

AIDWYC HISTORY

AIDWYC is a Canadian based volunteer organization dedicated to preventing and rectifying wrongful convictions. AIDWYC has two broad objectives: first, eradicating the conditions that give rise to miscarriages of justice; and second, participating in the review and, where warranted, correction of wrongful convictions. AIDWYC is a voluntary, non-profit association dedicated to assisting factually innocent persons who have been wrongfully convicted of a serious crime.

AIDWYC was founded in 1993. It is the direct successor to the Justice for Guy Paul Morin Committee, a grass-roots organization that came into existence in support of Guy Paul Morin immediately following his wrongful conviction in the summer of 1992. When Guy Paul Morin was released on bail in February 1993, pending his appeal, this Committee reconstituted itself as AIDWYC having consciously decided to broaden its mandate and to act in defence of all persons who had been wrongly convicted.

Until his death in May 2010, AIDWYC's Honourary President was the Honourable Gregory T. Evans, the former Chief Justice of the Supreme Court of the Province of Ontario and one of the three Commissioners who presided over the "Royal Commission on the Donald Marshall, Jr., Prosecution". For some ten years ending in September 2004 AIDWYC's Executive Director was Rubin Hurricane Carter who himself spent 20 years in prison for crimes he did not commit. The directors of AIDWYC include lawyers, academics and other interested members of the public.

AIDWYC CONFERENCES

AIDWYC has sponsored or co-sponsored a number of international conferences including the 1994 conference, "Innocents Behind Bars"... the 1995 conference "Justice on Trial: The Wrongful Conviction of Guy Paul Morin", the 1996 conference "Coffin's Legacy: Keeping the Death Penalty at Bay", the 1998 conference in Chicago, Illinois "The National Conference on Wrongful Convictions and the Death Penalty" (of which AIDWYC was a co-sponsor). AIDWYC's 2002 conference was combined with the second annual benefit concert "Sounds Like Justice". The most recent conference was held in St. John's, Newfoundland, "Between A Rock And A Hard Place" in June 2005.

AIDWYC is regularly invited to speak at conferences and meeting across North America.

Conferences AIDWYC has contributed to are:

- 2007 Innocence Network Conference in Boston, Massachusetts
- 2008 Innocence Network Conference in Santa Clara, California
- 2009 Innocence Network Conference in Houston, Texas;
"Wrongly Convicted '09 Conference" at York University (Toronto)

- 2010 “Wrongly Convicted Panel” Assumption University (Windsor)
Innocence Network Conference in Atlanta, Georgia
“Injustice Speaks: The Omar Khadr Case” (Toronto) hosted by
AIDWYC
- 2011 Innocence Network Conference in Cincinnati, Ohio
“Injustice Speaks: Discussion on the Death Penalty” (Toronto)
- 2012 Innocence Network Conference in Kansas City, Missouri
- 2013 Innocence Network Conference in Charlotte, North Carolina

In 2012, AIDWYC introduced “Injustice Speaks: Learning Forum”, a lecture series on wrongful convictions. Topics include Advocating Innocence: Issues in Wrongful Convictions and Professionalism, Role of Forensics, Disclosure Issues, Public Inquiries, and Racial Bias. The lecture series has been accredited by the Law Society of Upper Canada.

PARTICIPATION IN PUBLIC INQUIRIES

In June 1996, the Government of Ontario convened a public inquiry into the wrongful conviction of **Guy Paul Morin** (the "Morin Inquiry"). The Honourable Fred Kaufman was appointed Commissioner. In his written reasons for acceding AIDWYC standing Commissioner Kaufman stated that AIDWYC had demonstrated "continued interest and involvement in issues relating to the wrongful conviction of innocent persons " and its "substantial and direct interest in addressing, in a systemic way, how innocent persons come to be charged and convicted, and this with a view to preventing such miscarriages of justice in the future."

AIDWYC participated extensively at the Morin Inquiry. In particular, during the final phase of the inquiry devoted to "systemic issues", AIDWYC helped organize and called much of the evidence, including a number of expert witnesses. This role included submitting the results of two research studies pertaining to systemic factors and convening a panel of wrongfully convicted persons from Canada and the United States.

