

Canadian Advocates for Charter Equality



When Freedom demands action

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Ontario Provincial Police Commissioner

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Re: Illegal Smoke Shops

Dear Commissioner Fantino:

Yesterday the OPP attempted to deal with an illegal smoke shop that was set up on Ernie Palmer's property in Caledonia without his consent. Mr. Steve Powless, who has been involved in repeated violent acts in Caledonia and Brantford, is the owner of this illegal shop.

The OPP moved in and Mr. Powless quickly text messaged for re-enforcements which swamped the OPP officers. The OPP left the location claiming it wasn't in the 'public safety' to proceed.

Clearly the actions of Mr. Powless have now crossed over in to the criminal realm by obstructing the duties of police officers and criminal intimidation. Since the OPP has publicly admitted there is a 'public safety' issue now present because of the action of Mr. Powless, then the question must be raised about what is the OPP going to do to ensure the public is not endangered by Mr. Powless and his group of thugs which have demonstrated their willingness to have a confrontation with OPP officers. Mayor Trainer has also pointed out the public danger due to the location of these illegal smoke shops regarding highway traffic. In fact, there have already been accidents related to these illegal businesses.

In short, the OPP has a duty to ensure public safety and clearly there is a danger to the public because of people like Mr. Powless and these illegal smoke shops. I should not have to remind the OPP that officers can be charged criminally with Common nuisance which states, "180 (2) For the purposes of this section, every one commits a common nuisance who does an unlawful act **or fails to discharge a legal duty** and thereby (a) endangers the lives, safety, health, property or comfort of the public; or (b) obstructs the public in the exercise or enjoyment of any right that is common to all the subjects of Her Majesty in Canada."

While I agree that the OPP has the right to police discretion it is also true that if that police discretion endangers the public then it is a criminal offense.

Gary McHale

President of Canadian Advocates for Charter Equality

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