and appointment procedures to independence and how independence can be compromised through budgetary and administrative controls.

Wyman, Katrina M. "The Independence of Administrative Tribunals in an Era of Ever Expansive Judicial Independence" (2000/2001) 14.1 Can. J. Admin. L. & Prac. 61.

The article argues that the model of constitutionally protected judicial independence should not be expanded to administrative tribunals.

### **Unpublished Papers**

Arsenault, Jean-Pierre. "Independence and Accountability: Just How Compatible Are They?" (Address to 2000 Conference of the Canadian Council of Administrative Tribunals, 12 June 2000),  
online: <<http://www.ccat-ctac.org/downloads/traduction.pdf>>.

A discussion of how provisions guaranteeing accountability and independence are ensured in the Commission des lésions professionnelles and the compatibility of accountability and independence.

Bryden, Philip. "A Canadian Perspective on Tribunal Independence" (Paper presented to the Conference of the Canadian Council of Administrative Tribunals, May 2007),  
online: <<http://www.ccat-ctac.org/downloads/P-2%20Bryden.pdf>>.

The paper discusses four distinct aspects of tribunal independence (adjudicative independence, institutional independence, administrative autonomy, and independent policy-making) and the strengths and limitations of different legal and other instruments in establishing an appropriate regime of tribunal independence.

## **Institutional Decision-Making**

## Published Articles and Commissioned Reports

Binnie, Ian W. and Gratton, Susan L. "Institutional Decision-making: Did the Supreme Court Get it Right?" in *Administrative Law Issues and Practice*, Phil Anisman and Robert F. Reid, eds. (Toronto: Thomson Carswell, 1995) 147.

The article argues that in the *Consolidated-Bathurst* and *Québec (Commission des affaires scolaires) c. Tremblay* decisions, the Supreme Court of Canada did not achieve the proper balance between the need for institutional decision-making and the rights of individual litigants.

Ellis, S. Ronald. "Findings and Opinions: The Agencies' Only Stock in Trade" in *Administrative Law Issues and Practice*, Phil Anisman and Robert F. Reid, eds. (Toronto: Thomson Carswell, 1995) 167.

A comment on the article by Binnie and Gratton above which identifies two basic functions of administrative agencies – making findings and formulating opinions – and suggests that the appropriate limits to institutionalization of agency decisions should be considered with reference to these two functions.

Ellis, Ron and Aterman, Paul. "Deliberative Secrecy and Adjudicative Independence: The *Glengarry Precipice*" (1993/94) 7 *Can. J. Admin. L. & Prac.* 172.

The article argues that greater recognition of institutional decision-making has led to a compromise of deliberative secrecy in the *Glengarry* decision of the Ontario Divisional Court and proposes a protocol for judicial scrutiny of decision-making processes that would protect deliberative secrecy and maintain the integrity of administrative adjudication.

Hawkins, R.E. "Behind Closed Doors I: The Substantive Problem – Full Boards, Consensus Tables and Caucus Cabals" (1996) 9 *Can. J. Admin. L. & Prac.* 267.

The article examines the development of the safeguards to institutional decision-making in the *Glengarry* decision.

Hawkins, R.E. "Behind Closed Doors II: The Operational Problem – Deliberative Secrecy, Statutory Immunity and Testimonial Privilege" (1996/97) 10 *Can. J. Admin. L. & Prac.* 39.

The article argues that safeguards to institutional decision-making have been compromised by evidentiary blocks such as deliberative secrecy and statutory immunity.

Mullan, David. "Policing the *Consolidated-Bathurst* limits – Of Whistleblowers and Other Characters" (1993) 10 *Admin. L.R.* (2d) 241.

The article discusses the obstacles to discovering breaches of adjudicative independence and other violations of fairness behind the veil of deliberative secrecy and suggests guidelines for tribunals to deal with possible challenges to post-hearing processes.

## Unpublished Papers

Christou, Alison. "**The "Good" Member: A Virtue-based Approach to Australian Tribunal Work.**" Presented at the Third International Legal Ethics Conference, July 13-16, 2008.

This article considers the special concerns that the administrative law context presents in defining legal ethics for tribunal members.

Whitaker, Kevin, Gottheil, Michael and Uhlmann, Michael. "Consistency in Tribunal Decision Making: What Really Goes on Behind Closed Doors..."  
(Paper presented to 2007 Conference of the Canadian Council of Administrative Tribunals, May 2007), online: <<http://www.ccat-ctac.org/downloads/C-7WhitakeretalConsistency.pdf>>.



The authors draw on their experience in the administrative justice system to describe the different methods, practices and tools used to address issues of consistency with adjudicative tribunal across Canada.

## Deliberative Secrecy

### Published Articles and Commissioned Reports

Ellis, Ron and Aterman, Paul. "Deliberative Secrecy and Adjudicative Independence: The *Glengarry Precipice*" (1993/94) 7 Can. J. Admin. L. & Prac. 172.

The article argues that greater recognition of institutional decision-making has led to a compromise of deliberative secrecy in the *Glengarry* decision of the Ontario Divisional Court and proposes a protocol for judicial scrutiny of decision-making processes that would protect deliberative secrecy and maintain the integrity of administrative adjudication.

Hawkins, R.E. "Behind Closed Doors II: The Operational Problem – Deliberative Secrecy, Statutory Immunity and Testimonial Privilege" (1996/97) 10 Can. J. Admin. L. & Prac. 39.

The article argues that safeguards to institutional decision-making have been compromised by evidentiary blocks such as deliberative secrecy and statutory immunity.

Mullan, David. "Policing the *Consolidated-Bathurst* limits – Of Whistleblowers and Other Characters" (1993) 10 Admin. L.R. (2d) 241.

The article discusses the obstacles to discovering breaches of adjudicative independence and other violations of fairness behind the veil of deliberative secrecy and suggests guidelines for tribunals to deal with possible challenges to post-hearing processes.

Prest, Carole. "Deliberative Secrecy and Adjudicative Independence: A Reconciliation" (2001/02) 15 Can. J. Admin. L. & Prac. 365.

The article reviews the law governing deliberative secrecy and discusses its role in promoting adjudicative independence, as well as complementary mechanisms to ensure fairness and transparency in decision-making.

## Tribunal Structure

### Published Articles and Commissioned Reports

Council of Canadian Administrative Tribunals, "Literacy and Access to Administrative Justice in Canada: A Guide for the Promotion of Plain Language" (Ottawa: Council of Canadian Administrative Tribunals, 2005),  
online: <<http://www.ccat-ctac.org/en/pdfs/literacy/Literacyandjustice.pdf>>

A guide for administrative tribunals on how to improve access to justice for people with low literacy skills.

Ellis, S. Ronald. "Administrative Tribunal Design" (1987) 1 Can. J. Admin. L. & Prac. 134.

Ellis, S. Ronald. "Restructuring the Administrative Justice System: The Provincial Tribunal" (1997) 10 Can. J. Admin. L. & Prac. 175.

The article provides a detailed design of a radically innovative, super tribunal structure for the delivery of non-court dispute resolution services encompassing both the statutory dispute resolution jurisdictions of most of Ontario's administrative tribunals and offering the same service to the private and quasi-private sectors.

Ellis, S. Ronald. "Super Provincial Tribunals: A Radical Remedy for Canada's Rights Tribunals" (2002) 15 Can. J. Admin. L. & Prac. 15.



The article advocates the creation of super provincial tribunals based on a new taxonomy for administrative law agencies as “rights tribunals”, “regulatory tribunals” or “government agencies”.

Falzon, Frank A.V. “The Integrated Administrative Tribunal” (2006) 19 Can. J. Admin. L. & Prac. 239.

The article argues that failure to recognize administrative tribunals as part of the judicial branch stands in the way of the integrated administrative tribunal and considers three issues pertaining to internal integration of tribunals, namely, case management, integrated decision-making and performance appraisal.

Genn, Hazel, et al. “Tribunals for Diverse Users” (Department of Constitutional Affairs Research Series, January 2006),  
online: <[http://www.dca.gov.uk/research/2006/01\\_2006.pdf](http://www.dca.gov.uk/research/2006/01_2006.pdf)>.

A study of access, expectations, experiences and outcomes of tribunal hearings from the perspective of diverse tribunal users.

