



Thursday; June 17, 2021; 8:15 a.m.

At 8:15 a.m., the moderator called Synod to order, shared an agenda plan for the morning, and introduced Pastor Daniel Howe who led in morning worship. Mr. Howe preached on the spiritual fruit of patience from Galatians 5, then closed our service in prayer. The Court sang Psalm 26A (with Mr. Trace Turner presenting). The moderator constituted the Court in prayer. The attendance roll was passed. In the absence of two of our parliamentarians, the moderator appointed for the day Mr. J. Bruce Martin and Mr. Matthew Sexton.

Minutes of the Wednesday afternoon and evening sessions were read, improved, and approved.

Nominating Committee: Delegates were informed that the online ballot is ready for their careful action. The chairman offered a Committee motion: that the Nominating Committee be made a six-man standing committee to be appointed by the moderator, with classes and three-year terms, so starting staggered; it is our desire that we begin this new practice at this Synod today. Carried. As delegates stood, Chairman Martin led in prayer about our voting to fill the vacancies on Synod's boards and committees. Delegates marked their electronic ballot-surveys. The Committee was excused to publish the results for us.

At 9:05 a.m., the Court returned to the Report of Judicial Committee #2 (pertaining to GLG and Immanuel). After preliminary remarks by the chairman, the Court took up Recommendation 1. We recommend [that the members of Great Lakes Gulf Presbytery have no "voice in the judgment" of the following recommendations of this case in accordance with *BOD* II.4.4 (E-16) because the complainants have substantiated injustice on the part of the lower court by (a) alleging injustice on the part of the lower court, and (b) supporting these allegations, not merely stating them baldly.]. Carried.

It was moved and seconded, that the Court go into executive session; deliberated; withdrawn.

Recommendation 2. We recommend [that Synod grant the complainants' request to remove the prosecutors, and instruct GLG to replace them with others not drawn from the IJC.]. Note: The IJC is the Immanuel Judicial Commission. A substitute motion was made, seconded, and discussed [(1) that Shawn Anderson, Jason Camery, and Josh Reshey be removed as prosecutors in the IRPC case, but no other restriction be placed on their involvement in the case; (2) that Synod declare any member in good standing of the RPCNA not in the GLG be allowed to serve as prosecutors; (3) that Synod

recognize Kyle Borg and Joseph Friedly to be prosecutors.]. The motion to substitute carried by a standing vote, 55 to 34; so the substitute motion is before us. A challenge was upheld to argue that the Synod must assume original jurisdiction over a case before it appoints prosecutors.

It was moved and seconded, to lay on the table the substitution motion for Recommendation 2 in order to move to Recommendation 3; this motion carried.

Recommendation 3. We recommend [(3A) The presbytery proceed to trial with new prosecutors in place, OR (3B) the moderator of Synod appoint a seven-man judicial commission to sit in judgment on the cases. (N.B. 1) The prosecutor(s) appointed by the GLG shall not be chosen from the men who served on the IJC. (2) Defense shall be chosen by each defendant. (3) We believe that the members of your judicial committee should not be appointed to such a Synod judicial commission because we have heard testimony that may be inadmissible in a trial.]. Moved to amend, and then seconded, modifying "(3A) the presbytery proceed to pre-trial ..." Withdrawn.

Another friendly amendment was offered and seconded: "the presbytery proceed with the judicial process, with new prosecutors in place." Amendment carried. So the recommendation before us is now: We recommend [(3A) The presbytery proceed with the judicial process, with new prosecutors in place, OR (3B) the moderator of Synod appoint a seven-man judicial commission to sit in judgment on the cases. (N.B. 1) The prosecutor(s) appointed by the GLG shall not be chosen from the men who served on the IJC. (2) The defense shall be chosen by each defendant. (3) We believe that the members of your judicial committee should not be appointed to such a Synod judicial commission because we have heard testimony that may be inadmissible in a trial.] Deliberation continued. The Judicial Committee asked for a standing straw poll to discern the preference of the Great Lakes/Gulf Presbytery delegates between the two directions highlighted in this recommendation.

