

# Canadian Advocates for Charter Equality



When Freedom demands action

[www.CANACE.ca](http://www.CANACE.ca)

Re: Proof of Race Based Policing in Ontario

Date: April 27, 2008

To: OPP Commissioner Fantino  
National Media  
The People of Ontario

The events over the past few days demonstrate three vital points that both the Media and the People of Ontario need to clearly understand.

- Mr. Fantino is following the stated political policies of the McGuinty Government.
- Mr. Fantino has proven he can enforce the Law when the media is scrutinizing his force.
- OPP once again treat Native Protesters one way and non-Natives another.

## 1) Commissioner Fantino is following the stated political policies of the McGuinty Government.

The evidence for direct involvement of the McGuinty Government has been made clear thanks to Mr. Fantino himself and Aboriginal Affairs Minister Michael Bryant. Mr. Fantino provided clear evidence that he was in direct contact with McGuinty's office when he sent a threatening email to silence Haldimand Council back on April 5, 2007 and copied senior members of McGuinty's Government.

### Evidence provided by Mr. Fantino:

Mr. Fantino's email was sent to Haldimand Council, senior OPP officers, and...

- 1) Tony Dean - Secretary of the Cabinet (Deputy Premier of Ontario)
- 2) Chris Morley – Press Secretary for McGuinty
- 3) Peter Wilkinson - Chief of Staff to McGuinty

The following is the transcript of Haldimand Mayor Trainer's testimony when questioned by CANACE co-founder Gary McHale at the Cayuga Courthouse on Dec. 24, 2007 regarding Fantino's email:

Q. Were you not on TV talking about the e-mail that Fantino sent to Haldimand Council where you said on TV and radio...

A. You're right.

Q. ...that you felt threatened by Fantino?

A. Yes. Yes, you're correct.

Q. In that e-mail, did you think it was appropriate for the police force to be threatening elected officials?

A. Most inappropriate.

Q. What was Fantino, in your view, attempting to do?

A. To intimidate.

Q. To what end?

A. Maybe to keep us quiet.

Q. In that particular e-mail, did Fantino use my name [Gary McHale] repeatedly?

A. Yes.

Q. And, in that e-mail, did not Fantino state that Council had to gain control over Council, Councillor Grice because of his positive statements?

A. I don't have the e-mail in front of me but it, it did say something like that.

Q. Didn't, didn't Mr. Fantino threaten to sue council members and the council if any further positive statements were made?

A. Yes, No, if was if, if one of his officers were injured, he would hold the, Councilor Grice and the County accountable.

Q. And again, the e-mail was motivated because Councilor Grice made positive statements about me in public?

A. That's correct.

It is clear from Fantino's threatening email [\[Link to Email\]](#) and from the Mayor's testimony that Mr. Fantino is directly involved in attempting to silence elected officials because he fears the growing influence and credibility we have with the People of Ontario.

Furthermore, Mr. Fantino kept senior members of the McGuinty government informed on his abuse of power, which is how many have seen it. The Canadian Taxpayer's Federation and MPP Peter Kormos called for Mr. Fantino to be fired over this incident.

So we have clearly established that Fantino is in direct communication with McGuinty's office, and now we will show that Fantino's command decisions match exactly with the stated political view of McGuinty's Government with respect to enforcement of the law.

### **Evidence provided by Mr. Bryant:**

Mr. Bryant is the current Minister of Aboriginal Affairs, but from 2003 to 2007 he was the Attorney General of Ontario. Clearly that position demonstrates Mr. Bryant's ability to have a clear understanding of the law and the ability to clearly define what the law states.

While serious violence was occurring in Caledonia in June 2006, the Attorney General's office (Mr. Bryant's office) provided a closing submission to the Ipperwash Inquiry – an Inquiry called by Mr. Bryant himself. A copy of this document is found on the Ipperwash Inquiry website, but the section that is most important for our discussion here is a legal opinion which deals with the issue of 'Colour of Right' of Native Protesters to occupy and to commit illegal acts. [\[Link to this section\]](#)

The message that Mr. Bryant, as Attorney General, wanted the Ipperwash Inquiry to hear was that, quite simply, "Native Protesters DO NOT HAVE COLOUR OF RIGHT." The opinion cited about 25 court cases to prove their point that occupying and committing illegal acts is NOT justified by the 'Colour of Right' argument.

For two years now OPP have repeatedly told builders, town councils and Native protesters that Natives do have 'Colour of Right' to enter and block private property.

