

Cracks appear in police evidence at Toronto “riot” trial

Jury shown videos of police violence

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Doubts about the police evidence began to emerge when the Toronto “riot” trial resumed Monday following a week’s recess. Before a packed audience of more than 100 people, defense lawyers commenced their cross-examination of a key police witness, revealing a number of apparent contradictions.

Three members of the Ontario Coalition Against Poverty (OCAP), John Clarke, Gaetan Heroux and Stefan Pilipa, are on trial for “participating in a riot” or “counseling to participate in a riot” and “counseling to assault police”—charges that could lead to jail terms of up to five years.

The charges arise from a June 2000 demonstration outside the provincial legislature at Queen’s Park, Toronto to protest against five years of brutal welfare and public housing cuts imposed by the Ontario Tory (Progressive Conservative) government. Never before in Canadian history has a political activist been charged with “counseling to participate in a riot”—one of the most serious offences in the Canadian Criminal Code.

Police Detective-Sergeant Richard Stubbings, a 23-year veteran of the Toronto police force, is clearly a vital witness for the government’s prosecutors. On the day of the protest, he commanded the police intelligence unit, personally supervising 10 undercover officers, and has since been elevated to take charge of the police misconduct branch. Earlier in his career, he headed a special weapons team in the paramilitary Emergency Task Force.

Stubbings was the Crown’s first major witness, selected to comment and testify on several hours of television news videotapes shown to the jury as the prosecution’s opening evidence. Giving his evidence-in-chief on March 7, he told the jury that he was stunned

and terrified by the Queen’s Park protest. “It was a continuous assault on police officers and the buildings, something I’d never experienced before.... I’ve never seen objects thrown so consistently, by that many people, with so much anger at police officers who were just trying to do their job.”

Right-wing *National Post* columnist Christie Blatchford featured Stubbings’ testimony prominently in two articles on the opening days of the trial, highlighting his allegations that projectiles, including a firebomb, were hurled at police officers. Under the highly prejudicial headline, “Seasoned cop stunned by riot,” Blatchford eulogized Stubbings as a mild-mannered officer who had been shocked and petrified by violent protesters. “He’s no pussy,” Blatchford wrote, describing him as “quietly self-contained” and an “anti-cowboy.”

Once the defense cross-examination of Stubbings commenced, a different story began to come to light. Defense lawyers asked Stubbings a series of questions pointing to a police plan to provoke a violent conflict outside the parliament building. They screened a video that showed police retreating from an outer line of metal barricades after only a few seconds of confronting protesters. Stubbings admitted that the words, “let them go,” could be heard, repeatedly ordering police to fall back to a second set of barricades in front of the building.

This retreat was followed by the calling in of mounted police and black-suited riot squads to attack demonstrators with batons and pepper spray. Stubbings acknowledged that the arrival of the mounted police caused a “lull” in the incident, which was broken two to five minutes later when police advanced into the

crowd. If the lull had continued, the events “would not have been so bad,” he agreed.

Stubbings was asked why police commanders did not “read the Riot Act” if they considered a riot was taking place. Section 67 of the Criminal Code provides for an official to make a proclamation of “riot” in a loud voice, ordering all those present to leave on pain of arrest and possible life imprisonment.

Despite being a senior intelligence officer, Stubbings claimed to have no knowledge of Section 67. He admitted, however, that no police order had been given to demonstrators to leave Queen’s Park. In fact, as far as he knew, no police loudspeaker was in place to issue warnings or directives to the crowd.

Stubbings was asked to comment on another video, which showed groups of police beating, kicking and stomping on several demonstrators, including one young woman who was lying on the ground. The footage clearly showed five officers assaulting the woman, with two officers striking her with batons, two kicking her, one in the groin and one on the leg, and one officer pushing her head hard into the ground with his boot. The defense lawyers suggested that such assaults may have triggered reactions by demonstrators.

Stubbings agreed that police using batons were expected to hit as hard as possible, and that the batons, some made of metal and some wood, would “hurt a lot.” Nevertheless, he declared that he saw “no problem” with the police conduct, even with the use of a boot to drive a person’s head into the grass. He would have to assess the “context” of the police behavior, he insisted.

Later, Stubbings was shown photographs of plain-clothed members of his intelligence unit participating in grabbing and detaining protesters. He confirmed that his officers wore street clothes, such as jeans, so that demonstrators would not know they were police officers. He admitted that those being arrested might not have realized that their assailants were police officers.

As head of the police misconduct branch, he confirmed that no investigation or disciplinary charges had been instigated into police excesses during the demonstration. But his intelligence officers had spent two months reviewing the videotapes in order to lay charges against protesters.

Even though police pored over the videos, none of the

three defendants has been charged with committing any acts of violence. Stubbings confirmed that the tapes had not shown a violent act by Clarke, OCAP’s leading figure. He also admitted that no physical evidence had been collected of the firebomb allegedly thrown at police and that no one had been charged in relation to it.

Stubbings agreed that OCAP and the three defendants had no control over who joined the demonstration. He estimated that 400 to 500 people had congregated in Queen’s Park before OCAP’s march arrived from Allan Gardens, which is several blocks away. He acknowledged that other organizations had banners on the demonstration, including the York University Faculty Association and the Canadian Auto Workers.

During his opening address to the jury, Crown prosecutor Vincent Paris argued that because some demonstrators wore bandanas, goggles or helmets, as well as long-sleeved clothing, they had come prepared to riot. Under questioning, however, Stubbings agreed that protesters might “reasonably” take defensive precautions against pepper spray, which had been used by police elsewhere in North America, including against anti-globalization demonstrators in Seattle.

About 50 supporters of the OCAP trio rallied outside the court before the proceedings commenced, denouncing the trial as an attack on the right to protest. Stefan Pilipa, one of the defendants, told the gathering that the wrong people had been arraigned. The Tory government should be on trial for cutting welfare payments and scrapping public housing construction, helping to cause the deaths of 1,000 homeless people who had died on the streets since 1995.

The trial may last many weeks. The *World Socialist Web Site* will continue to provide regular reportage of the case, which constitutes a serious threat to free speech, democratic rights and civil liberties.



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