Houle, France. “Constructing the Fourth Branch of Government for Administrative Tribunals” (2007) 37 Supreme Court Law Review 1-21.

For some years, a number of scholars put forth the idea that the existence of a fourth branch of Government, notably composed of an integrity branch. The author suggests that, in addition to the emergence of an integrity branch, there are at least two other areas which are seeing a continuing evolution within existing constitutional parameters of a fourth branch of government: the greater recognition through court decisions and legislation of independence for adjudicative tribunals and their members and the arrival in Québec of a generalist administrative appeals tribunal.

Jacobs, Laverne and Kuttner, Thomas. “The Expert Tribunal” in Laverne A. Jacobs & Anne L. Mactavish., eds., *Dialogue Between Courts and Tribunals – Essays in Administrative Law and Justice* (2001-2007) (Montreal: Les Éditions Thémis, forthcoming in 2007).

Mackay, Wendi J. “Administrative Institutions from Principles to Practice: Guidelines for Review and Design” (2006) 19 Can. J. Admin. L. & Prac. 63.

A discussion of the general framework and methodology for reviewing and designing administrative institutions that emerged through the work of the BC Administrative Justice Project.

Sossin, Lorne. “Access to Administrative Justice and other Worries” in Colleen Flood and Lorne Sossin, eds., *Administrative Law in Context* (Toronto: Emond Montgomery, forthcoming in 2008).

### **Unpublished Papers**

Jacobs, Laverne. “Integrated Alignment: Mastering the Conceptual Challenges of Governance in Daily Tribunal Operation” (Paper presented to 2006 Conference of the Canadian Council of Administrative Tribunals, June 2006),  
online: <<http://www.ccat-ctac.org/downloads/E%20eng%20Jacobs.pdf>>.

The paper defines the integrated tribunal and discusses the challenges to integration that arise in the relation between the decision-making body and its various stakeholders.

McKinnon, Bruce J. “Reviewing Original Decisions: Guiding Principles and Options” (Background Paper, BC Administrative Justice Project, 2002),  
online: <[http://www.gov.bc.ca/ajo/down/reviewing\\_original\\_decisions.pdf](http://www.gov.bc.ca/ajo/down/reviewing_original_decisions.pdf)>.

The paper examines the considerations and options that should be taken into account when designing a structure for the review of an original decision.

## Rulemaking, Policies and Guidelines

### Published Articles and Commissioned Reports

Houle, France. "La lecture des blancs dans le droit et la validité des règles administratives : essai sur deux modèles issus du positivisme juridique" dans Y. Gendreau, dir., *Le lisible et l'illisible* (Montréal: Les Éditions Thémis, 2003) 52-125.

This paper examines three different types of uses of guidelines by the Public administration and discusses issues pertaining to the validity of these usages.

Houle, France. "La Zone Fictive de L'Infra-Droit: L'Intégration des Règles Administratives dans la Catégorie des Textes Réglementaires" (2001) 47 McGill L.J. 161.

The article examines the phenomenon of administrative regulations (directives, policies, guides, manuals) and proposes a functional classification of administrative regulations which may assist in the reform of the *Statutory Instruments Act*.

Houle, France. "Les délégations de pouvoirs réglementaires au Canada de 1763 à 1866" dans *Mélanges Andrée Lajoie*, Éd. Thémis, 2008 (accepted).

This paper describes the different forms of delegation of regulatory powers from a historical perspective and in relation to the types of delegation existing today

Houle, France. *Les règles administratives et le droit public: aux confins de la régulation juridique* (Cowansville, Qué.: Éditions Yvon Blais, 2001).

Houle, France. "Regulatory History Material as an Extrinsic Aid to Interpretation: An Empirical Study on the Use of RIAs by the Federal Court of Canada" (2006) 19:2 Canadian Journal of Administrative Law and Practice 151-189.

This paper examines how the Federal Court of Canada uses Regulatory Impact Analysis Statement to interpret the meaning and scope of regulations.

Houle, France and Sossin, Lorne. "Tribunals and Guidelines: Exploring the Relationships between Fairness and Legitimacy in Administrative Decision-Making" (2006) 46 Canadian Public Administration 283.

The article examines the legitimacy of policy-making by administrative tribunals and advocates for a more nuanced understanding of the function and status of policy guidelines.

Houle, France and Sossin, Lorne. "Tribunals, Fairness and Guidelines" in Laverne A. Jacobs and Anne L. Mactavish., eds., *Dialogue Between Courts and Tribunals – Essays in Administrative Law and Justice* (2001-2006) (Montreal: Les Éditions Thémis, forthcoming in 2007).

Sossin, Lorne and Smith, Charles. "Hard Choices and Soft Law: Ethical Codes, Policy Guidelines and the Role of Courts in Regulating Government" (2003), 40 Alta. L. Rev. 867.

The article examines the role of policy guidelines and ethics codes in regulating administrative decision-making and proposes procedural and substantive principles for the development of such "soft law" as an alternative to existing misleading dichotomies between ethics and discretionary authority, and between law and guidelines.

## Government-Tribunal Relationships

### Published Articles and Commissioned Reports

Sossin, Lorne. *The Independent Board and the Legislative Process* (Report commissioned by the Alberta Federation of Labour, 2006),  
online: <<http://www.afl.org/upload/sossinreport.pdf>>.

A report on the appropriate scope for the Chair or Vice Chair of the Alberta Labour Relations Board (or for Board members more generally) to participate in the legislative process.

### Unpublished Papers

LeBreton, Paul M. "Memorandum of Understanding (MOU): Are they Necessary?" (Paper presented to 2007 Conference of the Canadian Council of Administrative Tribunals, June 2005), online: <<http://www.ccat-ctac.org/downloads/PaulLebreton.pdf>>.

Mitchell, James R. "The Relationship Between the Executive and the Tribunal: A Government Perspective" (Address to 2007 Conference of the Canadian Council of Administrative Tribunals, June 2005), online: <<http://www.ccat-ctac.org/downloads/OMitchell.pdf>>.

## Appointments and Re-Appointments

### Published Articles and Commissioned Reports

Aucoin, P. and Goodyear-Grant, E. "Designing a Merit-Based Process for Appointing Boards of ABCs [Agencies, Boards and Commissions]: Lessons from the Nova Scotia Reform Experience" (2002) 45 Canadian Public Administration 301.

Auditor General of Canada. *1998 Report of Auditor General of Canada – Chapter 10 – Canadian Human Rights Commission* (Ottawa: Auditor General of Canada, September 1998), online: <<http://www.oag-bvg.gc.ca/domino/reports.nsf/html/9810ce.html>>.

Bryden, Philip and Hatch, Ron. *Report on Independence, Accountability and Appointment Processes in British Columbia Tribunals* (1999) 12 Can. J. Admin. L. & Prac. 235, online <<http://www.bccat.net/assets/downloads/indrep.pdf>>

A report on the practices in relation to appointments, independence and accountability of members of British Columbia's administrative tribunals.

Bryden, Philip. "The Revocation of Tribunal Appointments in Bill 81: Does Tribunal Independence Enjoy Constitutional Protection?" (2006) 22 Solicitor's J. 4.

Ellis, S. Ronald. "Administrative Justice System Reform: The Term of Appointment Issue" (1996) 10 Can. J. Admin. L. & Prac. 1.

Ellis, S. Ronald. "Appointments Policies in the Administrative Justice System: Lessons from Ontario: Four Speeches" (1998) 11 Can. J. Admin. L. & Prac. 205.

The speeches reproduced in the article discuss concerns about the government's appointment policies as applied to the Ontario Workers' Compensation Appeal Tribunal and the Ontario Labour Relations Board in the period 1995-1998.

Ellis, S. Ronald. "Misconceiving Tribunal Members: Memorandum to Québec" (2005) 18 Can. J. Admin. L. & Prac. 189.

The article argues against a proposal to create tenured appointments for tribunal members in Tribunal administratif du Québec as incompatible with institutional decision-making, which the author sees as at the heart of the unique value of administrative tribunals as adjudicator.

McCormack, Judith. "The Price of Administrative Justice" (1998), 6 C.L.E.L.J. 1.

