

Innocence Canada Opposes Ontario Government Proposal for Appointing Judges

From: Innocence Canada

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TORONTO: Innocence Canada is strongly opposed to a proposal by the Ontario government that would radically restructure the province's process for appointing judges.

The changes being contemplated to Ontario's method of vetting and appointing judicial candidates would allow the province to freely appoint under-qualified judges as political favours.

In light of their gatekeeper function over the admissibility of evidence and the trial process, inadequately qualified judges have frequently figured in past miscarriages of justice. It can take years - if ever - for organizations such as Innocence Canada to correct these mistakes.

The 13-member Judicial Appointments Advisory Process (JAAC) was created in 1990 by Attorney-General Ian Scott. It advertises judicial vacancies and assesses candidates by way of inquiries within the legal community and in-person interviews with candidates. A list containing at least two names is sent to the attorney-general from which a judge is chosen.

Under the changes being considered, Attorney-General Doug Downey, could choose from a large pool of candidates ranked merely as 'qualified.' The Attorney General could also look over individual applications and ask the JAAC to reconsider those not found so deficient as to have been ranked by it as "unqualified."

"The more experienced and knowledgeable about criminal law a judge is, the less chance there is of shoddy evidence contaminating a trial and causing the conviction of an innocent person," Innocence Canada co-president Kirk Makin said. "Competence is simply not good enough. Any changes that damage the finely calibrated mechanics of JAAC would constitute a dismal step backwards for a procedure that is looked to as a model by other jurisdictions."

Innocence Canada believes that by radically expanding the pool of candidates from which an Attorney General can select appointees, politically partisan or personal criteria will inevitably come into play. This concern came to the fore last year when, in a virtually unheard move, Mr. Downey reportedly rejected three lists of recommended candidates for judicial vacancies and asked JAAC for new lists.

As a trial court that handles roughly 95 per cent of the province's criminal cases, the Ontario Court of Justice makes primary findings of credibility and fact that can determine guilt or innocence.

Experience is particularly important when it comes to self-represented defendants, who have become commonplace in the courts as legal aid programs become increasingly underfunded and restrictive. Judges are expected to provide substantial education and legal guidance to them to help protect their self-interest - all the while exercising impartiality and fairness to both sides.

Experience and legal acumen is equally indispensable when it comes to the problem of innocent defendants who plead guilty in order to avoid long periods of pre-trial custody or because they have been denied legal aid.

Quotes

"The painful lessons of history have taught us that wrongful convictions in Canada and elsewhere are often caused by seemingly small shortcomings and relatively minor errors made by well meaning individuals,"

"As such it is incumbent on us as a society to strive to have only the brightest and best individuals acting for us in the administration of justice. Any weakening of the selection process for judicial appointments does not serve that end."

- *Ron Dalton, Innocence Canada Co-president and wrongly convicted*

Associated Links

- [Legal Groups Sound Alarm](#) – The Toronto Star
- [Ontario's Judicial Integrity at Risk](#) – The Hamilton Spectator
- [Innocence Canada](#)

For more information

Kirk Makin
Co-President – Innocence Canada
Kmakin34@gmail.com

Ron Dalton
Co-President – Innocence Canada
rcdalton@hotmail.ca

Kerry Emmonds
Executive Director – Innocence Canada
Kemmonds@innocencecanada.com