The Court enjoyed a 10-minute break for refreshment (10:20-10:30 a.m.).

The Judicial Committee moved this: Remove (3B); replace with: We recommend that Synod assume original jurisdiction in the matter of GLG and Immanuel, and the moderator appoint a seven-man judicial commission to address this matter. Discussion ensued. Carried. Notice that this implies (3A) is moot, an amended version of (3B) being favored instead.

Recommendation 4. [Given the gravity of the accusations against the IRPC elders, we recommend that Synod require them to refrain from the exercise of office until their case has been decided.] Discussion ensued. The

moderator ruled Recommendation 4 is premature and out of order, though possibly useful to the new judicial commission.

Recommendation 5 was withdrawn by the Committee.

Recommendation 6, that the judicial committee be dismissed, with our thanks; carried.

For background, the full six-page Report of Judicial Committee #2 is included here, along with Communications #21-16 (redacted) and #21-17; Communication #21-18 is available from the clerk.

Report of the 2021 RPCNA Synod Special Judicial Committee to Address Communications #21-16, #21-17, #21-18

Your committee labored continuously over the past two days processing and grieving along the way. We have read documents, spent 11.5 hours interviewing involved parties (a total of fifteen individuals, five of whom represented the complainants), and then come to agreement. We begin with three points we wish to impress upon Synod: (1) This is an incredibly complex case, with many parties, many relationships, many layers, events occurring at one time and coming to light later, at different times for different parties. It is our strong opinion that the full adjudication of this matter should not be done on the floor of Synod at any time. (2) This is a very grievous case, in which multiple victims from multiple families suffered sexual abuse among minors; we grieve for those who have been impacted and for their families. (3) Many people from the local session and from the GLG Presbytery have labored long and hard on this matter already. We commend them for their efforts and prayers.

Before we proceed to the communications listed above, we offer the following information and considerations. Sexual abuse was first reported to the Department of Child Services (DCS) on April 2020. The IRPC Session initiated an investigation soon thereafter in accordance with the IRPC child protection policy. The resulting investigative report was presented to the IRPC session in early August 2020. Later in August, the IRPC session, acting in their capacity as AIC (plus one outside elder) appointed an Advisory Committee. This committee made several recommendations to the IRPC session which were not followed by the session. This committee was effectively replaced when a new AIC appointed a Judicial Commission to Immanuel RP Church (hereafter IJC) on December 29, 2020. The IJC consisted of Shawn Anderson, Jason Camery, Bob Burchfield, Josh Reshey, and Ian Wise. There was uncertainty in the Presbytery as to the exact scope and nature of the problems, and so the remit of the IJC begins "to investigate ..." We note that Jason Camery is an experienced former law enforcement officer and Josh Reshey is currently a lawyer for DCS in a different county in Indiana.

The IJC poured itself into its work, spending long hours in investigation in a short period of time (two months). Their reports to presbytery and the congregation provide valuable insight, and we commend them for their hard work.

The Great Lakes/Gulf Presbytery met on March 4-6, 2021. In their letter to the IRPC congregation shortly after the meeting of GLG, the IJC stated: "Our investigation did not lead us to believe that there was a cover-up. However, information was concealed at times when it was necessary to share whether with the congregation or Presbytery." In their report to GLG the IJC concluded that the entire session of IRPC should repent, and as part of that repentance, resign from their charges. The IJC report included resignation as one of the steps of repentance for the IRPC session. Two elders did in fact resign, but the others did not. As they did not resign, the presbytery appointed two members of the IJC as special prosecutors to bring charges against the remaining IRPC elders. The complaints before us deal with the circumstances of this meeting, these charges, and the conduct of the IJC.

Having carefully interviewed many parties and considered the complaints, we come to consider several items that the complaints have in common. First, it is our opinion that the IJC did NOT enter this investigation with preconceived notions, or proceed in a way that warped their investigation. We think that they proceeded with the right motives and in a competent manner.

