

Case Name:

**Corp. of the Canadian Civil Liberties Assn. v. Toronto (City)
Police Service**

**RE: Corporation of the Canadian Civil Liberties Association,
the Canadian Labour Congress, Abby Deshman and Nathalie Des
Rosiers, Applicants, and
Toronto Police Service and Ontario Provincial Police,
Respondents**

[2010] O.J. No. 2716

2010 ONSC 3698

Court File No. CV-10-404640

Ontario Superior Court of Justice

D.M. Brown J.

Supplementary hearing: June 25, 2010.
Supplementary judgment: June 25, 2010.

(6 paras.)

[Editor's note: Original reasons for judgment were released June 25, 2010. See [2010] O.J. No. 2715.]

Counsel:

P. Cavalluzzo, M. Wright and A. Telford, for the Applicants.

D. Smith, for the Toronto Police Service.

C. Diana, for the Ontario Provincial Police.

REASONS FOR DECISION - SUPPLEMENTAL

1 D.M. BROWN J.:-- In paragraphs 140 and 142 of my Reasons delivered this morning (2010 ONSC 3525) I wrote, in respect of the injunction sought by the applicants, the Canadian Civil Liberties Association *et al.*:

[140] I grant their motion against the Toronto Police Services in part. I order that the Toronto Police Services refrain from using the Alert function on their 100X and 300X units for any land-based Public Safety Unit application under the conditions prescribed in their current Public Safety Unit Specific Guidelines for the LRAD. I place no restraint on the use of the Alert function on the 100X or 300X model for marine or emergency task force applications; quite different considerations would apply to those types of applications.

...

[142] Second, I have enjoined the use of the Alert function by the TPS for Public Safety Unit purposes, but not by the OPP. If counsel for the TPS notifies me by email, no later than 3 p.m. this afternoon, that the TPS has amended their standard operating procedures to adopt the distance and volume limitations contained in the existing OPP standard operating procedures for the Alert function on their 100X and 300X models, then the injunction against the TPS shall be at an end.

2 On reconvening later this morning in open court, counsel for the Toronto Police Service informed me that his client would change its LRAD operating guidelines to bring the distance and volume parameters for the Alert function into line with those in the Standard Operating Procedures of the Ontario Provincial Police.

3 At 12:50 p.m. this afternoon I received an email from counsel for the TPS which read as follows:

Dear Justice Brown

As per paragraph 142 of your Reasons, I confirm that the Toronto Police Service has amended its standard operating procedures for land based Public Safety Unit applications to adopt the distance and volume limitations contained in the existing OPP operating procedures for the Alert function on the 100X and 300X model.

I attach the amendment to the TPS guidelines.

I trust that this complies with paragraph 142 of your reasons and that accordingly the injunction against the TPS is at an end.

If you have any questions whatsoever, I would of course be happy to answer them.

Darrel Smith

4 Attached to counsel's email was a copy of TPS Internal Correspondence dated today from Staff Superintendent McGuire which reads as follows:

Further to the Public Safety Unit Specific Guidelines dated April 26, 2010 and the Clarification to the Guidelines issued June 22, 2010, in accordance with the undertaking given to the Ontario Superior Court of Justice today by counsel for the Toronto Police Service, effective immediately with respect to any land based Public Safety Unit use of the alert function on the 100x and 300x, the following restrictions apply in addition to all the restrictions already in place.

1. The alert function for the 100x shall not be used at all unless there exist 10 clear metres between the front of the LRAD and a person.
2. At distances between 10 and 75 metres between the front of the LRAD and a person, the alert function for the 100x shall only be used in the green and yellow volume settings.
3. The alert function on the 300x shall not be used at all unless there exists at least 75 clear metres between the front of the LRAD and a person.

Please ensure that all trained operators and supervisory personnel are advised of this clarification immediately.

Jeff McGuire, Staff Superintendent, Operational Services

Distribution: S/Insp. D. Campbell, Marine Unit; S/Insp. W. Neadles, Public Safety Unit; S/Insp. D. Marks, Emergency Task Force; Insp. G. Meissner, Public Safety Unit; Const. Paul Breeze, G8/G20 Summit

5 As a result of this communication from TPS counsel, I am satisfied that the TPS has amended their standard operating procedures to adopt the distance and volume limitations contained in the existing OPP standard operating procedures for the Alert function on their 100X and 300X models.

6 Consequently, the injunction against the TPS which I granted this morning in paragraph 140 of my reasons is now terminated.

D.M. BROWN J.

cp/e/qllxr/qlmxj/qljxr