The article examines the importance of security of tenure to independence and suggests improvements to the appointment process.

Sossin, Lorne. "The Uneasy Relationship between Independence and Appointments in Canadian Administrative Law" in Grant Huscroft and Michael Taggart, eds., *Inside and Outside Canadian Administrative Law: Essays in Honour of David Mullan* (Toronto: University of Toronto Press, 2006) 50.

The article reviews the law on tribunal independence and the role of the appointment process within it, and suggests a better framework for integrating appointments into the law of independence.

Wyman, Katrina M. "Appointments to Adjudicative Tribunals: Politics and Courts" (1999) 57(2) U.T. Fac. L. Rev. 101.

The article argues against imposing common law requirements for independence on the appointment process of administrative tribunals.

### **Unpublished Papers**

Society of Ontario Adjudicators and Regulators, "Principles for Appointments to Adjudicative/Regulatory Tribunals" (Toronto: SOAR, 1997, updated June 2006), online <<http://www.soar.on.ca/soar-appoint.htm>>.

Weltz, Angela and Mackay, Wendi M. "Appointments: A Policy Framework for Administrative Tribunals" (Background Paper, BC Administrative Justice Project, 2002), online: <[http://www.gov.bc.ca/ajo/down/appt\\_policy\\_paper\\_final\\_may\\_16.pdf](http://www.gov.bc.ca/ajo/down/appt_policy_paper_final_may_16.pdf)>.

The paper examines issues concerning the appointment process for administrative tribunals in British Columbia and possible models for restructuring the process.

### **Resolutions, Submissions and Correspondence**

Canadian Bar Association. "Appointment and Training of Administrative Tribunal Members" (Canadian Bar Association, Resolution 98-03-M, March 1998), online: <[http://www.cba.org/cba/sections/pdf/98\\_03\\_m.pdf](http://www.cba.org/cba/sections/pdf/98_03_m.pdf)>.

## **Performance Evaluation**

Christou, Alison. "**The "Good" Member: A Virtue-based Approach to Australian Tribunal Work.**" Presented at the Third International Legal Ethics Conference, July 13-16, 2008.

This article considers the special concerns that the administrative law context presents in defining legal ethics for tribunal members.

LeFrancois, Michel. "Powers of Management of the Federal Administrative Tribunal Chair: Their Impact on Discipline and Independence of Members" (1996) 10 Can. J. Admin. L. & Prac. 77.

The article discusses the problem of defining the roles and powers the chair and members of tribunals with reference to the experiences at the Canadian Aviation Safety Board and the Canada Labour Relations Board, and suggests that a council of peers, rather than increased managerial powers for the chair, may improve discipline while preserving independence.

Society of Ontario Adjudicators and Regulators (1996a), "Toward Maintaining and Improving the Quality of Adjudication: SOAR Recommendations for Performance Management in Ontario's Administrative Justice System," (1996) Can. J. Admin. L. & Prac. 179.

## **Written Reasons**

### **Published Articles and Commissioned Reports**

Bryden, Philip. "Standards of Review and Sufficiency of Reasons: Some Practical Considerations" 19 Can. J. Admin. L. & Prac. 191.

The article compares the practical consequences of adopting flexible standards in substantive review of administrative decisions and in the requirement to provide adequate written reasons under the duty of fairness.

Dyzenhaus, David. "Rethinking the Process/Substance Distinction: *Baker v. Canada*" (2001) 51 U. Toronto L.J. 193.

The article examines the link between procedural fairness requirements, such as the duty to give reasons, and the substantive review of the reasonableness of decisions.

Ellis, S. Ronald, Trethewey, Carole and Rotter, Frederika. "Tribunals - Reasons, and Reasons for Reasons" (1991) 4 Can. J. Admin. L. & Prac. 105.

Evans, Hon. John M. "Writing Effective Tribunal Decisions and Reasons" (2002) 19 Can. J. Admin. L. & Prac. 95.

The article reviews the rationale for reasons and offers practical guidelines for writing effective reasons.

Macdonald, R. and Lametti, D. "Reasons for Decision in Administrative Law" (1990) 3 Can. J. Admin. L. & Prac. 123.

Morris, Michael H. "Administrative Decision-makers and the Duty to Give Reasons: An Emerging Debate" (1997) 11 Can. J. Admin. L. & Prac. 155.

The article examines the state of the law in Britain and in Canada, on whether administrative decision-makers have a duty to issue reasons, and suggests Canadian courts may recognize a common law duty to give reasons where fundamental interests are at stake.

Sprague, James L. H. "Remedies for Failure to Provide Reasons" (1999/2000) 13 Can. J. Admin. L. & Prac. 209.

The article examines what remedies should be available for the failure to provide reasons in light of the different purpose of reasons in administrative decision-making than other fairness requirements.

Veitch, Edward. "Why Bother? On Giving Reasons for Decision and the Crafting and Timely Delivery of Judgments (2002) 18 Solicitor's J. 11.

## Bias and Conflicts of Interest

### Published Articles and Commissioned Reports

Houle, France. "La *Loi fédérale sur l'imputabilité*: Conflits d'intérêts et éthique, quelques enjeux contemporains" *Lex Electronica* (2007) 11 : 3.

This paper examines the new rules on the conflict of interest during and after the mandate and applicable to public office holders

Jacobs, Laverne and Kuttner, Thomas S. "Discovering What Tribunals Do: Tribunal Standing before the Courts" (2002) 81 Can. Bar Rev. 616.

The article provides an account of tribunal standing.

Jacobs, Laverne. "Recent Developments in Tribunal Standing: *Bransen Construction Ltd.* and Tribunal Impartiality" (2003) 50 Admin. L.R. (3d) 123.

The article reviews the history of tribunal standing and provides a framework for thinking about issues of impartiality in tribunal standing applications in light of the *Bransen Construction Ltd.* case.

Mullan, David and Boyle, Martha. "Raising and Dealing with Issues of Bias and Disclosure" (2005) 18 Can. J. Admin. L. & Prac. 37.

The article discusses the procedural and practical dimensions of challenges to a tribunal or one of its members on the basis of an allegation of a reasonable apprehension of bias and disputes about the scope of disclosure and discovery obligations.

Semple, Noel. "The Case for Tribunal Standing in Canada" (2007) 20 Can. J. Admin. L. & Prac. 305.

The article argues that traditional objections to tribunal standing, including concerns about impartiality, do not withstand scrutiny and proposes a more liberal approach to tribunal standing.

Shoyele, Olugbenga. "Apprehension of Bias and Refugee Claims Under the Canadian Legal System" (2002/2003) 16 Can. J. Admin. L. & Prac. 67.

The article examines refugee cases at the Immigration and Refugee Board and Federal Court of Canada dealing with allegations of bias and draws attention to special issues of ethnicity and cultural diversity raised by refugee claims.

Society of Ontario Adjudicators and Regulators, *Code of Professional and Ethical Responsibilities for Members of Adjudicative Tribunals, A Model* (Toronto: SOAR, 1996), online: <<http://www.soar.on.ca/soar-code.htm>>.

Sossin, Lorne. "An Intimate Approach to Fairness, Impartiality and Reasonableness in Administrative Law" (2002) 28 Queen's L.J. 809.

The article explores how making room for intimacy in the administrative process would increase rather than decrease the degree of impartiality, fairness and reasonableness in the process.

## Commissioned Reports

Aterman, Paul. "What's Not New in Administrative Justice: Macaulay and Ouellette -- Remember Them?" (2005) 18 Can. J. Admin. L. & Prac. 251.

The article discusses the continued relevance of the Macaulay and Ouellette reports in light of recent reforms in Quebec and British Columbia and reproduces an English-language summary of the Ouellette report and of the Macaulay report.

The "Guzzo Report" - Agency Reform Commission [SR1] on Ontario's Regulatory and Adjudicative Agencies, *Everyday Justice* (Ontario Queen's Printer, 1998), online: <[http://www.ccat-ctac.org/downloads/1998\\_Guzzo-report.pdf](http://www.ccat-ctac.org/downloads/1998_Guzzo-report.pdf)>.