We provided Mayor Trainer with Mr. Bryant's 2006 'Colour of Right' argument last week when Mr. Bryant was in Cayuga meeting with Haldimand Council. She read him his own conclusions to the legal question of 'Colour of Right' and asked his opinion. Here is his reply: [\[video of him answering\]](#)

## Transcript of Bryant's reply – his current stance on Color of Right

I you know so much of a history of the relationship between uh governments and aboriginal peoples uh has become legalized uh and over the years because uh governments fail to come to an agreements uh finding ways to accommodate uh historic rights to certain activities uh commercial and sustenance, uh to uh in the case of British Columbia honour umm uh Aboriginal title.

All of the progress was made if you like all the changes were made in the courts. Historically throughout our entire history that's been the case, and as a result of that governments typically uh I'd like to make ours the exception have been paralyzed for fear that if they do this thing over here, uh and they hand back Ipperwash Provincial Park to umm uh a First Nation on the basis of a co management arrangement that eventually reverts to title for the First Nation, if they do that, uh at Ipperwash, won't that set a precedent that uh will cost the province money or cause uh automatically that to happen down the line.

And my view is if we can resolve a confrontation and get an agreement where the community buys in, first nations buys in, I say we do it. Color of right is in that category of the legalized uh language uh instead of the relationship politicized language that should characterize our relationship I.. One of my very first meetings was a uh question and answer with all the chiefs and a chief asked me if I supported the use of rectory doctrine of Aboriginal title, and you know he wanted help getting uh a furnace in his school. I said I'm trying to get a heater in your school, uh it's got nothing to do with the use of rectory doctrines and then the next question was about fiduciary duties and the duty to consult.

I uh whenever things like color of right come up I, I like to say look we've got to find a way to negotiate an agreement out of this. That's the lesson of Ipperwash, where there's confrontation, gotta have lots of communication, uh you gotta try to find an agreement, and uh that's where we're at right now, and issues around color of right, uh fiduciary doctrine, umm customary Aboriginal title, and all the like. I think distracts us from the goal which is we have to get the communities working together again, and that's the goal, and it's a level of empowerment as us as you said [speaking to Councillor Sloat] uh the means to that end does involve resolving some claims, but it leaves uh communities feeling that they're neighbours again, and that the County's able to do their business without interruption, uh citizens and businesses can do their business without interruption, and Haudenosaunee Six Nations can do their business without interruption that's the goal.

Suddenly Mr. Bryant is not only unable to define 'Colour of Right' but clearly wants the laws of Canada not to be applied to the situations involving Native occupations in Ontario. The OPP are doing EXACTLY what their political masters want them to do. Forget what the laws say and who has legal title to property as long as we can get a settlement, is all McGuinty wants. Legal arguments in Ontario no longer have any importance to McGuinty, Bryant or Mr. Fantino. The 'Rule of Law' which is the basis of all democracies is to be set aside to ensure McGuinty satisfies (appeases) Native protesters.

Perpetuating a phony legal argument as 'Colour of Right' flies in the face of the Charter Rights of non-Natives to 'security of person' and the right to expect Ontario's Land Titles system to be upheld. In fact, such lies hinder settlement with Native people by misinforming them and encouraging unreasonable expectations and reckless behaviour. Non-Native people living in Ontario are being asked by Bryant, McGuinty and Fantino to abandon the law.

### **2) Commissioner Fantino has proven they can enforce the laws when the media is involved.**

All the arguments by Mr. Fantino over the past 14 months about how they are just 'peacekeepers' and how they are the 'meat in the sandwich' and how the OPP cannot 'settle land claims' are nothing but propaganda.

First, no one has asked the OPP to settle Land Claims – that is the job of Governments. Mr. Fantino's job, which he appears to have forgotten, is to uphold the Criminal Code and the Constitution as he swore to do when he took office, as every OPP officer also swore to do.

Second, he wouldn't be the 'meat in the sandwich' if he remembered what his job is. Canada already has a peacekeeping force which is part of the Canadian Armed Forces. Co-founders of CANACE, Mark Vandermaas who served Canada proudly as a peacekeeper in Egypt (1978) and Merlyn Kinrade who served under the United Nations flag in Egypt (1956), can explain the difference between Peacekeepers in a failed state where policing is non-existent and policing in a healthy democracy like Canada. Unless Mr. Fantino is publicly admitting that under McGuinty's leadership Ontario has become a failed state, we think he needs to end his 'peacekeeper role' propaganda.

Third, although Commissioner Fantino is willing to spew out his propaganda claiming people "want officers to use force have to realize the resulting confrontation would pit officers against women and children" and "you know how that would be portrayed." [\[Link to Spectator\]](#), he has no problem using force after heightened media attention.

