

# Court of King's Bench of Alberta

**Citation: Shinksi v Alberta (College of Social Workers), 2025 ABKB 554**

**Date:** 20250924  
**Docket:** 2403 22864  
**Registry:** Edmonton

Between:

**Dennis Shinksi**

Applicant

- and -

**Alberta College of Social Workers**

Respondent

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**Decision  
of the  
Honourable Justice Avril B. Inglis**

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## **Introduction**

[1] The Applicant, Dennis Shinski, is a social worker and a member of the Alberta College of Social Workers (ACSW), the Respondent.

[2] On February 27, 2024, a complainant reported to the ACSW alleging that the Applicant engaged in a sexual relationship with the complainant's daughter after she had been discharged from the Northern Addictions Center in Grande Prairie and transitioned to inpatient treatment, then to her mother's home.

[3] The Respondent's Complaints Director appointed a private investigative agency to investigate the complaint. The Director gave notice of the investigation and a copy of the

complaint to the Applicant. The Applicant was also informed of the name of the investigator and told that the investigator would arrange a meeting with him.

[4] In April of 2024, the Applicant formally demanded disclosure through Counsel, seeking “all relevant documents that have been collected and reviewed as part of the investigation in advance of arranging an investigation meeting with the Applicant.” Multiple letters between counsel for Applicant, the Director and Respondent’s counsel were sent, each with a refusal of further disclosure at the investigatory stage by the Respondent.

[5] The Applicant did not attend at an investigatory meeting on August 30, 2024. On September 5, 2024, counsel for the Respondent replied that no further particulars would be provided.

[6] The Applicant seeks disclosure of the Respondent’s file before he decides whether to participate in the investigation. The Applicant’s key argument focuses on the principles of procedural fairness and disclosure rights in the ongoing investigation conducted by the ACSW.

### Issue

[7] The Applicant's position is that he is entitled to this full disclosure at the investigatory stage prior to choosing to participate in his own interview: lack of disclosure denies him the ability to mitigate, qualify, or contradict the allegations, identify credibility issues, or prepare a defence.

[8] The Applicant argues that a disclosure obligation upon the Respondent is required by principles of natural justice and procedural fairness, as established in various legal precedents, including the case of *R v Stinchcombe* [1991] 3 SCR 328 and *Knight v Indian Head School Division No. 19* [1990] SCJ No 26. *Knight* holds that where the powers of an employer are statutory, they are bound by rules of administrative law, and thus, procedural fairness.

[9] The Respondent argues that there is a distinction between the investigative process and the adjudicative process by the association, as defined by the statute, which is also distinguished by jurisprudence. They argue that the duty of fairness at the investigative stage is reduced and that the Respondent is only required to disclose the substance of a complaint to a member prior to giving the member an opportunity to adequately respond to the complaint during the investigative stage.

[10] The Respondents indicate that they have provided notice of the investigation and a copy of the complaint to the member and as such they have met their duty of disclosure under procedural fairness to the member. They argue that doing so meets their statutory duty under the *Health Professions Act* RSA 2000, c H-7 (“the Act”) as well as their common law duty. They agree that if the matter is referred to a hearing after the investigation, the Applicant will receive full disclosure of the investigation.

### Analysis and conclusion

[11] Courts have consistently drawn a distinction between an investigatory process and an adjudicative process. Comparable to this application is *Kuny v College of Registered Nurses of Manitoba*, 2017 MBCA 111. There, the registered nurse subject to investigation objected to participating in the investigation and responding to the college without significant disclosure of

the investigation. The majority of the Manitoba Court of Appeal found explicitly that the duty of disclosure at the investigatory stage is not the same as in the adjudicative stage. That Court cited many prior decisions and concluded that there is reduced duty of fairness at the investigatory stage, where an investigatory body may refer charges to a disciplinary hearing. There is a duty to inform the member of the substance of the complaint and provide the member with an opportunity to respond. However, if the investigatory body simply can only investigate and report but not to refer or recommend charges, then the duty of fairness may be even more reduced.

[12] Here, the *Act* expressly establishes a reporting role only.