Bryden, Philip and Hatch, Ron. *Report on Independence, Accountability and Appointment Processes in British Columbia Tribunals* (1999) 12 Can. J. Admin. L. & Prac. 235, online <<http://www.bccat.net/assets/downloads/indrep.pdf>>

A report on the practices in relation to appointments, independence and accountability of members of British Columbia's administrative tribunals.

Garant, Patrice. *Une justice administrative pour le citoyen: Rapport du Groupe de travail sur certain questions relatives a la reforme de la justice administrative* (Québec, Qué: Groupe de travail, 1994).

Law Reform Commission of Canada. *Independent Administrative Agencies* Working Paper 25 (Ottawa: The Commission, 1980).

Law Reform Commission of Canada. *Report on Independent Administrative Agencies: A Framework for Decision-Making* (Ottawa: The Commission, 1985).

Law Reform Commission of Nova Scotia, *The Reform of the Administrative Justice System in Nova Scotia* (1997), online: <[http://www.lawreform.ns.ca/Downloads/ABC\\_FIN.pdf](http://www.lawreform.ns.ca/Downloads/ABC_FIN.pdf)>.

Leggatt, Sir Andrew. *Tribunals for Users—One System, One Service: Report of the Review of Tribunals* (London: The Stationery Office, 2001)

online <<http://www.tribunals-review.org.uk/legatthtm/leg-00.htm>>.

Macaulay, Robert. *Directions: Review of Ontario's Regulatory Agencies* (Toronto: Queen's Printer, 1989).

McRuer, Hon. James C. *Royal Commission Inquiry into Civil Rights* (Toronto: Queen's Printer, 1968-1971).

Ouellette, Yves. *Les tribunaux administratifs: L'Heure est aux décisions: Rapport du Groupe de travail sur les tribunaux administratifs* (Québec, Qué: Ministère de la Justice Québec, 1987).

Royal Commission on Workers' Compensation in British Columbia. *For the Common Good: Final Report of the Royal Commission on Workers' Compensation in B.C.* (Vancouver: Queen's Printer, 1999),

online: <<http://www.qp.gov.bc.ca/rcwc/report.htm>>.

Sossin, Lorne. *The Independent Board and the Legislative Process* (Report commissioned by the Alberta Federation of Labour, 2006),

online: <<http://www.afl.org/upload/sossinreport.pdf>>.

A report on the appropriate scope for the Chair or Vice Chair of the Alberta Labour Relations Board (or for Board members more generally) to participate in the legislative process.

## The "Tribunal from Hell" and its Progeny

### Published Articles and Commissioned Reports

Houle, France. "Le fonctionnement du régime de preuve libre dans un système non-expert: le traitement symptomatique des preuves par la Section de protection des réfugiés" (2004) *Revue juridique Thémis* 263-358.

This paper examines the problems in the functioning of an administrative law regime of evidence in a non-expert system such as the refugee protection division, and in particular the problematic use of external rules of evidence such as those found in the formal common law system of evidence applicable in civil and criminal law.

Houle, France. "L'évaluation de la crédibilité des témoignages dans un contexte décisionnel multiculturel: étude sur le traitement symptomatique de certaines preuves par la Section de protection des réfugiés" dans P. A. Molinari, dir., *Dialogues sur la justice : le public, le législateur et les médias* (Montréal : Institut canadien d'administration de la justice, 2003) 313-405.

This paper examines the complexity of making refugee determination and especially of assessing the credibility of testimonies of refugee claimant in a multicultural context.

Houle, France. "Pitfalls in Relying on the Common Law Rules of Evidence by Administrative Tribunals" in Robin Creyke, ed., 2008 (accepted).

This paper examines the problems in the functioning of an administrative law regime of evidence in a non-expert system such as the refugee protection division, and in particular the problematic use of external rules of evidence such as those found in the formal common law system of evidence applicable in civil and criminal law.

Houle, France. "The Credibility and the Authoritativeness of Documentary Information in Determining Refugee Status: The Canadian Experience" (1994) 6 *International Journal of Refugee Law* 6-37.

This paper examines the reliability of the documentation information produced by the documentation centre of the Immigration and Refugee Board.

Houle, France. "The Use of Official Notice in a Refugee Determination Process" (1993) 34 *Les*



Cahiers de Droit 573-602.

This paper examines the difficulty to apply the concept of official notice in a multicultural administrative process such as the refugee determination.

Priest, Margot. "Structure and Accountability of Administrative Agencies" (1992) Spec. Lect. L.S.U.C. 11.

This article includes Margot Priest's by now iconic description of the dysfunctional and generic "Tribunal from Hell" but is also an excellent starting point for basic research into administrative justice system issues generally as it provides a scholarly and comprehensive overview of the unconscionable number of studies and reviews of administrative justice systems in Canada published from 1960's to 1992, most of which have gone quite unrequited by the responsible governments, as well as additional reports from other jurisdictions.

Roman, Andrew. "Structure and Accountability of Administrative Agencies" (1992) Spec. Lect. L.S.U.C. 63.

A comment on the Margot Priest article. "The tribunal from hell is not from hell but from Ontario."

Rousseau, F. Crépeau, P. Foxen, F. Houle, "The Complexity of Determining Refugeehood" (2002) 15 *Journal of Refugee Studies* 43-70.

This paper examines the complexity of making refugee determination and especially of assessing the credibility of testimonies of refugee claimant in a multicultural context.

Auditor General of Canada. *Report of Auditor General of Canada – December 1997 – Chapter 26 – Canada Labour Relations Board* (Ottawa: Auditor General of Canada, December 1997), online: <<http://www.oag-bvg.gc.ca/domino/reports.nsf/html/ch9726e.html>>.

A report on systemic problems at the Canada Labour Relations Board, including organizational, performance and financial control processes.

Auditor General of Ontario. *2002 Annual Report of Provincial Auditor of Ontario, Chapter 3.09 – Ontario Parole and Earned Release Board* (Ottawa: Auditor General of Ontario, 2002), online: <[http://www.auditor.on.ca/en/reports\\_en/en02/309en02.pdf](http://www.auditor.on.ca/en/reports_en/en02/309en02.pdf)>.

A report on systemic problems at the Ontario Parole and Earned Release Board, including performance evaluation and member selection processes.

Crépeau, Francois, Foxen, Patricia and Houle, France. "Analyse multidisciplinaire du processus décisionnel de la CISR" (2001) 19 *Refuge* No. 4 62.

This paper examines the complexity of making refugee determination and especially of assessing the credibility of testimonies of refugee claimant in a multicultural context.

Ellis, S. Ronald. "Appointments Policies in the Administrative Justice System: Lessons from Ontario: Four Speeches" (1998) 11 *Can. J. Admin. L. & Prac.* 205.

The speeches reproduced in the article discuss concerns about the government's appointment policies as applied to the Ontario Workers' Compensation Appeal Tribunal and the Ontario Labour Relations Board in the period 1995-1998.

Hawkins, Robert E. and Shoemaker, David M. "Reputational Review II: Administrative Agencies, Print Media & Content Analysis" (1998/99) 12 *Can. J. Admin. L. & Prac.* 1.

The article analyses the press image of three administrative agencies studied for the period from 1988 to 1995 to demonstrate that agencies do in fact have public reputations and that their reputations that might potentially influence judicial review outcomes.

LeFrancois, Michel. "Powers of Management of the Federal Administrative Tribunal Chair: Their

Impact on Discipline and Independence of Members” (1996) 10 Can. J. Admin. L. & Prac. 77.

The article discusses the problem of defining the roles and powers the chair and members of tribunals with reference to the experiences at the Canadian Aviation Safety Board and the Canada Labour Relations Board – where the problems led to dysfunctional boards, and suggests that a council of peers, rather than increased managerial powers for the chair, may improve discipline while preserving independence.

McGregor, Gaile. “Anti-Claimant Bias in the Employment Insurance Appeals System: Causes, Consequences, and Public Law Remedies” (2002) 15 Can. J. Admin. L. & Prac. 229.

The article examines the legal and practical features that have combined to produce unjust decisions and to insulate the employment insurance system from progressive change and considers options for redressing these miscarriages of justice.

Ontario Ombudsman. *Adding Insult to Injury: Investigation into the Treatment of Victims by the Criminal Injuries Compensation Board* by André Marin (Toronto: Ombudsman of Ontario, 2007),  
online: <<http://www.ombudsman.on.ca/UploadFiles/File/PDF/CICB%20English%20Web%20Latest.pdf>>.