However, several items have come together to produce a strong sense of distrust within and among members of the IRPC congregation. First, the IRPC members, including the victim families, were clearly told NOT to attend the Presbytery meeting. But when one victim family asked if they could attend, in some way they received permission. Another sympathetic family (not a victim family) was sitting with them. As the meeting proceeded, the victim family was allowed to remain through a period of executive session and, at some point, given privileges to address the presbytery. When the Presbytery rose from executive session and turned on the Zoom feed, the Immanuel members watching over Zoom, including the other victim families, immediately saw these families in plain view at the meeting. In addition, the IJC's recommendations dovetailed with the desires of the two families present, and not with those of the other victim families (as far as those desires are known). Finally, the IJC was very clear about following a "victim-centered approach."

We venture two opposing comments about "victim-centered approaches." On the one hand we certainly must protect victims, hear their stories, take care they are not neglected, and consider carefully how to ensure their continued safe involvement in church life. We must never allow a closer relationship with an offending party to lead us away from caring for those sinned against. On the other hand, when it comes to judicial consequences, the desires of those

sinned against must ultimately be held to be irrelevant. Courts must deal with crimes and sins as they deserve before God, in accord with impartial justice. Otherwise we run the risk of devolving to a vengeance-based justice, and may pit victim against victim (Leviticus 19:15; Romans 12:19; 13:4; 1 Timothy 5:21).

In sum, the IJC first did excellent investigative work (in line with its remit), and then came to the Presbytery with strongly worded recommendations (also in line with its remit), urging one very strong conclusion, which fit the desires of the one victim family that was permitted to attend and speak, and not the other victim families that were not permitted to attend. This, together with the language of a “victim-centered approach” certainly gave the appearance of bias and gravely offended the remaining members of IRPC, as two of the complaints illustrate.

We come now to the complaints themselves. We are persuaded that the gravity of the underlying issues, which are substantiated by a largely agreed upon series of events, led to the Presbytery voting by large margins to proceed to trial. While we do not condone the events that led to the appearance of bias, we believe the judicial process should proceed.

However, we do agree with the complainants that no members of the IJC should serve as prosecutors in the case. We recommend that they be replaced for the following reasons:

- a) As a general rule, we are convinced that it is wise for those who have investigated not to become prosecutors, even though they have detailed knowledge of the case. Such a change of role, as exemplified in this case, may often be perceived as betrayal by those who may have spoken freely to investigators.
- b) In this particular case, the IJC unwisely allowed two families to attend the presbytery meeting, including executive session, when they had clearly told others not to come. As a result, many in the IRPC congregation feel a strong sense of betrayal and bias on the part of the IJC.
- c) As for the argument that the IJC knows the situation best, while this is true, it is also true that a fresh set of eyes gives a welcome new perspective. If charges are indeed warranted, a new prosecutor will see to it.

Our *Book of Discipline* states, “Members of the lower court who may also be members of the higher, except those acting as counsel, shall have a voice in the judgment of the case unless the complaint has been substantiated as one of injustice and wrong on the part of the lower court” (*BOD* II.4.4, E-16). We believe that these complaints have been substantiated as complaints of injustice and wrong. Specifically, the complainants have (a) alleged injustice and wrong against the lower court in their complaints, and (b) the complainants have presented a *prima facie* case of injustice and wrong and have not

baldly asserted these allegations. Please note, we are not saying that GLG did commit injustice and wrong (which would be a prejudicial determination), but only that the complainants have presented a *prima facie* argument of injustice and wrong against GLG.

Another matter requires some consideration. Multiple members of the GLG expressed to us that their presbytery is deeply divided at the present time. Synod should carefully and prayerfully consider how to assist our beloved brothers.

Throughout our investigation we uncovered serious and conflicting allegations which merit continuing the judicial process.

For the sake of the integrity of the judicial process, we **recommend** the following:

- 1) That the members of Great Lakes Gulf Presbytery have no “voice in the judgment” of the following recommendations of this case in accordance with *BOD* II.4.4 (E-16) because the complainants have substantiated injustice on the part of the lower court by
 - (a) alleging injustice on the part of the lower court, and
 - (b) supporting these allegations, not merely stating them baldly.
- 2) That Synod grant the complainants’ request to remove the prosecutors, and instruct GLG to replace them with others not drawn from the IJC.

We considered long and hard whether the Presbytery should proceed with trials or whether the Synod should assist these brothers by appointing a seven-man judicial commission to hear the case on behalf of Synod. This second option would be undertaken to relieve a divided Presbytery from further strain. We favor the latter option. We provide both alternatives so that Synod can see the two ways forward.

3A) The Presbytery proceed to trial with new prosecutors in place,
OR

3B) The moderator of Synod appoint a seven-man judicial commission to sit in judgment on the cases. (N.B. (1) The prosecutor(s) appointed by the GLG shall not be chosen from the men who served on the IJC. (2) Defense shall be chosen by each defendant. (3) We believe the members of your judicial committee should not be appointed to such a Synod judicial commission because we have heard testimony that may be inadmissible in a trial.)

In addition to dealing with the complaints against the IJC and the GLG, we also considered the status of the accused and the teaching and ruling elders of the Immanuel RPC.

As for the current service of the elders accused, we read in *BOD* II.2.9: “The court may require the accused to refrain from the exercise of communicant

privileges, or from the exercise of office, or from both, until final action in the case has been taken, provided there is no unnecessary delay in its prosecution.”

We want it to be clear that such a requirement is in no way prejudging the case. We gladly note there are already provisional elders in place, and that GLG is scheduled to meet when Synod adjourns, and thus can address the needs of the congregation immediately. Therefore,

- 4) Given the gravity of the accusations against the IRPC elders we recommend that Synod require them to refrain from the exercise of office until their case has been decided.
- 5) That Synod direct GLG to work with IRPC to arrange for stated supply as soon as possible.
- 6) That the judicial committee be dismissed.

Respectfully:

Titus Martin

James Tweed

John Edgar (chairman)

Roel Ophoff

Gabriel Wingfield

**2021 Communication #21-16: Great Lakes/Gulf
re. Immanuel—Redacted Complaint vs. GLG by Faris,
Hanson, Hart, and Holdeman**

We write to complain against the appointment of special prosecution by the Great Lakes/Gulf Presbytery (GLG) for Nate Pfeiffer, Keith Magill, David Carr, Jared Olivetti, and Ben Larson, elders of the Immanuel Reformed Presbyterian Church (IRPC) at the Spring 2021 meeting of the Presbytery. These actions were taken when the Presbytery adopted Immanuel Judicial Commission (IJC) Recommendations 1, 3, 5, 7, and 9, as made on Saturday, March 6, 2021.¹ The vote came on Saturday after several hours of meetings in executive session over Friday and Saturday. We ask that the RPCNA Synod overturn the call for special prosecution and these appointments of prosecutors. Even if the prosecution is no longer in place by the time Synod meets, we ask the Synod to consider the complaint and rule the appointment out of order.²

¹ As shown later in this complaint, the motions did not actually come from the IJC, but only from two members who labeled their motions as coming from the IJC.

² Much of the Presbytery debate on this matter was held in executive session. The report of the IJC was also asked to be kept confidential, but it was posted on the Presbytery’s website for all elders to see, not merely delegates. Further, the IJC released an 11-page report to the IRPC congregation. Our complaint will reveal material expressed in executive session, but we will redact those portions in the public version by blackout. We regard the 11-page report and material revealed outside of executive session as public, as well as the minutes of Presbytery that were read publicly at the spring meeting. For the sake of discretion, we will append only the 11-page report and the original IJC report to the unredacted version of this complaint.