### **Report of investigation**

66(1) When an investigator concludes an investigation, the investigator must make a report within a reasonable time and, if the investigator is not the complaints director, submit the report to the complaints director.

(2) If, on reviewing a report made under this section, the complaints director determines that the report is not complete or that the investigation was not properly conducted, the complaints director

- a) must direct the investigator, or appoint another investigator, to undertake further investigation and make a report and submit it to the complaint's director, and
- b) may request an expert to assess and prepare a written report on the subject matter of the complaint or matters arising from the investigation of the complaint.

(3) If, on reviewing a report prepared under this section, the complaints director determines that the investigation is concluded, the complaints director must

- a) refer the matter to the hearing director for a hearing, or
- b) dismiss the complaint, if in the opinion of the complaints director
  - i. the complaint is trivial or vexatious, or
  - ii. there is insufficient or no evidence of unprofessional conduct.

(4) Despite subsection (3)(a), if the hearing tribunal has not commenced a hearing and the complaints director learns of new evidence that causes the complaints director to be of the opinion that the complaint is trivial or vexatious or there is insufficient or no evidence of unprofessional conduct, the complaints director may withdraw the complaint from the hearings director and hearing tribunal and dismiss the complaint.

[13] As noted above, the Complaints Director is not the investigator for the complaint against the Applicant. It is an independent contractor, with no power to determine whether a complaint will be dismissed or a hearing will be ordered.

[14] The Applicant argues that Mr. Shinski is subject to suspension before a hearing, citing s 65 of the *Act*:

### Conditions, suspension during proceedings

65(1) On the recommendation of the complaints director or the hearing tribunal, a person or committee designated by the council may at any time after a complaint is made until a hearing tribunal makes an order under section 82

- a) impose conditions on an investigated person's practice permit generally or with respect to any area of the practice of that regulated profession, including the condition that the investigated person
  - i. practise under supervision, or
  - ii. practise with one or more other regulated members, or
- b) suspend the practice permit of an investigated person, until the completion of proceedings under this Part.

[15] This is not the investigator's decision; nor is this part of the investigation. This power is separate from the investigative duties and role. This authority exists at any time and is not tied to the state of the investigation either in the statute or on the evidence of the Applicant or Respondent. The Director attested in her affidavit that, as of the hearing, there were no interim conditions or suspension imposed on the Applicant.

[16] Many professional licensing bodies retain the power to suspend their members; that is insufficient on its own to create the obligation of disclosure that Mr. Shinski argues. For example, s 28(1) of *The Registered Nurses Act* S.M. 1999, c. 36– the statute governing the professional in *Kuny* – empowers the investigation committee itself to direct either conditions upon or suspension of a nurse's license to practice. Yet, in *Kuny* there was no duty to disclose.

[17] In *Puar v. Association of Professional Engineers and Geoscientists (British Columbia)*, 2009 BCCA 487, that Court of Appeal concluded that the duty of fairness did not require disclosure of a report that had been provided to the investigation committee. No duty of procedural fairness was owed to the Applicant in that case, and no breach occurred when the investigating body did not provide disclosure prior to a Notice of Inquiry being issued.

[18] *Levesque v. Nova Scotia College of Optometrists* 2014 NSSC 22 followed *Puar* and came to the same conclusion. Again, the Applicant objected to the fairness of the investigative process of his professional regulator, claiming their decision to refer a complaint to a hearing was not reasonable and that the investigation had been procedurally unfair. Dr. Levesque had received a copy of a patient's complaint from the Complaints Committee, and he submitted a written response. The Committee took further investigative steps, including obtaining an opinion from another optometrist prior to recommending a hearing. Dr. Levesque complained that failure to disclose that opinion and allow him to respond was procedurally unfair.

[19] That court held that the investigative phase which would conclude with only a dismissal or a referral to a hearing, attracted lower procedural fairness and that "I do not believe that the nature of the Complaints Committee function justifies imposing that obligation [to provide information to the member for comment] as part of the duty of procedural fairness," (para 18).