A report on systemic problems in the Criminal Injuries Compensation Board, especially the impact of a lack of funding on the independence of the Board, the integrity of its decisions, and its culture.

Ontario Ombudsman. *Annual Report 2003-2004 of Ontario Ombudsman* by Clare Lewis (Toronto: Ombudsman of Ontario, 2004),  
online: <<http://www.ombudsman.on.ca/annrep0304/index.html>>.

The Ombudsman’s Message provides an account of the investigation into the systemic problems at the Ontario Rental Housing Tribunal. For further details see the Ombudsman’s letter and the submission by the Advocacy Centre for Tenants of Ontario below.

### **Resolutions, Submissions and Correspondence**

Laird, Katherine. “Submission to the Ombudsman Ontario Concerning the Failure of the *Tenant Protection Act* and the Rules and Procedures of the Ontario Rental Housing Tribunal to meet Ombudsman Fairness Standards” (Toronto: Advocacy Centre for Tenants of Ontario, 2002),  
online: <[http://www.acto.ca/docs/LR\\_EvictionProcess\\_OntarioOmbudsmanSubmission.pdf](http://www.acto.ca/docs/LR_EvictionProcess_OntarioOmbudsmanSubmission.pdf)>.

Letter from Clare Lewis, Ombudsman of Ontario, to Hon. John Gerretsen, Minister of Municipal Affairs of Ontario, (19 November 2003),  
online: <[http://www.acto.ca/docs/LR\\_EvictionProcess\\_LetterFrOmbudsman\\_Nov03.pdf](http://www.acto.ca/docs/LR_EvictionProcess_LetterFrOmbudsman_Nov03.pdf)>.

## **Law Reform in Other Common Law Jurisdictions**

### **United Kingdom**

#### **Newspapers, Press Clippings and Media Reports**

Adjust, newsletter of Administrative Justice and Tribunals Council (UK), online at <[http://www.ajtc.gov.uk/adjust/08\\_02.htm](http://www.ajtc.gov.uk/adjust/08_02.htm)>

#### **Published Articles and Commissioned Reports**

Franks, The Rt. Hon. Sir Oliver. *Report of the Committee on Administrative Tribunals and Enquiries*, Cmnd 218 (London: The Stationery Office, 1957).

Horne, Alexander Ward, Philip and Keter, Vincent. “The Tribunals, Courts and Enforcement

Bill” (House of Commons Library Research Paper 07/22, March 2007),  
online <<http://www.parliament.uk/commons/lib/research/rp2007/rp07-022.pdf>>.

Leggatt, Sir Andrew. *Tribunals for Users—One System, One Service: Report of the Review of Tribunals* (London: The Stationery Office, 2001),  
online <<http://www.tribunals-review.org.uk/leggatthtm/leg-00.htm>>.

Department of Constitutional Affairs, *Transforming Public Services: Complaints, Redress and Tribunals*, White Paper 2002, Cm 6243 (London: The Stationery Office, 2004),  
online: <<http://www.dca.gov.uk/pubs/adminjust/transformfull.pdf>>

### **Unpublished Papers**

Buck, Trevor Giles. “Tribunal Reform in the UK: Precedent and Reporting in the New Unified Structure” (June 2007),  
online: <<http://ssrn.com/abstract=992258>>.

Carnwath “Developments in the United Kingdom” (Paper presented to the 2007 Conference of the Council of Canadian Administrative Tribunals, May 2007),  
online: <<http://www.ccat-ctac.org/downloads/C-16%20Lord%20Carnwath.pdf>>.

Council on Tribunals, *Guide to Drafting Tribunal Rules*,  
online <<http://www.council-on-tribunals.gov.uk/publications/153.htm>>.

### **Legislation**

*Tribunals, Courts and Enforcement Act*, U.K. 2007, c. 15,  
online <[http://www.opsi.gov.uk/acts/acts2007/pdf/ukpga\\_20070015\\_en.pdf](http://www.opsi.gov.uk/acts/acts2007/pdf/ukpga_20070015_en.pdf)>.

### **Australia**

#### **Published Papers and Commissioned Reports**

Administrative Appeals Tribunal. *Annual Report 2006-2007* (Sydney: Administrative Appeals Tribunal, 2007),  
online: <<http://www.aat.gov.au/CorporatePublications/annual/AnnualReport2007.htm>>.

Administrative Review Council. *Better Decisions: Review of Commonwealth Merits Review Tribunals*, Report no. 39 (Barton, ACT: Administrative Review Council, 1995),  
online: <[http://www.ag.gov.au/agd/WWW/arcHome.nsf/Page/Publications\\_Reports\\_Report\\_Files\\_Report\\_No.3](http://www.ag.gov.au/agd/WWW/arcHome.nsf/Page/Publications_Reports_Report_Files_Report_No.3)>

The report contains general recommendations for improving the review tribunal system as well as recommendations for reforming the structure of the review tribunal system and the establishment of an integrated review tribunal body, the Administrative Review Tribunal.

Administrative Review Council. *Automated Assistance in Administrative Decision Making: Report To The Attorney-General*, Report no. 46 (Barton, ACT: Administrative Review Council, 2004),  
online: <[http://www.ag.gov.au/agd/www/arcHome.nsf/Page/Publications\\_Reports\\_Report\\_Files\\_Report\\_no.46](http://www.ag.gov.au/agd/www/arcHome.nsf/Page/Publications_Reports_Report_Files_Report_no.46)>.

The report contains best practice principles for the development and operation of expert computer systems used to make or assist in the making of administrative decisions.

Administrative Review Council, Best Practice Guides 1-5,  
online: <[http://www.ag.gov.au/agd/WWW/archome.nsf/Page/Publications\\_Reports\\_Other\\_Documents](http://www.ag.gov.au/agd/WWW/archome.nsf/Page/Publications_Reports_Other_Documents)>.

Five Best Practice Guides provide guidelines in the areas of Lawfulness, Natural Justice,

Evidence Facts and Findings, Reasons, Accountability.

Attorney General. *Administrative Appeals Tribunal Amendment Bill 2004: Explanatory Memorandum* (2004),  
online <<http://parlinfoweb.aph.gov.au/piweb//Repository/Legis/oldEms/Linked/11050502.pdf>>.

The memorandum explains proposed amendments to improve the processes and procedures of the Administrative Appeals Tribunal, many of which were enacted in the Administrative Appeals Tribunal Amendment Bill 2005.

Buck, Trevor. "Administrative Justice and Alternative Dispute Resolution: the Australian Experience" (Department of Constitutional Affairs Research Series, November 2005),  
online: <[http://www.dca.gov.uk/research/2005/8\\_2005.htm](http://www.dca.gov.uk/research/2005/8_2005.htm)>.

The report examines the development the administrative justice system in Australia through courts, tribunals and ombudsmen, at both the Commonwealth and the State/Territory levels of government, and the rationale and development of alternative dispute resolution within that system. Includes extensive bibliography.

Creyke, Robin. "Where do Tribunals Fit into the Australian System of Administration and Adjudication?" in Grant Huscroft and Michael Taggart, eds., *Inside and Outside Canadian Administrative Law: Essays in Honour of David Mullan* (Toronto: University of Toronto Press, 2006) 81.

The article examines the place of tribunals in the Australian government.

Downes, G., the Hon. "The State of Administrative Justice in Australia" 20 Can. J. Admin. L. & Prac. 241.

Overview of the administrative justice system in Australia, including unique system of merits review and the Administrative Appeals Tribunal federally, administrative review in the states and territories, and the Administrative Review Council.

## **New Zealand**

### **Published Article and Commissioned Reports**

Keith, K.J. "Administrative Law Developments in New Zealand as Seen Through Immigration Law" in Grant Huscroft and Michael Taggart, eds., *Inside and Outside Canadian Administrative Law: Essays in Honour of David Mullan* (Toronto: University of Toronto Press, 2006) 125.

The article examines the evolution of administrative structures and procedures in New Zealand by focusing on development in immigration law.

