

SUBMISSIONS TO -

Metropolitan Toronto Board of
Commissioners of Police

RE -

Contact School Investigation

FROM -

Canadian Civil Liberties Association

DELEGATION -

J.S. Midanik, Q.C.
(Past President)

A. Alan Borovoy
(General Counsel)

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(Vice President)

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Toronto

Wednesday, March 12, 1980

This delegation owes its origin to the concern of the Canadian Civil Liberties Association about the recent Metro Police investigation at the Contact School. In the appendix to this brief are copies of the CCLA letter to the Police Department and the reply we received on this subject. On behalf of the Metro Police Chief, Metro Corporation Counsel R.M. Parker has confirmed that such an investigation took place as a consequence of "very intemperate and inflammatory statements" which Black community leader Dudley Laws is alleged to have made to students at the school.

In the opinion of the Canadian Civil Liberties Association, this investigation was an impropriety. It represented a potential, if not an actual, threat to some of the most fundamental freedoms in our society. At issue is the right of teachers, students, and their visitors to explore freely the social controversies of the day. That is what classrooms and education are all about. The participants in our educational system must be encouraged, not simply permitted, to be bold, innovative, and challenging.

This role cannot effectively co-exist with a susceptibility to investigation for the exercise of it. Police investigations frequently generate a fear of prosecution and arrest. They convey the impression that there has been misconduct deserving of punishment. To the extent, therefore, that classroom speech becomes the subject of such an investigation, a chill will have been cast over the educational process. There will be a danger that educators will be intimidated or at least reluctant to pursue in their classrooms the kind of social controversies which might offend the authorities. In short, such investigations can subvert the role of the school in our community. They threaten academic freedom in particular and freedom of speech in general.

In view of these considerations, Mr. Parker's letter to us is simply incredible. According to him, the statements under investigation affected the rights of the accused police officers in the Albert Johnson shooting case. Mr. Parker has attempted to justify the investigation, at least in part, on the basis that Dudley Laws' statements might have involved the offences of defamatory libel and contempt

of court. The former offence is concerned with injury to reputation; the latter is concerned with the right of litigants to a fair trial. In our view, it is preposterous to believe that such interests could be seriously imperilled as a consequence of a speech made in the setting of the Contact School. In any event, it would be rare indeed for such matters to be the subject of a police investigation. And for good reason. They are primarily the concern of the affected parties, not the state. How many civilians have had the benefit of such police assistance to protect their comparable interests? Why should the situation be different when police officers are the targets of the impugned remarks? To employ police resources with such apparent selectivity is to exacerbate the impropriety at issue.

Unfortunately, Mr. Parker was not even content to rest his case at that point. He went on to argue that the police were "perfectly justified" to investigate "intemperate and inflammatory attacks" upon themselves before impressionable school children. In this connection, his comments were remarkable.

"I do not believe the police are required in a situation of this sort idly to stand by and take no steps to protest this unfair abuse".

It would not behove the Canadian Civil Liberties Association, of course, to seek a curb on anyone's right to protest, including the police department. But the right of protest is not at issue here. What is at issue is the propriety of this investigation with its attendant risks of intimidation. The machinery for criminal investigations was not intended for the protection of the department's reputation. It was designed to gather evidence of illegal conduct. The "unfair abuse" in this situation was the deliberate employment of such investigative tactics for purposes so far removed from police responsibility.

Accordingly, the Canadian Civil Liberties Association believes that the Metro Board of Police Commissioners should take appropriate action to forestall any recurrence of this unfortunate incident. We believe that disciplinary measures should be instituted against those who conceived and ordered the impugned investigation. The Commission should also convey to the Board of Education a specific apology for the conduct of the officers involved. Contrary to the suggestion in Mr. Parker's

letter, we think it is somewhat misleading to refer to this matter as having been resolved to the satisfaction of the Toronto Board of Education. Our information is that when the Director of the Board complained, the police undertook to stop the investigation. But, since Mr. Parker's letter defends the police action, it could conceivably recur with impunity. That is why we believe an apology would be more appropriate.

Moreover, the Commission should enact a by-law explicitly prohibiting the kind of investigations which occurred here. In our view, it is crucial at this point to convey clear signals to the affected constituencies. Educators should be reassured that, in tendering invitations to people like Dudley Laws, their actions are above legal reproach. The police should be admonished that, in conducting such investigations of situations where the links to crime are tenuous at best or non-existent at worst, their conduct will not be tolerated.

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A P P E N D I X

**Exchange of Correspondence Between
Canadian Civil Liberties Association
and
Metro Police Department**

[Faint, illegible text follows, likely representing the correspondence mentioned in the title.]



