



Via Electronic and Physical Mail

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Open Letter from BCCLA re: Police Actions in connection to 1492 Land Back Lane

The British Columbia Civil Liberties Association (“BCCLA”) is highly concerned about the developing situation within the Haldimand tract. The BC Civil Liberties Association is the oldest and most active civil liberties and human rights group in Canada. Though we are based in BC, our work is national in scope with legal interventions and law reform advocacy across Canada.

We understand that as of today, the Ontario Provincial Police (“OPP”) have charged 22 people in connection to the reclamation at 1492 Land Back Lane. Among the arrested are two journalists, Karl Dockstader and Starla Myers, and researcher, Courtney Skye. Both Dockstader and Myers were charged for being present at 1492 Land Back Lane to report on the matter.

Earlier this year, we issued an open letter to the Royal Canadian Mounted Police (“RCMP”) condemning its activity on Wet’suwet’en territories.¹ In that case, the RCMP set up an exclusion zone that prohibited the public, invited guests of the Wet’suwet’en, and media from accessing the area.

¹ BCCLA, Open Letter from BCCLA re: Police Actions on Wet’suwet’en Territories, February 6 2020, available online: <https://bccla.org/wp-content/uploads/2020/02/2020-02-06-Wetsuweten-Solidarity-Statement-BCCLA.pdf>

It is disturbing that comparable actions by the police against journalists have emerged in Ontario. We are alarmed that the OPP fail to recognize the freedom of the press, a crucial mechanism for a functioning and healthy democracy enshrined in our *Charter of Rights and Freedoms*. As the Supreme Court of Canada has held, “Strong constitutional safeguards against state intrusion are a necessary precondition for the press to perform its essential democratic role effectively.”

We emphasize that even in areas where injunctions are being enforced, the courts have upheld the constitutionally-protected freedom of the press. In 2019, the Newfoundland and Labrador Court of Appeal vacated an injunction and contempt of court appearance notice it found improperly applied to a journalist charged with contempt while covering an Indigenous-led movement at the Muskrat Falls hydroelectric project site in Labrador in October 2016. The court found that subjecting journalist Justin Brake to a general ‘no trespass’ prohibition would “unduly and unnecessarily interfere with his function as a journalist when he was not a participant in the ongoing protests.” Justice Green noted, “Aboriginal communities have been historically underrepresented in the Canadian media. That makes freedom of the press to cover stories involving Indigenous land issues even more vital.”

Arresting and charging Dockstader and Myers and imposing conditions on them not to attend at 1492 Land Back Lane are clear violations of *Charter* section 2(b) by impeding freedom of expression and freedom of the press. These unreasonable and unjustifiable state practices are part of a disturbing trend across Canada whereby police forces, through the use of court-ordered injunctions, continue to criminalize Indigenous land defenders for upholding their inherent responsibilities to the land, as well as silence allies and members of the media.

We agree with the Canadian Association of Journalist statement that “[a]ttempting to prevent a journalist from documenting a moment of contentious action is impermissible in a country like Canada. Journalism can never be silenced.” Accordingly, we respectfully ask that the Attorney General instruct the Crown to dismiss the charges against Dockstader and Myers. We also ask that the Crown carefully consider the circumstances of each person who was and will be charged in connection to 1492 Land Back Lane, especially those whose presence is informed by Haundenosaunee law.

The BCCLA stands with the Onkewhonwe at this time and we will continue to monitor the activity of OPP within the Haldimand tract. We remind the OPP and the Attorney General that the Constitution is the ultimate law that they are charged to uphold.

Sincerely,



Meghan McDermott
Senior Staff Counsel and Interim Policy Director