New Zealand Law Commission. *Delivering Justice for All: A Vision for New Zealand Courts and Tribunals*, NZLC R85 (Wellington, New Zealand: New Zealand Law Commission, 2004),  
online: <[http://www.lawcom.govt.nz/UploadFiles/Publications/Publication\\_89\\_219\\_R85.pdf](http://www.lawcom.govt.nz/UploadFiles/Publications/Publication_89_219_R85.pdf)>.

New Zealand. "Government Response to Law Commission Report on Delivery Justice for All" (2004),  
online <<http://www.justice.govt.nz/pubs/reports/2004/delivering-justice-for-all/index.html>>.

### **Unpublished Papers**

Robertson, Hon. Justice J. Bruce. "The State of Administrative Justice in New Zealand" (Paper presented to 2007 Conference of Council of Canadian Administrative Tribunals, May 2007),  
online: <<http://www.ccat-ctac.org/downloads/C-16aRobertson.pdf>>.

A discussion of the issues facing the administrative justice system in New Zealand.

## United States

### Resolutions, Submissions and Correspondence

National Conference of Commissioners on Uniform State Laws. *Revised Model State Administrative Procedure Act* (Hilton Head, S.C.: National Conference of Commissioners on Uniform State Laws, 2006),  
online: <<http://www.law.upenn.edu/bll/archives/ulc/msapa/2006amdraft.pdf>>

American Bar Association, *Federal Administrative Adjudication in the 21st Century Act* Resolution 114 (ABA Administrative Law and Regulatory Practice, February 2005)  
online: <[http://www.abanet.org/jd/ncalj/pdf/res114\\_apa.pdf](http://www.abanet.org/jd/ncalj/pdf/res114_apa.pdf)>.

A resolution to modernize the adjudication provisions of the Administrative Procedure Act and to extend certain fundamental fair hearing provisions to additional hearings required by statute.

American Bar Association, "Model Act Creating a State Central Hearing Agency (Office of Administrative Hearings)" (ABA Administrative Law and Regulatory Practice, Fenary 1997),  
online: <<http://www.law.fsu.edu/library/admin/alj.htm>>.

## Law Reform in Canada

### Quebec

#### Published Articles and Commissioned Reports

Belley, Jean-Guy. "Une Justice de la Seconde Modernité: Proposition de Principes Généraux pour le prochain Code De Procédure Civile" (2001) 46 McGill L.J. 317.

The article proposes a set of principles for the reorientation of the system of civil justice in Quebec based on decentralization (the development of non-state justice), coordination (the interdependence of processes of negotiation, mediation, and adjudication), and mainly procedural control over the quality of justice processes that could be included in a future codification.

Comtois, Suzanne. "Le Tribunal Administratif Du Québec: Un Tribunal Suffisamment Indépendant? Commentaire de la Décision *Barreau de Montréal c. Québec (Procureur Général)*" (2000/2001) 14 Can. J. Admin. L. & Prac. 127.

A commentary on *Barreau de Montréal v. Québec (Procureur Général)*, which the provisions for term appointment of members of the Tribunal administratif du Québec did not sufficiently guarantee of independence.

Forgues, Jacques. "Une Avancée Importante : La Mise en Vigueur de la Loi Modifiant la Loi sur la Justice Administrative" (2007) 20 Can. J. Admin. L. & Prac. 37.

A discussion of important legislative amendments part of the evolution of the Tribunal administratif du Québec.

Garrant, Patrice. *Une justice administrative pour le citoyen: Rapport du Groupe de travail sur certain questions relatives a la reforme de la justice administrative* (Québec, Qc: Groupe de travail, 1994).

Garrant, Patrice. "Différentes Approches à La Réforme De La Justice Administrative" (1999/2000) 13 Can. J. Admin. L. & Prac. 225.

The article discusses two different approaches to administrative justice reform: the Anglo-American, empirical approach and the Cartesian approach in continental Europe, and their manifestations in Canada and abroad.

Houle, France. *Loi modifiant la Loi sur la justice administrative et d'autres dispositions législatives*, Projet de loi n° 103, 1ère session, 37e Législature, 2003, mémoire déposé et

présentation orale devant la Commissions des institutions, Assemblée législative du Québec, 2005, 20 p.

Houle, France. *Loi modifiant la Loi sur la justice administrative et d'autres dispositions législatives*, Projet de loi n° 35, 1ère session, 37e Législature, 2003, mémoire déposé et présentation orale devant la Commissions des institutions, Assemblée législative du Québec, 2004, 57 p.

Houle, France. *Loi modifiant la Loi sur la justice administrative*, Projet de loi n° 4, 1ère session, 37e Législature, 2003, mémoire déposé et présentation orale devant la Commissions des institutions, Assemblée législative du Québec, 2003, 17 p.

Jacobs, Laverne. "The Tribunal Administratif du Québec: Innovations in Administrative Justice; Tribunal Independence and Constitutional Questions" (2003) *Regulatory Boards and Administrative Law Litigation Journal* 362.

Lemieux, Denis. "Le Rôle du Code Civil du Québec en Droit Administratif" (2005) 18 *Can. J. Admin. L. & Prac.* 119 [English-language version of the article (2005) 18 *Can. J. Admin. L. & Prac.* 143].

The article discusses the new role of the Code Civil du Québec in administrative law and the interactions of civil and common law principles.

Lemieux, Denis. "The Codification of Administrative Law in Quebec" in Grant Huscroft and Michael Taggart, eds., *Inside and Outside Canadian Administrative Law: Essays in Honour of David Mullan* (Toronto: University of Toronto Press, 2006) 240.

The article discusses the evolution of general principles administrative law in Quebec and the codification of administrative law and the integration of civil law rules in administrative law.

Longtin, Marie-Josée. "La Réforme de la justice administrative: genèse, fondements et réalités" in *Développements récents en droit administratif* (Cowansville, Qc.: Éditions Yvon Blais, 1998) 97,

Macdonald, Roderick A. "Reflections on the Report of the Quebec Working Group on Administrative Tribunals" (1988) 1 *Can. J. Admin. L. & Prac.* 337.

Ministère de la Justice. *Rapport sur la mise en œuvre de la Loi sur la justice administrative* (Québec: Les Publications du Québec, 2003), online <<http://www.justice.gouv.qc.ca/francais/publications/rapports/pdf/ja-rapport.pdf>>.

A report on the implementation of the *la Loi sur la justice administrative* enacted in 1998.

Moreau, Anne M. "Measuring Change Following A Major Reform of Quebec's Administrative Tribunals: Anatomy of a "Practical" Mistake?" (Paper presented to 2003 Conference of the Council of Canadian Administrative Tribunals, June 2003), online: <[http://www.ccat-ctac.org/downloads/2003\\_moeau\\_en.pdf](http://www.ccat-ctac.org/downloads/2003_moeau_en.pdf)>.

The paper evaluates 1998 reform of Quebec's administrative tribunals in the Commission des lésions professionnelles.

Ouellette, Yves. *Les tribunaux administratifs: L'Heure est aux décisions: Rapport du Groupe de travail sur les tribunaux administratifs* (Québec, Qué: Ministère de la Justice Québec, 1987).

### **Unpublished Papers**

Conseil de la Justice Administrative. *Rapport Annuel de Gestion 2006-2007* (Quebec: Conseil de la Justice Administrative, 2007) online: <[http://www.cja.gouv.qc.ca/fr/page/pdf/14-01-archives/Rapport\\_annuel\\_gestion\\_2006\\_2007.pdf](http://www.cja.gouv.qc.ca/fr/page/pdf/14-01-archives/Rapport_annuel_gestion_2006_2007.pdf)>.

## Resolutions, Submissions and Correspondence

Forgues, Jacques. "Mémoire du Tribunal administratif du Québec: Consultations particulières sur le projet de loi n° 35 *Loi modifiant la Loi sur la justice administrative et d'autres dispositions législatives*" (Québec: TAQ, 2004),

online <<http://www.taq.gouv.qc.ca/pdf/Memoire%20du%20TAQ%202004-01-20.pdf>>.

The memorandum provides an overview of the role and work of the Tribunal administratif du Québec and makes recommendations regarding proposed legislative changes with respect to the independence, appointment process and procedures of the tribunal.

## Legislation

*Loi sur la justice administrative*, R.S.Q., c. J-3.