Before Sam Gaultieri was almost killed in Caledonia the OPP allowed an illegal occupation on the Stirling Woods development in Caledonia. They repeatedly told the public the same propaganda story that the OPP cannot do anything in such occupations. When the media started running images of Mr. Gaultieri in the hospital after being beaten, the OPP suddenly realized that the Criminal Code includes sections regarding trespassing and mischief. They suddenly were able to find the 200+ officers, move into the Stirling Development and arrest several Native protesters.

Amazingly, since the enforcement of the Criminal Code there has not been one day where Native occupiers have shut down work at Stirling Woods in the past 8 months. There has been no violence at that site since the OPP decided the Criminal Code truly does authorize them to arrest Native protesters. Of course, the OPP would prefer that the public is not to understand from this that the enforcement of the Law, regardless of one's Race, does actually bring about peace - something all democracies in the world know is true. Race-based policing has been proven around the world to create only victims and has never brought about lasting peace anywhere.

Now we see Mr. Fantino using force in Deseronto. Again, this goes against everything Mr. Fantino has told the media and the public over the past 14 months. Whatever happened to the 'meat in the sandwich' defence or 'we can't settle land claims' defence? What happened to Mr. Fantino's defence that enforcing the law would 'pit officers against women and children?'

Clearly the OPP understand the Criminal Code does authorize the arrest of Native protesters and all the so-called defences given by Mr. Fantino are doing nothing more than clouding the truth.

Why enforce the laws in Deseronto when they continue to refuse to enforce laws in part of Caledonia? Quite simply, McGuinty cannot afford any interference with rail service between Toronto and Montreal. Can you imagine McGuinty allowing a 6 week blockade of rail service in Deseronto as he did in Caledonia? Caledonia is a 'nowhere' town (politically speaking) and McGuinty, and thus Fantino, can write off the residents as long as the media isn't watching.

### **3) OPP once again treat Native Protesters one way and non-Natives another way**

Six Nations Protesters have once again blocked the highway & railway in Caledonia as a means to force the OPP to stop enforcing the law in Deseronto. The following is a press release from Six Nations which clearly states their agenda to control the OPP:

Released by: Six Nations of the Grand River Men's Council

Date: April 26, 2008

Six Nations of the Grand River Territory - The road blockade of what is known as the Highway 6 Bypass continues today, as community members from the Haudenosaunee Six Nations Territory stand in solidarity with the Mohawk community of Tyendinaga. There are no immediate plans to take down the blockade.

The bypass blockade began last evening (Friday, April 25) around 4:00 p.m. after reports that the OPP drew guns on a group of Mohawk people near a quarry on the Tyendinaga Territory. The Mohawks there have been protecting the quarry and keeping a local mining company off the land, as negotiations with the Canadian government proceed.

Six Nations of the Grand River Men's Council spokesperson Degonudogee points out that the local action is peaceful, despite the fact that he has personally seen photos of police with guns drawn on women and children in Tyendinaga.

"The armed presence of the OPP that are surrounding the quarry in Tyendinaga is alarming, and tensions are rising because of it," said Degonudogee. "We are united in this action with our Haudenosaunee people." He cited reports that approximately 200 armed provincial police, with up to 100 additional SWAT team members, are still surrounding the group of Mohawks near the Tyendinaga quarry.

Degonudogee pointed out that the OPP don't seem to understand that this is one whole Confederacy across the land. "It's not just little, tiny reserves that can be abused or intimidated by the OPP; they have to understand that they (Tyendinaga) have support here." The Highway 6 blockade is being manned by community members of all six of the Haudenosaunee nations of the Grand River Territory and is organized by the Men's Council of Six Nations of the Grand.

Degonudogee said the solidarity blockade is proof that the words of the Great Peacemaker are still in use today. The Peacemaker illustrated the weakness of one nation by breaking a single arrow. Then he held five arrows in a bundle to represent the original five nations and couldn't break it, so the people could see the power in unity.

Degonudogee added, "The blockade here will continue not by our choice, but by the choice of the OPP, if they continue their attack."

### **Possible Terrorism as defined by the Criminal Code:**

When any group clearly states that their purpose is to force the OPP to stop their 'attack', which everyone else understands as simply the enforcement of the law, and then makes clear their intention to back their stated agenda with criminal behaviour then it needs to be seriously reviewed as possible terrorism as defined by the Criminal Code. The willful blocking of highways and railways to force the OPP not to enforce the law is illegal in this country.

Is anyone surprised that Native protesters in Caledonia once again can threaten Police, Government and the public with criminal acts without any arrest... I don't think so.