CANADIAN CIVIL LIBERTIES ASSOCIATION

229 YONGE STREET • TORONTO ONTARIO • TELEPHONE 363-0321

Friday, January 25, 1980

Chief Harold Adamson,
Metropolitan Toronto Police Department,
590 Jarvis Street,
Toronto, Ontario
M4Y 2J5

Dear Chief Adamson:

The Canadian Civil Liberties Association is concerned about the propriety of the reported police investigation which was conducted at the Contact School with respect to the appearance there of black community leader Dudley Laws. We have been advised that police officers questioned a number of the teachers as to the contents of Mr. Laws' speech to the students and the identity of those responsible for inviting him. An exacerbating factor is the reported statement of police lawyer Roland Parker which appeared in the Globe and Mail a few days ago. According to that press report, Mr. Parker said the police "were interested to know whether or not this was a regular practice of the school...that speakers would be invited to attend and inflame students against the police".

To whatever extent Mr. Parker's reported remarks represent the basis for the police investigation, there would be grounds for inferring that an impropriety had been committed. Unless there are reasonable

grounds to suspect unlawful conduct, the police have no business investigating "inflammatory" speeches. Such an investigation would represent a gratuitous intimidation of free speech in general and academic freedom in particular.

Would you be good enough, therefore, to review this matter and provide an explanation for the police conduct at issue?

Thank you for your consideration.

Sincerely,

A. Alan Borovoy
General Counsel

The Municipality of
Metropolitan Toronto

Legal Department

City Hall, Toronto, Ontario, Canada M5H 2N1
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In Reply Refer to

File No G.270-100.1

Date February 1, 1980.

A. Alan Borovoy, Esq.,
General Counsel,
Canadian Civil Liberties Association,
229 Yonge Street, Suite 403,
Toronto, Ontario.
M5B 1N9

Dear Mr. Borovoy:

Chief Adamson has forwarded to me your letter of January 25th for reply. As the legal advisor responsible for suggesting appropriate courses of action for members of the Police Department on the occasion in question, it is I believe, appropriate that I should reply.

I was consulted by members of the Metropolitan Police Force about an incident which had occurred at Contact School and seemed to involve the making of very intemperate and inflammatory statements to students at the school concerning the Albert Johnson shooting incident which, as you know, is a matter that is presently sub judice. From what I could make out the case appeared possibly to involve the offence of defamatory libel as well as a contempt of court with respect to the rights of accused persons awaiting trial as a result of the shooting incident.

Beyond that it appeared to me that if the statements attributed to Mr. Laws had indeed been made, the matter might be the subject of a legitimate complaint on behalf of the Police Force to the Board of Education.

For these reasons it was my advice that the police attempt to interview members of the school staff who had been present when Mr. Laws made his statements to the students with a view to ascertaining exactly what had been said, as it appeared to me the first step would be to verify the facts before any consultation with the Crown or representation to the School Board could be made.

THE MUNICIPALITY OF METROPOLITAN TORONTO

LEGAL DEPARTMENT

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February 1, 1980.

With respect, I do not think that the taking of such action by members of the Police Force in any way represents a "gratuitous intimidation of free speech in general and academic freedom in particular", to use the language of your letter.

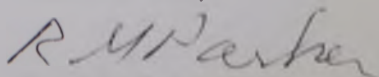
Further, it is my position that the Police are perfectly justified in making inquiries of the nature which they attempted to make especially where the Public School System, supported by the Municipality, is apparently being used to make intemperate and inflammatory attacks on the Police Force in general and particular members thereof before impressionable school children and without any reasonable effort to allow presentation of an opposing point of view. With great respect, I do not believe the Police are required in a situation of this sort idly to stand by and take no steps to protest such an unfair abuse. Therefore, I cannot agree with your suggestion that the Police were not conducting a proper police investigation in this case.

You no doubt are aware that this particular issue has already been resolved to the mutual satisfaction of the Board of Police Commissioners and the Toronto Board of Education.

I should also like to correct a minor error in the recitation of facts contained in your letter. The police officers did not in fact question a number of teachers. Nor did they act without the prior knowledge and consent of the school principal in entering the school. The only persons whom they actually questioned were Miss Rayman who denied hearing any of the statements attributed to Mr. Laws and a non-teaching member of the school staff, a Mr. Roman Semenowycz. The officers were prevented from continuing their investigation by the actions of Miss Rayman and a Mr. Steven Morrow or Moore. Frankly, if the police version of events is correct, I am very surprised at the hostility and lack of co-operation manifested by these two individuals in the circumstances.

I think you will agree with me on the basis of the facts outlined here that there was no impropriety by any member of the Metropolitan Police Force, that their investigation was perfectly proper and justified and that there is no basis for further discussion of this matter at this time.

Yours very truly,



R. M. PARKER,
Corporation Counsel

RMP:MS