*Loi modifiant la Loi sur la justice administrative et d'autres dispositions législatives* L.Q. 2005, c. 17

online: <<http://www.justice.gouv.qc.ca/francais/ministere/dossiers/justadm/justadm.htm>>.

An amendment to *Loi sur la justice administrative* to provide for tenure appointments for members of the Tribunal administratif du Québec, as well introduce new rules concerning ethics.

## British Columbia

### Published Articles and Commissioned Reports

Administrative Justice Office, "Model Statutory Powers Provisions for Administrative Tribunals" (Victoria, B.C.: Administrative Justice Office, 2003)

online: <[http://www.gov.bc.ca/ajo/down/ajo\\_aug25\\_03.pdf](http://www.gov.bc.ca/ajo/down/ajo_aug25_03.pdf)>.

A proposal for legislation reforming the statutory powers of British Columbia's administrative tribunals.

Administrative Justice Project, "On Balance: Guiding Principles for Administrative Justice Reform in British Columbia", White Paper, (Victoria, B.C.: Administrative Justice Project White Paper, 2002)

online: <[http://www.gov.bc.ca/ajo/down/white\\_paper.pdf](http://www.gov.bc.ca/ajo/down/white_paper.pdf)>.

The White Paper reviews the issues and challenges facing the administrative justice system in British Columbia identified by the Administrative Justice Project and sets out a reform agenda for the province.

Bryden, Philip and Hatch, Ron. "Report on Independence, Accountability and Appointment Processes in British Columbia Tribunals" (1999) 12 C.J.A.L.P 235

online: <<http://www.bccat.net/assets/downloads/indrep.pdf>>

A report on the practices in relation to appointments, independence and accountability of members of British Columbia's administrative tribunals.

Falzon, Frank A.V. "The Statutory Powers and Procedures of Administrative Tribunals in British Columbia" (Victoria, B.C.: Administrative Justice Project Background Paper, 2002)

online: <[http://www.gov.bc.ca/ajo/down/stat\\_powersand\\_procedures.pdf](http://www.gov.bc.ca/ajo/down/stat_powersand_procedures.pdf)>.

The paper discusses different models for reform of administrative tribunals' powers and procedural obligations in Canada in order for tribunals to deliver their public service mandate in a fair, efficient and effective manner.

Flood, Diane, Loughran, Elizabeth and Rogers, Richard. "British Columbia's New Administrative Tribunals Act" (2005), 18 Can. J. Admin. L. & Prac. 217.



The article provides an overview of the administrative justice reform initiative in British Columbia and the new Administrative Tribunals Act.

Plant, Geoff. "The Administrative Justice Project in B.C. or Do Governments Take Tribunals Seriously?" (2002/2003) 16 C.J.L.P. 1.

The article discusses the genesis of and the impetus for the Administrative Justice Project and its accomplishments.

### **Legislation**

*Administrative Tribunals Act*, S.B.C. 2004, c. 45

### **Ontario**

Published Articles and Commissioned Reports

Macaulay, Robert. *Directions: Review of Ontario's Regulatory Agencies* (Toronto: Queen's Printer, 1989).

A comprehensive review of the administrative justice system in Ontario and that proposed the creation of a Council for Administrative Agencies which would develop policies, consult and assist in the selection, appointment and reappointment, and performance evaluation of administrative tribunal members.

McRuer, Hon. James C. *Royal Commission Inquiry into Civil Rights* Report no. 1, Vol. 1 (Toronto: Queen's Printer, 1968).

A comprehensive review of the Ontario administrative justice system that proposed the creation of the Statutory Powers Procedure Act.

Mullan, David J. "Willis v. McRuer: A Long-Overdue Replay with the Possibility of a Penalty Shoot-Out" (2005) 55 U. Toronto L.J. 535.

A re-evaluation of the debate between Willis and McRuer in light of the impact of the impact of the McRuer report and its legislative legacy.

Ontario Ombudsman. *Adding Insult to Injury: Investigation into the Treatment of Victims by the Criminal Injuries Compensation Board* by André Marin (Toronto: Ombudsman of Ontario, 2007),

online: <<http://www.ombudsman.on.ca/UploadFiles/File/PDF/CICB%20English%20Web%20Latest.pdf>>.

A report on systemic problems in the Criminal Injuries Compensation Board, especially the impact of a lack of funding on the independence of the Board, the integrity of its decisions, and its culture.

Priest, Margot (1996) "Fundamental Reforms to the Ontario Administrative Justice System," in *Rethinking Civil Justice: Research Studies for the Civil Justice Review*, Vol.2 (Toronto: Ontario Law Reform Commission) 545.

The study addresses what fundamental reforms can be made to administrative structure of the processes of administrative tribunals to reduce costs and delay, improve quality of decision-making and enhance access to justice and provides a comprehensive overview of the reform initiatives in Ontario.

Willis, John. "The McRuer Report: Lawyers' Values and Civil Service Values" (1968) 18 U. Toronto L.J. 351.

A criticism of the McRuer report.

Whittaker, Kevin. *Interim Report of the Agency Cluster Facilitator for the Municipal, Environment and Land Planning Tribunals* (Toronto: Agency Cluster Project, January 2007) online: <<http://www.gov.on.ca/MGS/graphics/111869.pdf>>.

The Interim Report outlines how administrative tribunal can identify and share existing best practices and collaborate on the development of new ones.

Whittaker, Kevin. *Final Report of the Agency Cluster Facilitator for the Municipal, Environment and Land Planning Tribunals* (Toronto: Agency Cluster Project, August 2007) online: <<http://www.gov.on.ca/mgs/graphics/166283.pdf>>.

The Final Report summarizes the cluster project mandate, goals, principles and philosophy, reviews the consultation process and responses, details the 16 change initiatives and sets out accomplishments, next steps and conclusions.

## Legislation

*Statutory Powers and Procedures Act*, R.S.O. 1990, c. S.22, am. S.O. 1994, c. 27 and S.O. 1997, c. 23.

## Nova Scotia

Law Reform Commission of Nova Scotia, *The Reform of the Administrative Justice System in Nova Scotia* (Halifax, N.S.: Law Reform Commission of Nova Scotia, 1997), online: <[http://www.lawreform.ns.ca/Downloads/ABC\\_FIN.pdf](http://www.lawreform.ns.ca/Downloads/ABC_FIN.pdf)>.

The report provides a review of the administrative justice system in Nova Scotia and recommends the adoption of a draft Administrative Justice Act setting out minimum procedural requirements and powers for administrative tribunal.

## New Brunswick

Commission on Legislative Democracy. *Final Report and Recommendations* (Fredericton, N.B.: Commission on Legislative Democracy, 2005) online: <<http://www.gnb.ca/0100/FinalReport-e.pdf>>.

The report contains proposed guidelines for improving the appointment process to administrative agencies, boards and commissions.

## Independent System Centres

Ellis, S. Ronald. The Administrative Justice System in the New Millenium: A Vision in Search of a Centre (1999/2000), 13 Can. J. Admin. L. & Prac. 171.

The article advocates the creation of a national network of non-government, non-profit, provincial and territorial "Centres for Administrative Justice" and provides an overview of existing central administrative justice in Canada and abroad.

## Centres

Administrative Justice and Tribunals Council (U.K.): <http://www.ajtc.gov.uk/>

As part of the reforms of the U.K. administrative justice system, the AJTC replaced the Council on Tribunals.

Administrative Review Council (Australia): <http://www.ag.gov.au/arc>

Conseil de la Justice Administrative (Canada, Quebec): <http://www.cja.gouv.qc.ca/>.

## Organizations of Tribunals and Tribunal Members

British Columbia Council of Administrative Tribunals (Canada, B.C.):  
<http://www.bccat.net/>

Council of Australasian Tribunals (Australia and New Zealand):  
<http://www.coat.gov.au/>

Council of Canadian Administrative Tribunals (CCAT) (Canada, National):  
<http://www.ccat-ctac.org/>

National Association of Administrative Law Judiciary (NAALJ) (U.S.):  
<http://www.naalj.org/>

National Conference of Administrative Law Judiciary (NCALJ), American Bar Association (U.S.):  
<http://www.abanet.org/jd/ncalj/>

Society of Ontario Regulators and Adjudicators (SOAR)(Canada, Ontario):  
<http://www.soar.on.ca/>.

