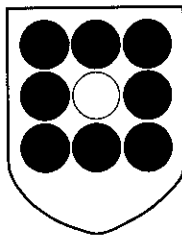


CANADIAN CIVIL LIBERTIES ASSOCIATION

360 Bloor Street West, Suite 506
Toronto, ON M5S 1X1
Telephone (416) 363-0321
FAX (416) 861-1291
E-mail: mail@ccla.org



ASSOCIATION CANADIENNE DES LIBERTÉS CIVILES

360 rue Bloor ouest, Bureau 506
Toronto, ON M5S 1X1
Téléphone (416) 363-0321
Télécopieur (416) 861-1291
Courriel : mail@ccla.org

EXECUTIVE COMMITTEE
COMITÉ EXÉCUTIF
Past Presidents
Présidents précédents
JOHN NELLIGAN, Q.C.
HARRY W. ARTHURS
WALTER PITMAN
THE HON. ALLAN BLAKENEY

President
Présidente
MARSHA HANEN

Vice-presidents
Vice-président(s)
FRÉDÉRIC BACHAND
JAMIE CAMERON
MARLYS EDWARDH
EDWARD L. GREENSPAN, Q.C.
PATRICIA JACKSON
MAHMUD JAMAL
SHIRLEY HEAFEY
JOHN D. McCAMUS
DELIA OPEKOKEW
THE HON. HOWARD PAWLEY
KENNETH P. SWAN
DR. JOSEPH WONG

Secretary
Secrétaire
SYDNEY GOLDENBERG

Treasurer
Trésorier
ELAINE SLATER

General Counsel
Avocate générale
NATHALIE DES ROSIERS

BOARD OF DIRECTORS
CONSEIL D'ADMINISTRATION
FRANK ADDARIO
JASMINE T. AKBARALI
THE HON. WARREN ALLMAND, Q.C.
THE HON. RONALD ATKY, Q.C.
JOSEPH BOYDEN
THE HON. EDWARD BROADBENT
LEAH CASSELMAN
THE HON. SAUL CHERNIAK, Q.C.
DOMINIQUE CLÉMENT
JANE COBDEN
DR. DEBBY COPEL
DAVID CRONENBERG
FERNAND DAoust
BRIAN A. F. EDY
SUSAN ENG
MEL FINKELSTEIN
ROBERT FULFORD
VICKI GABEREAU
THE HON. CONSTANCE R. GLUBE, Q.C.
KATHERINE GOVIER
LOUIS GREENSPAN
HUSSEIN HAMDANI
JAMHEL JAFFER
HARISH JAIN
JANET KEEPING
JOY KOGAWA
ANNE La FOREST
ESTELLE LAMOUREUX
ANDREW LOKAN
A. WAYNE MACKAY
KEN MANDZIUK
DEEPA MBHIA
CINDY MURDOCH
JON OLIVER
PENELOPE ROWE
PAUL SCHABAS
MARVIN SCHIFF
MARK STEVENSON
MARIE-ÈVE SYLVESTRE
WALTER THOMPSON
THE VERY REV. LOIS WILSON

General Counsel Emeritus
Avocat général émérite
A. ALAN BOROVVOY

July 23, 2010

By fax and mail

His Worship Mark Conacher
Justice of the Peace
Old City Hall Courthouse
Ontario Court of Justice
60 Queen Street West
Toronto, Ontario, M5H 2M4
Fax: 416 327 7653

RE: **Note-taking by members of the public during G-20 related show cause hearings and public access to proceedings.**

Dear Justice of the Peace Conacher,

I am writing to express the concern of the Canadian Civil Liberties Association (CCLA) over your recent order forbidding members of the public from 'note-taking' during open judicial proceedings. It is the opinion of the CCLA that this order is inappropriate. Members of the public, including CCLA monitors who were present in your courtroom when the order was made, are entitled to take notes in the context of an open court process. CCLA monitors need to take notes to ensure the accuracy of their reporting. We urge you to rescind this Order. An order preventing members of the public from taking notes during a show cause hearing unjustifiably interferes with the *Charter* right to gather information about, and express opinions on, that judicial proceeding. The bar on note-taking only ensures that discussions will occur without the benefit of accurate facts. In this way, it does not protect the truth-seeking function of s.2 of the *Charter*.

1

We are also concerned about the inability of the public and the media to have proper access to the proceedings. All show cause hearings arising from arrests made during the G20 Summit in Toronto on June 26-26, 2010 are being heard at the Metro West Etobicoke Courthouse before Your Worship. The G20 Summit resulted in the largest mass arrests of individuals in Canadian history; over 1105 individuals were arrested in Toronto within 48 hours. Not surprisingly, subsequent judicial proceedings arising from these arrests – of which show cause hearings are the most immediate – have rightly attracted considerable public attention and scrutiny. Within the limits established by s.517(1) of the *Criminal Code*, the public has a strong interest in observing, noting and commenting on the judicial treatment of charges resulting from G20-related arrests. Transparent and open access to these proceedings is essential for Canadians to form opinions not only on the proper administration of justice but also on related issues of G20 policing and security.

With this in mind, the CCLA is concerned that some show cause hearings were heard in small courtrooms that were woefully unable to handle the interested media and public who attended. This occurred despite larger facilities being available at the Metro West Etobicoke Courthouse. In other instances, members of the public and the media and public were required to watch the proceedings through CCTV monitors in an adjacent room despite seating be available in the courtroom

These restrictions appear incompatible with the “open courts” principle that ought to prevail be unless there are “circumstances that would render the proper administration of justice unworkable”: *Canadian Broadcasting Corp. v. New Brunswick (Attorney General) (Re R. v. Carson)*, [1996] 3 S.C.R. 480.

Thank you for your attention to these matters.

Yours Sincerely,



Nathalie Des Rosiers
General Counsel



Anthony Navaneelan
Acting Project Director
Fundamental Freedoms Project