When non-Native people organized a legal convoy to Queen's Park last year - which was attended by Mayor Trainer and a council member - the OPP didn't have any problem attempting to shut down the event through intimidation by handing out to people the following document. It appears the OPP has been able to find Criminal Code offences that would authorize them to arrest non-Natives for the very things Native protesters have been doing in Caledonia for the last two days, but are unwilling to apply the same standard.

If a non-Native blocked the road for 15 minutes the OPP would have him in handcuffs and off to jail in no time... but according to McGuinty and Fantino there is no Raced-Based Policing in Caledonia.

**NOTICE TO PARTICIPANTS  
CALEDONIA CONVOY PROTEST - MAY 02, 2007**

The Ontario Provincial Police has a mandated responsibility through law, to provide policing function on Provincial Highways in the Province of Ontario. Actions that constitute a deliberate interference with traffic on thoroughfare will not be permitted. Intentionally impeding traffic on Provincial Highways may constitute violations of the following:

**HIGHWAY TRAFFIC ACT (including but not limited to)**

Section 130	Careless Driving
Section 134(1)	Disobey Officer Directing Traffic
Section 147(1)	Fail to Keep Right When Driving Less Than Normal Speed
Reg. 627 Sec 1(1)	Pedestrian Using Controlled-Access Highway
Rec 170(12)	Interfere with Traffic

**CRIMINAL CODE OF CANADA (including but not limited to)**

Section 31(1)	Breach of Peace
Section 129	Obstructing a Peace Officer
Section 175	Causing a Disturbance
Section 219	Criminal Negligence
Section 249(1)	Dangerous Driving
Section 423(1)	Intimidation
Section 430(1)	Mischief
Section 430(5.1)	Mischief Endangering Life

These offences are punishable upon conviction by fine and/or imprisonment. Additionally, the Highway Traffic Act authorizes for the towing and impounding of vehicles under these circumstances.

K. MacDONALD - SUPREINTENDENT - HIGHWAY SAFETY DIVISION

The OPP are telling the public and media that in Caledonia they have shut down the highway only as a safety precaution and not because the Native Protesters have blocked the highway. As the photos below show the OPP is lying outright to the public and media as they have done so many times over the past two years.



**Conclusion:**

The OPP know full well what the Criminal Code says and, when they want to, i.e. when media is watching, they have the authority to arrest Native Protesters. Although the OPP repeatedly tell builders and councillors that Natives have 'Colour of Right' to occupy developments, both Mr. Fantino and Mr. Bryant know full well that is legally untrue. It may be politically true because that's what McGuinty's wants to force upon the builders and councillors, but not the legal view as Mr. Bryant presented at the Ipperwash Inquiry.

It is also important for the public to understand that Mr. Fantino has spent enormous amounts of taxpayer's money and time to slander CANACE founders in the media for 14 months. It is the first time in the history of this Province that a Commissioner has publicly singled out average citizens who speak out.

It was the first time in the history of Ontario that a Mayor claimed the Commissioner was threatening elected officials, and remember, he did this to prevent councillors from saying anything positive about us. Mr. Fantino is the first Commissioner ever to have multiple police service complaints filed against him. Of course, the McGuinty government, who recently renewed Fantino's contract, cleared him of all wrong doing without any investigation taking place.

Mr. Fantino is the first Commissioner ever to have the Ontario Human Rights Commission call him to appear before them. The complaints stem from the false arrest and imprisonment of two founding members of CANACE – Canadian Advocates for Charter Equality, Mark Vandermaas & Gary McHale.

Why, may you ask, would the highest police officer in the Province of Ontario spend so much of his time and money on us?

The answer is demonstrated in this report. Who else is documenting the abuses of the OPP and linking them to their political masters? Who else is providing the media and public with such resources so that an informed person can hold McGuinty and Fantino accountable for their repeated violations of Charter Rights and Human Rights?

If we were just some crazed group – no one would care what we said or did. The PROOF of our credibility is found are the serious attempts by Fantino and McGuinty to defame us. But Mr. Fantino and Mr. McGuinty know full well that we have truth on our side and the evidence to back it up. Their own defence is to smear our reputations in hopes that the media and public will refuse to hear the truth.

We are counting on the fact that the Canadian public isn't stupid.



Gary McHale  
Executive Director/Media Relations  
Canadian Advocates for Charter Equality - [www.CANACE.ca](http://www.CANACE.ca)

**Canada and Ontario need you to join CANACE to help send a message to the OPP and the McGuinty government that Civil Rights are not subject to the whims of politicians and police. CANACE is leading the way in what may prove to be the most important Civil Rights movement in Canada since women fought to gain the right to vote and to be seen as persons.**

The following reports will provide information regarding the failures of the OPP – just click on the photos:

