

## Challenging lockdown orders that impacted 15 million in Ontario



Three judges of the Ontario Court of Appeal are now reviewing a constitutional challenge to one of Ontario's harshest lockdown orders, which violated the *Charter* freedoms of more than 15 million people in Ontario for nearly two months. The Ontario government violated the *Charter* freedom of peaceful assembly by prohibiting all outdoor protests in the absence of any scientific evidence that peaceful outdoor gatherings were a threat to anyone's life or health.

The lower court upheld lockdown measures as justified violations of *Charter* freedoms without considering any of the evidence about serious lockdown harms set out in an expert report by Dr. Kevin Bardosh. His report showed alarming mental health deterioration during lockdowns among Canadians, including psychological distress, insomnia, depression, fatigue, suicide ideation, self-harm, anxiety disorders and deteriorating life satisfaction. The expert report outlines abundant data about other lockdown harms, including drug overdoses, a rise in obesity, unemployment, and the destruction of small businesses, which were prevented from competing with big-box stores. The trial judge provided no reasons or explanation as to why he completely disregarded the expert report of Dr. Bardosh.

Lawyer Chris Fleury said, "Ontario's decision to put every single citizen on a form of house arrest for 55 days was a measure not seen outside of totalitarian states. It was unscientific and overwhelmingly harmful. Most importantly for this appeal, it was not minimally impairing of Mr. Hillier's right to assemble for peaceful protest."



### **Charter curriculum teaches next generation about freedom**

The Justice Centre continues to educate Canadians about freedom through courses, reports, events, contests, podcasts, columns and media interviews.

We are bringing a curriculum on the *Canadian Charter of Rights and Freedoms* to Canadian high school students.

We have already created modules about the freedoms of expression, conscience and religion, and we will forge ahead with modules about the freedoms of association and peaceful assembly.



### **Your donations make a difference**

The Justice Centre relies entirely on voluntary donations to carry out its mission of defending the constitutional freedoms of Canadians through litigation and education. When you give, you partner with our team of litigators, researchers, and advocates in defence of a free Canada. We do not accept any government funding. Please donate online at [www.jccf.ca](http://www.jccf.ca), by e-transfer to [etransfer@jccf.ca](mailto:etransfer@jccf.ca), or by mail to the address below. Please also consider including the Justice Centre in your will.

Did you make a donation this year? You will receive a charitable tax receipt in February 2025.



**Justice Centre**  
for Constitutional Freedoms

## — THE DOCKET Fall 2024

- Court excludes secret police recording and dismisses all charges against peaceful Freedom Convoy protestor
- Justice Centre challenges Canada Post to respect free speech
- Justice Centre fights Ontario over censoring criticism of politicians and government officials
- Justice Centre defends peaceful protestor Chris Barber in lengthy criminal trial
- Challenging lockdown orders that impacted 15 million in Ontario
- *Charter* curriculum teaches next generation about freedom
- Your donations make a difference



## Court excludes secret police recording and dismisses charges against peaceful Freedom Convoy protestor



Like thousands of Canadians, Ben Spicer attended the peaceful Freedom Convoy protest in the nation's capital in February 2022. He was standing near Bank and Sparks streets when police struck him multiple times and searched his backpack and jacket, finding a can of bear spray and a pocketknife. He had not pulled these items from his backpack at any time during the protest, explaining that they were from a recent hiking trip. Police charged him with mischief, obstructing justice, and weapons possession. Officers then loaded Mr. Spicer into

a police van equipped with a video and audio recording device, but Mr. Spicer was not aware that he was being recorded. He was not able to access legal counsel at any time throughout his detention.

The Justice Centre provided Mr. Spicer with lawyers for his trial, which lasted six days between November 2023 and April 2024. The Crown tried to use the secret recording as evidence against Mr. Spicer, arguing that he had no reasonable expectation of privacy in custody.

On August 2, 2024, the court ruled that Mr. Spicer had a reasonable expectation of privacy while in custody and that police had violated his right not to be arbitrarily detained, his right to be protected against unreasonable search and seizure, and his right to retain counsel. The court excluded the recording, bear spray and knife as evidence and dismissed all charges against him.