[20] In *Independent Investigations Office of British Columbia v. Vancouver (City) Police Department* 2018 BCSC 1804, the Court held that the officers being investigated had a statutory duty to cooperate (specifically, to present themselves for interview) in s 38.101 of the *Police Act*, R.S.B.C. 1996, c. 367:

**Officers to cooperate with independent investigations office**

38.101 An officer must cooperate fully with

(a) the chief civilian director in the chief civilian director’s exercise of powers or performance of duties under this Act, and

(b) an IIO investigator in the IIO investigator’s exercise of powers or performance of duties under this Act.

[21] That Court also found there to be a common law duty upon the officers:

134 At common law, police officers have an obligation to assist in law enforcement and investigation of potential offences: *Schaeffer v Woods*, 2013 SCC 71 (S.C.C.) [*Wood*].

[22] The Court concluded that the subject officers under investigation are not entitled to disclosure as a condition of that cooperation, as their cooperation is mandated at paras 135-6:

I agree with the petitioner that the language of s 38.101 is clear. The duty is mandatory, and the witness officers do not have any discretion in regard to this duty. It is not open to them to withhold cooperation based on assertions that the proposed interview timing inconveniences them or that the proposed IIO interviews will not be conducted in accordance with the terms of the witness officers demand for pre-interview disclosure or assurances as to potential derivative use of their accounts.

An obligation to cooperate fully with the IIO must be an essential element of the functioning of a police oversight agency that exists to investigate police-related fatalities and incidents involving serious harm. If cooperation by the witness officers is discretionary, the goal of the IIO is diminished or extinguished. There will be no arm’s-length investigation of an incident if it is at the discretion of the witness officers.

[23] Having found this, the Court of Appeal considered the subject officers’ requests for various conditions prior to cooperating, including pre-interview disclosure and noted at para 145 “the witness officers do not have the discretion to determine the bounds of the interview process.” That is, even in a situation where the investigated professional does not have a choice to attend an interview, there was no provision for disclosure as the Applicant seeks.

[24] There is no distinguishing factor in the Applicant’s case to support different conclusions than *Kuny, Levesque, Puar, or Independent Investigations*. Each of these cases considered duties of licensing bodies of professionals, which are subject to *Knight*’s requirements of procedural fairness.

[25] Here, the Respondent has complied with the statutory requirements of their investigation:

**Notice of investigation**

61(1) If an investigation is to be conducted under this Part, the complaints director

(a) must give the complainant the name of the investigator,

(b) must, unless it would significantly harm the investigation, give the investigated person the name of the investigator and reasonable particulars of the complaint to be investigated, and

(c) must notify the complainant and the investigated person with the status of the investigation every 60 days or within any other period of time agreed to by the complaints director, complainant and investigated person.

[26] There is no common law or statutory obligation to disclosure prior to Mr. Shinski participating in an interview during the investigation.

[27] Regarding Applicant's reliance *Stinchcombe*: there is a clear distinction between the matter before this court compared the issues in *Stinchcombe*. *Stinchcombe* remains the seminal case about the Crown's disclosure obligations in a criminal case. The criminal process and a professional body's investigation are not similar. Yet despite this distinction, even in a criminal context the Supreme Court requires disclosure, again, only once charges are laid and before an accused is called upon to make their election in a criminal proceeding: that is, an individual is not owed disclosure at the investigative stage in a criminal investigation where life, liberty, and security is at risk. Even if *Stinchcombe* principles were applied in an administrative case, the rules of disclosure still do not serve the Applicant.

[28] There is no breach of Mr. Shinski's rights to procedural fairness if the Respondent does not disclose their investigatory file prior to Mr. Shinski participating in an interview as part of the investigation.

[29] The application to order disclosure is denied.

Heard on the 10<sup>th</sup> day of June 2025.

**Dated** at the City of Edmonton, Alberta this 24th day of September, 2025.

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**Avril B. Inglis**  
**J.C.K.B.A.**

**Appearances:**

Ronald L. Berger, K.C. & Edward Sacher  
Liberty Law LLP  
for the Applicant

Karen Smith, K.C.,  
Parlee McLaws LLP  
for the Respondent