



Canada Court Watch

A program of the National Association for Public & Private Accountability
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June 28, 2005

The Honourable Michael Bryant, Attorney General of Ontario
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Dear Mr. Bryant

RE: Refusal by Madame Justice Olah of the Barrie, Ontario Court to allow media to attend court or to present arguments for attendance

On the morning of Monday June 20, 2005, in courtroom #12 of the Barrie, Ontario Court, Madame Justice Olah ordered representatives of two media organizations out of her courtroom. Justice Olah stated that members of the media had to apply for a motion in order to attend her court and that because no motion had been made previously, media would not be allowed in her court.

Furthermore, even though media representatives present in the court requested the opportunity to present arguments to the judge, Justice Olah refused to allow media representatives to make arguments and threatened media representatives with the use of police force if they did not leave her court immediately. To make matters even worse, just today we were notified that one of the parties to the court action, was advised by court staff that Justice Olah had ordered that court transcripts in this case were not to be released. Preventing parties from having transcripts of their own court hearing and barring the media from attending any hearing is a serious breach of the most fundamental principles of justice and the democratic rights of citizens in this country to be allowed "due process."

What was also highly unusual about this situation was that immediately before Justice Olah ordered the media out of the court, the lawyers went back into the Judge's chambers with the Judge for approximately a 45 minute private meeting prior to the court commencing. Immediately after this private meeting, Justice Olah entered the courtroom and ordered the media out of the court as her first course of business. The court hearing was scheduled to start at 9:00 am but the judge did not

enter the court until 10:35 am. From the events in the court, it appeared as if the judge had already been advised of media presence and came into the court with her mind already made up that she was going to order the media out of the hearing.

The hearing involved a 13-year-old child and members of her family who had reported being threatened and terrorized by unlicensed workers from the York and Simcoe Children's Aid Societies. Unlicensed workers had requested that the girl's father be found in contempt of court for basically not cooperating with the CAS to turn in his daughter back to the CAS after his daughter had previously reported being threatened and abused by the CAS workers. The girl at the focus of this hearing had specifically requested the presence of media in the court because she was highly distrustful of authorities, based on her experience to date with the CAS and police.

Due to a number of similar complaints by other children and parents in this region about the same two CAS agencies involved (some testimony is on videotape), we felt that the public's interest was at stake and that the actions of the CAS agencies and their unlicensed workers had to be monitored for the purposes of protecting the public's interest in the administration of justice. Documentation supplied to us by more than one family appeared to support claims that a pattern of abuse of power and authority by unlicensed CAS workers was a problem in this region.

It has been a longstanding tradition enshrined in law that members of the media have the right to attend court, except in the rarest of situations where compelling evidence would show that the presence of the media will cause specific harm to a child. This was certainly not the case in Madame Justice Olah's court, especially since the girl, herself, requested the presence of the media to help protect herself and her family from further abuse by CAS and its workers.

At this time, we would kindly request your help to ensure that the media continue to have access to the courts as part of their duty to protect the public's interest. Due to the fact that the hearing on the June 21, 2005 was adjourned until June 30, 2005 in Collingwood, Ontario, we will be attending Justice Olah's court again on that day. We would very much appreciate your assistance to help ensure that the media's right under law to attend court hearings is respected by Justice Olah.

In reference to the presence of the media in the courts, in a statement to CP in January of this year, you were quoted as saying, "**My chief concern would be to ensure that the justice system is as transparent and as accessible as possible**". Attached for your reference is reprint of just one of the newspaper articles which carried the story about your announcement to make the courts as transparent and open as possible. Back in January of this year, you spoke publicly of lessening the barriers between the courts and the media. Be assured that this is deeply appreciated by the citizens of Ontario at large.

Justice Olah's actions on June 21, 2005 do not appear to comply with the law as it is written and do not appear to adhere to the spirit and intent of having fewer barriers between the courts and the media as have you have publicly stated is your chief concern.

We would kindly ask that you, as Minister, use your authority in this matter and to take immediate steps to ensure that the presence of the media is respected by our courts. It would also be greatly appreciated if you could take steps to prevent what appears to be judicial tyranny when a judge suddenly decides to violate the rights of every Canadian Citizen to have access to transcripts with regard to hearings which concern them or their family members.

The public has a right to be informed of how CAS agencies are conducting themselves behind the closed doors of these child protection courts. The father in this case should have the right to obtain transcripts of any hearings to which he is a party. Mr. Bryant, as the citizens of Ontario, we feel that if there ever was an opportune moment for you to demonstrate your commitment to make the courts more transparent and accountable, it is now!

Your response would be appreciated.

A handwritten signature in black ink that reads "Dorian A. Baxter". The signature is written in a cursive style and is underlined with a single horizontal line.

The Archbishop Dorian A. Baxter, B.A., O.T.C., M. Div
National Chairman

Attachment

Reprint of a an article published in the Review (Niagara), "Ontario Attorney General wants fewer barriers between courts, media"



Ontario Attorney General wants fewer barriers between courts, media

The Niagara Falls Review – Monday January 17, 2005

Toronto (CP)

Its time to break down the barriers between Ontario's justice system and the media to make the province's courts as open to the public as possible says Attorney General Michael Bryant.

"My chief concern would be to ensure that the justice system is as transparent and as accessible as possible," Bryant told the Canadian Press in an interview.

"We have a legal system inherited from the 18th century, operating in the media spotlight of the 21st century."

There's a long tradition of openness in Ontario courts and transparency in their deliberations, but Bryant admits few people actually attend courthouses any more to watch a trial, but instead rely on newspaper, radio and TV coverage.

"That's where Canadians learn about their justice system," he said. "It's not by sitting in the courtroom. It's by watching a newscast."

"There's no doubt in my mind that members of the public find it very odd that you can take pictures of someone heading into a court but not in the courtroom," he added.

However, he stopped short of endorsing the idea of putting television cameras in the provincial courts, fearing it "might turn some lawyers, and perhaps even judges, into more of a grandstanding mode."

Bryant also said that there are risks to exposing police officers and victims of crime on television, but said the idea of cameras in courts is a debate worth having.

"Some say that the worst thing that ever happened to the legislative assembly (of Ontario) was they brought in cameras, and the debate went from very serious into nothing but rhetoric," said Bryant.

"On the other hand, I personally started politics in a legislature full of cameras and can't imagine it otherwise."