Lawyer Monick Grenier stated, "I am delighted to report that none of my Freedom Convoy protestor clients were convicted following trial, and not one received a criminal record. Many thanks to the Justice Centre and their donors for defending the rights of Canadians."

Mr. Spicer remarked, "I am extremely grateful for everything that the Justice Centre and Ms. Grenier have done. I thank the Justice Centre for funding my defence, with particular thanks to all those who donated."

## Justice Centre challenges Canada Post to respect free speech



On August 29, 2024, lawyers supported by the Justice Centre sent a letter to Canada Post, reminding them of their *Charter* obligation to deliver mail regardless of pressure from outside sources. Earlier in August, a grass-roots citizens' group launched a flyer campaign in New Brunswick promoting the importance of parental notification and consent whenever gender transitions are considered by minors at school. Pressure quickly mounted from politicians and media for Canada Post to stop mailing the flyers.

Our lawyers wrote to Canada Post, reminding them that they are a government entity and are therefore bound by the *Canadian Charter of Rights and Freedoms*. Crown Corporations cannot discriminate against people based on their political beliefs or religious convictions. Refusing to mail these flyers would have violated Canadians' freedom of expression and created a dangerous precedent, allowing government to effectively censor citizens with the "wrong" views.

Our legal warning letter to Canada Post was a proactive move to defend the freedom of expression of Canadians before a violation could occur. In a significant victory for freedom of expression, Canada Post responded to the letter, stating that they would not obstruct the mailing of the campaign.

## Justice Centre fights Ontario over censoring criticism of politicians and government officials



George Katerberg, a retired HVAC technician, moved to the shores of Lake Huron after closing his business following Covid lockdowns. On March 1, 2024, he rented a billboard on Highway 17, featuring the faces of Justin Trudeau, Theresa Tam and other officials responsible for imposing Covid vaccine mandates. The billboard said, "They knowingly lied about safety and stopping transmission," and "Canadians demand accountability." The billboard also had an image of two hammers behind a Canadian flag, inspired by a symbol from Pink Floyd's 1979 album, *The Wall*, which addressed government overreach.

Soon after, the Ontario Ministry of Transportation ordered its removal, claiming that the hammer symbol promoted "hatred or contempt." Mr. Katerberg, unaware that the hammer symbol had been appropriated by a white supremacist group, complied and created a new sign with the same message, but without the hammer symbol.

On June 28, 2024, the Ministry also refused Mr. Katerberg's new sign, now claiming that the "message on the billboard may be seen as promoting hatred or contempt for the individuals pictured on the board." In response, we have now filed a constitutional challenge against the Ministry, in defence of Mr. Katerberg's free expression.

Lawyer Chris Fleury stated, "Mr. Katerberg's proposed sign was a matter of legitimate expression protected by the *Charter*. In a functioning democracy, all Canadians need to be able to express their dissatisfaction with public officials. Doing so is not promoting hatred."

## Justice Centre defends peaceful protestor Chris Barber in lengthy criminal trial



Who can forget Prime Minister Trudeau invoking the *Emergencies Act* and using violence to crush a peaceful protest in Ottawa in February 2022? It was a dark moment in Canadian history. For most Canadians, this story ended in February 2022.

But for Canadians like Tamara Lich and Chris Barber, February 2022 was just the beginning of a long process, still not concluded. The Crown commenced a baseless, politically motivated prosecution, accusing good Canadians of criminal mischief, intimidation and obstruction.

Thanks to the generosity of donors, the Justice Centre has provided criminal defence counsel to Chris Barber and other Canadians whose only "crime" was having peacefully exercised their *Charter* freedoms of expression, association and assembly during the Freedom Convoy.

The Crown is using its limited resources to prosecute people like Chris Barber even while those accused of sexual assault, murder, arson, and violent crimes walk away scot-free. As the Crown zealously pursues Tamara Lich and Chris Barber, devoting unprecedented resources to their prosecution, dangerous criminals walk the streets.