## Submissions by the Administrative Justice Working Group (AJWG)

**"The Administrative Justice System Betrayed: A Discussion Paper on Reform of the Ontario Administrative Justice System"** (January 2004).

**"Recommendations to Improve the Appointments Process for Ontario Adjudicative Tribunals"** (April 2004).

**"The Provincial Auditor and the Administrative Justice System"** (March 2007).

**"Submission to Ontario Law Commission"** (March 2007)

**"Appendix to Submission to Ontario Law Commission"** (March 2007)

## Administrative Justice in the News

*Note: The following section offers a brief overview of Canadian administrative justice issues in the news. Administrative Justice in the News is updated on the first business day of each month. This resource is not intended to be comprehensive, but if you see that we have missed something of interest, please email [lorne.sossin@utoronto.ca](mailto:lorne.sossin@utoronto.ca).*

Please click [here](#) to access an archive of past entries. Note that the links to archived articles may have expired.

### August 16, 2006

Turner, James, and Giroday, Gabrielle. "Changes coming to help get handle on long arm of the law." *Winnipeg Free Press*, August 16, 2008. Available online:  
<http://www.winnipegfreepress.com/breakingnews/story/4213903p-4806511c.html>.  
[Performance Evaluation] [Law Reform in Canada]

Between the drubbing police have taken in the Taman Inquiry and concerns echoed by aboriginals and others about trigger-happy cops whose guns and Tasers have left suspects dead, trust in those whose job is to serve and protect has been hit hard.

As the province prepares to overhaul the Police Act, the Free Press looks at the issues at play in rewriting a law for those charged with enforcing the law....

"NDP say new police act is key to healing: Chiefs balk at offer to help rewrite legislation." *Winnipeg Free Press*, August 16, 2008. Available online:

<http://www.winnipegfreepress.com/local/story/4213661p-4806503c.html>.  
[Law Reform in Canada] [Performance Evaluation]

Manitoba native leaders haven't accepted the Doer government's invitation for a seat at the table as the province rewrites its legislation on how municipal police operate.

"We did not get what we wanted," St. Theresa Point First Nation Chief Robert Flett said Friday, adding the group wanted instead a full public inquiry into the Aug. 2 fatal police shooting of Craig McDougall....

#### August 18, 2008

Brean, Joseph. "Freedom of press within limits: Lawyer." *The National Post*, August 18, 2008. Available online: <http://www.nationalpost.com/story.html?id=732327>.  
[Appointments and Re-Appointments]

A candidate for one of the top jobs at the new Human Rights Tribunal of Ontario told a government committee yesterday he thinks print journalism should be subject to racial discrimination complaints.

#### August 19, 2008

Hall, Angela. "American man fighting to keep ownership of land." *The Leader-Post*, August 19, 2008. Available online: <http://www.canada.com/reginaleaderpost/news/story.html?id=2e7349da-8f76-4e0b-a4d5-2fe942eb73d7>  
[Appointments and Re-Appointments]

... Kreimeyer, who was denied in his most recent attempt to get an exemption to [a rule limiting foreign ownership of farmland], said his case took a positive turn when he learned it would be reviewed by the new members of the Farm Land Security Board.

The Saskatchewan Party government, elected to office last fall, earlier this summer replaced the board members of the quasi-judicial tribunal.

The new three-member board meets Wednesday and Thursday for the first time...

Tibbetts, Janice. "Court rulings posted online puts privacy at risk: Commissioner." *Canwest News Service*, August 19, 2008. Available online: <http://www.canada.com/topics/news/national/story.html?id=ebea3d52-4d07-4c25-ae1-7def357ae570>  
[Access to Justice] [Performance Evaluation] [Deliberative Secrecy]

QUEBEC - In an era of powerful Internet search engines, Privacy Commissioner Jennifer Stoddart is sounding an alarm about federal tribunals and other quasi-judicial bodies throwing open the electronic doors by posting names of people online in decisions and other documents...

#### August 20, 2008

Makin, Kirk. "Online tribunal evidence leaves citizens' data open to abuse." *The Globe and Mail*, August 20, 2008. Available online: <http://www.theglobeandmail.com/servlet/story/LAC.20080820.PRIVACY20/TPStory/National>.  
[Access to Justice] [Performance Evaluation] [Deliberative Secrecy]

QUEBEC CITY -- Intensely private information about Canadians is being indiscriminately spread through cyberspace because it appears in evidence or rulings issued by federal tribunals, federal Privacy Commissioner Jennifer Stoddart said yesterday.

"The open-court rule - which is extremely historically important - has become distorted by the effect of massive search engines," Ms. Stoddart told reporters at a meeting of the Canadian Bar Association. "Documents containing all sorts of personal information now find themselves searchable worldwide..."

Raftis, Patrick. "Human rights claim delayed by changes." *Listowel Banner*, August 20, 2008. Available online: <http://www.northperth.com/news.php?id=1672>  
[Performance Evaluation] [Law Reform in Canada – Ontario] [Tribunal Structure]

An Ontario Human Rights Commission complaint against the Municipality of North Perth by a local woman has been caught up in changes to the Ontario Human Rights Code Act and the process for dealing with complaints...

#### **August 20, 2008**

Clark, Campbell. "Tories pushing fall election to shut down probe, MPs say." *The Globe and Mail*, August 20, 2008. Available online:  
[http://www.theglobeandmail.com/servlet/story/RTGAM.20080820.wcontempt21/BNStory/National/?cid=al\\_gam\\_mostdiscuss](http://www.theglobeandmail.com/servlet/story/RTGAM.20080820.wcontempt21/BNStory/National/?cid=al_gam_mostdiscuss)  
[Government-Tribunal Relationships] [Tribunal Independence]

OTTAWA — A federal election would kill any attempt by MPs to cite for contempt Tory witnesses who ignored parliamentary summonses to election-finance hearings last week, and opposition politicians argue it is a key reason the government wants to rush to the polls. More than a dozen Conservatives boycotted the hearings, including a half-dozen who had received a summons from the Commons ethics committee...

#### **August 23, 2008**

Block, Irwin. "Bennis family asks: 'What have they got to hide?'" *The Montreal Gazette*, August 23, 2008. Available online:  
<http://www.canada.com/montrealgazette/news/story.html?id=4e114156-4977-4f82-adfe-365ab9d42bc5>  
[Government-Tribunal Relationships]

The family of Mohamed Anas Bennis can't understand why two Montreal police officers involved in his death in 2005 are seeking to block a public inquiry into the controversial shooting...

A motion submitted to Quebec Superior Court by the Montreal Police Brotherhood this week asked the court to stop the inquiry, ordered June 3 by Quebec's chief coroner Louise Nolet, because it was "useless" - coming two years after a coroner's report - and therefore illegal because it will not shed further light on the circumstances...

Langton, James. "New members appointed to NBSC: Williamson and Lee succeed Flemming and Hashey." *Investment Executive*, August 24, 2008. Available online:  
<http://investmentexecutive.com/client/en/News/DetailNews.asp?Id=45744&cat=8&IdSection=8&PageMem=&nbNews=&IdPub=>

The New Brunswick Securities Commission (NBSC) has named two new commission members...

#### **August 27**

Larocque, Corey. "Privacy fears could trump public's right to know: Online names might be yanked in federal cases." *The Niagara Falls Review*, August, 27, 2008. Available online:  
<http://www.niagarafallsreview.ca/ArticleDisplay.aspx?e=1174019>  
[Access to Justice] [Performance Evaluation] [Deliberative Secrecy]

Lawyers and law-makers in Niagara are divided over a suggestion by federal privacy commissioner that Canadians shouldn't have to lay bare their personal information on the Internet when they do battle with the federal government for public services...

#### **August 26, 2008**

"Commissioners named." *New Brunswick Business Journal*, August 26, 2008. Available online:  
<http://nbbusinessjournal.canadaeast.com/journal/article/396988>  
[Appointments and Re-Appointments]

Bathurst lawyer Harry Williamson and former provincial cabinet minister Sheldon Lee from Bonny River, Charlotte County, will serve on the New Brunswick Securities Commission...

*Last Updated: 9/8/2008*