

# Witch-hunting trial of homeless advocates opens in Toronto

Henry Michaels  
14 January 2003

A trial involving one of the most serious attacks on democratic rights in Canada for decades opened in Toronto yesterday. Three members of the Ontario Coalition Against Poverty (OCAP), John Clarke, Gaetan Heroux and Stefan Pilipa, are charged with “participating in a riot,” “counseling to participate in a riot” and “counseling to assault police”—charges that could each lead to jail terms of between two and five years.

These oppressive charges, which refer to their participation in a June 15, 2000 anti-poverty demonstration outside the provincial legislature at Queen’s Park, have been laid under some of the most arcane and anti-democratic sections of the Ontario Criminal Code. The “counseling” charges—which are the most serious—could apply to anyone advocating or even helping to publicize a political demonstration that subsequently comes under police attack.

The trial, the first time that these charges have been used in Ontario since at least the 1960s, is expected to last four months or even longer, with the provincial Tory government of Premier Ernie Eves devoting substantial resources to the case. At the opening hearing, the prosecution was represented by six attorneys, led by Vincent Paris.

All the circumstances surrounding the case point to a high-level bid, involving the Ontario government and Toronto Police Chief Julian Fantino, to depict OCAP, a homeless and welfare rights group, as a violent and terrorist organization and to criminalize its leaders and supporters. This is also calculated to intimidate all those opposed to the dismantling of welfare, public housing, health care and other social services by Canada’s provincial and federal governments.

On June 15, 2000, some 1,500 people joined an OCAP rally at Queen’s Park to protest cuts to social programs. OCAP leaders asked that a delegation be permitted to address the legislature to request greater spending on programs for the poor and homeless. Rather than seek an accommodation, the authorities rejected the demand out of hand. They then allowed the demonstrators to overturn one line of police barricades before calling in riot police, including a mounted unit, to attack the crowd.

Police fired pepper spray, then charged forward striking demonstrators with clubs, injuring dozens of people. In the aftermath, police laid scores of charges against 45 protesters, ranging from obstructing police to assault with a weapon and assaulting police.

OCAP has maintained that if a riot took place that day, it was a police riot. OCAP has argued that the police provoked the confrontation, and the three defendants intend to level that accusation during their defense.

In Canada and elsewhere, governments and police authorities have increasingly responded to political opposition and social unrest with violence, followed by the laying of hundreds of spurious criminal

charges. This was seen during the Seattle protests of 1999, the Quebec City demonstrations of 2001, and against housing activists in Montreal and Vancouver.

So far, three quarters of the charges laid as a result of June 15, 2000 have been withdrawn or dismissed, suggesting a lack of any serious evidence. But three people have been sentenced to jail, others have received suspended sentences and some have been placed on parole accompanied by community service and conditions of release prohibiting “unlawful assembly.”

Now the government and the police are clearly determined to proceed with a major show trial, making it a test case for the right to free speech, as well as the rights to organize and demonstrate.

The first day of the trial before Ontario Superior Court Judge Lee Ferrier consisted of a half-hour hearing, simply to determine the order of contesting a host of pre-trial motions. These motions are likely to take the remainder of the month, before a jury is even selected.

The lead prosecutor, Paris, opened by accusing the defense of breaking an earlier agreement on the order to be followed, and of filing late submissions. After the defense pointed out that the prosecution had known of the defense arguments since last November, both sides eventually accepted a two-day adjournment until Wednesday.

On that day, the first motion will seek to clarify the particulars of the charges. One of the main issues will be a constitutional challenge by the defense to the added charge of “counseling to assault police,” which was not laid until late January 2001, more than six months after the event and five months after the three OCAP activists were first arrested in July 2000.

Following that, the defense will demand disclosure of documents and other material relating to the June 15 incident and the decision to prosecute. The prosecution has already indicated that it will seek to block various subpoenas on the grounds of parliamentary privilege. Paris also indicated that some members of the Tory provincial government may apply to intervene in the case to block the release of certain documents.

Two of the defendants, Heroux and Pilipa, will then challenge their charges on the grounds of selective prosecution, because they were singled out from the hundreds of people who participated in the demonstration. Clarke will not join that motion because he is the acknowledged leader of OCAP and addressed the crowd on the day.

In the remaining motions, the OCAP trio will argue for a stay of the prosecutions on the grounds of illegal strip searches, arbitrary arrests and the inadmissibility of evidence. They will also seek to have the trial abandoned because of vindictive and prejudicial coverage in the mass media and the provocative role of the police. Finally, they will

insist that their right to advocate for the homeless should be upheld. Later, during jury selection, they will attempt to assert the right to question potential jurors on their attitudes to homeless people.

Apart from the order of hearing these motions, the only other decision that the judge made on the opening day was to allow the three accused to sit at the bar table with their counsel, rather than in the uncomfortable defendant's dock. The prosecution and the judge agreed to the request, because of the expected length and complexity of the trial.

Speaking to the *World Socialist Web Site* after the initial hearing, Clarke stated that a political defense would be mounted, accusing the police of mounting a provocation and the government of attacking the poor and homeless. He confirmed that the prosecution seemed intent on proceeding with the charges in full, with no plea-bargaining deal offered. "You have to go back to the 1930s for a comparison with this case, when the government tried to bust the Communist Party in Toronto," he said.

Clarke said the authorities had tried to bracket OCAP with terrorism. The police chief had publicly labeled the June 15 protest as "an act of terrorism," a charge that had been repeated after a 2001 incident where protesting OCAP members entered the offices of a provincial cabinet minister. In that case, Clarke was denied bail for 25 days, on the ground that he was a "danger to the public." Yet, the charges were never taken to court; instead Clarke was offered a bond, which he accepted in order to be able to prepare for the current trial. Another OCAP supporter, Sean Lee Popham, was placed under house arrest for 57 days.

"This is what we refer to as the politics of provocation," Clarke said.

Originally, the Crown imposed bail conditions on the accused, banning them from associating with any OCAP members and forbidding them from attending demonstrations. These unconstitutional bans were overturned, but they highlight the fact that the purpose of the prosecution is to break an organization that has mobilized protests against the provincial government.

The attack on OCAP's democratic rights has extended across the border into the United States. Last February, Clarke was barred by US Immigration and State Department officials from entering the country to address Michigan State University students. After a five-hour interrogation at the Port Huron, Michigan border crossing by US agents, who questioned him in detail on the June 15 incident and then accused him of knowing the whereabouts of Osama bin Laden, Clarke was refused entry.

OCAP has won a certain following among students, ex-political radicals and the poor because it appears to be the only group mounting a strident opposition to the gutting of welfare and the destitution of broad layers of working people.

According to a recent report prepared by food banks in the Greater Toronto Area, after paying the rent, the average household using a food bank had only \$4.11 a day per person to buy food, as well as medicine, clothing and all the other necessities of life. Households with children and living on social assistance had just \$3.26 a day.

These pittance had dwindled since 1995, from \$7.40 a day. In that year, the Conservatives took office in Ontario under Premier Mike Harris. They abruptly slashed welfare rates by 22 percent, used workfare and other regulatory changes to drive people off benefits, froze minimum wages and stopped building social housing. Over the past seven years, they have refused to raise welfare rates, inflicting a real cut of near 40 percent, given inflation.

For good measure, in 1998 the Harris government effectively ended rent controls. Since then, rents have risen nearly 20 percent in Toronto—almost the same amount that food bank use has increased in the same period. While it was once relatively rare to see working people use food banks, last year people with jobs accounted for nearly 20 percent of those turning to food banks for help.

Because no public housing has been built, 86,000 families in Toronto and its surrounding suburbs are on waiting lists for subsidized housing.

At the same time, the Chretien Liberal government in Ottawa has lowered employment benefits to just 55 percent of an individual's former income, and made it so hard to qualify that only 27 percent of Ontario's unemployed collect benefits. Across Canada, more than one million children, or nearly one-sixth of the total, live in poverty—a significant increase from 1989, when the Canadian parliament solemnly committed itself to abolishing child poverty.

The organizations that have traditionally claimed to speak for the working people, the New Democratic Party (NDP) and the trade unions, have been totally complicit in imposing these conditions. The anti-working class policies of the 1990-95 NDP administration of Bob Rae in Ontario opened the door to Harris, who headed the most right-wing government in Canada's postwar history. When Harris's social onslaught provoked mass opposition and a wave of strikes led by public sector workers and teachers in 1997-98, the trade unions moved to kill off the resistance.

The WSWS has previously made clear its fundamental differences with OCAP's protest perspective, which holds out the false hope of pressuring politicians and big business to offer concessions to workers and the needy. This outlook not only opposes a socialist program as the only solution to poverty and homelessness, it also leads inevitably to protest stunts and set-piece confrontations with the police, which have provided the pretext for political repression.

Nevertheless, the WSWS unconditionally defends OCAP and the three accused, and demands the dropping of the trumped-up charges against them. This show trial is a serious threat to basic civil liberties and democratic rights. If the OCAP activists can be convicted and jailed for "participating in a riot," no picket line or demonstration will be safe from such antiquated sections of the Criminal Code.

Although Mike Harris, who spearheaded the victimization of the poor and initiated the charges against OCAP, departed the political scene last year after a series of scandals, the administration of his Tory successor, Eves, is pursuing the prosecution with the full force of the state. The WSWS will do everything it can to expose and bring this witch-hunt to the attention of an international audience and fight for the defeat of the charges.



To contact the WSWS and the  
Socialist Equality Party visit:

**[wsws.org/contact](http://wsws.org/contact)**