In the Morin Inquiry report, released on April 9, 1998, much of the evidence called by AIDWYC’s counsel is summarized in detail and relied upon in reaching conclusions and recommendations with respect to systemic issues. Furthermore many of the recommendations reflect those advanced by AIDWYC in its final submissions; indeed, some are adopted verbatim from AIDWYC’s suggested recommendations.

In June 2000, the Government of Manitoba convened a public inquiry, headed by the Honourable Peter Cory, into the wrongful murder conviction of Thomas Sophonow (the "**Sophonow Inquiry**"). AIDWYC was the only public interest organization granted standing at the Inquiry and participated extensively throughout the hearings, including calling expert evidence on the crucial areas of identification evidence and compensation. AIDWYC made written and verbal submissions at the conclusion of the "compensation" phase of the Inquiry and, at the conclusion of the hearings, tendered a 50 page written brief as part of its final submissions. Many of the recommendations made by AIDWYC in its two briefs were echoed in the Inquiry’s final report. That report, entitled "The

Inquiry Regarding Thomas Sophonow: The Investigation, Prosecution and Consideration of Entitlement to Compensation," was released in November 2001.

In September 2003 the Government of Newfoundland convened a public inquiry, headed by Justice Antonio Lamer, into the wrongful murder convictions of Greg Parsons, Ronald Dalton and Randy Druken ("**Lamer Inquiry**"). AIDWYC was granted standing at the hearing into the Terms of Reference. Here we were represented by AIDWYC lawyers Mel Green (now judge) and James Lockyer. Mel Green prepared AIDWYC's written submission on systemic issues to the inquiry which Commissioner Lamer commented on favourably in his report. AIDWYC lawyer James Lockyer testified as an expert on wrongful convictions at the inquiry. Justice Antonio Lamer released his 45 page report on June 21, 2006. Many of the recommendations sighted in Justice Lamer's report were recommendations that were encouraged by Justice Kaufman and Justice Cory as a result of previous inquiries.

On January 17, 2005 the Inquiry into **David Milgaard**'s wrongful conviction began in Winnipeg, Manitoba, heard by Justice Edward MacCallum of Alberta. AIDWYC lawyers Hersh Wolch, Joanne McLean and James Lockyer represented David Milgaard and Joyce Milgaard respectively. The inquiry heard from its final witness on October 4, 2006. Justice MacCallum heard final arguments from the 14 parties who were granted standing in October 2006. On September 26, 2008 Justice MacCallum released an 815 page report of findings which included 13 recommendations.

The **James Driskell Inquiry**, headed by Justice Patrick LeSage, began on July 17, 2006. AIDWYC was granted standing at the inquiry and was represented by AIDWYC lawyer Jerome Kennedy. AIDWYC lawyers Alan Libman and James Lockyer represented James Driskell. AIDWYC lawyer Julian Roy represented AIDWYC during the systemic questioning phase of the inquiry. A report of findings and recommendations was released in February 2007.

On April 25, 2007 Premier Dalton McGuinty announced that a Public Inquiry would be held into Pediatric Forensic Pathology in Ontario ("**Goudge Inquiry**"). The Honourable Stephen T. Goudge was appointed Commissioner. The Commissioner was asked to make recommendations to address systemic failings and restore and enhance public confidence in pediatric forensic pathology in Ontario after 45 criminally suspicious cases and homicide cases, dating back to 1991, where Dr. Charles Smith had performed an autopsy or provided an opinion were re-examined by experts around the world. The Chief Coroner acknowledged that in 20 of the cases the experts took issue with Dr. Smith's opinion. AIDWYC received standing at the Inquiry whose interests were represented by AIDWYC lawyers, Louis Sokolov and Vanora Simpson. AIDWYC lawyer, James Lockyer received standing as counsel for AIDWYC clients William Mullins-Johnson, Sherry Sherrett and seven unnamed persons. The Inquiry proceeded on November 12, 2007 and the Inquiry's public hearings were completed on February 29, 2008. Oral closing submissions were heard on March 31 and April 1, 2008. The Honourable Stephen Goudge released his report on October 1, 2008.

CRIMINAL LAW REFORM

AIDWYC has also been actively engaged in criminal law reform. For example, in 1998, AIDWYC, as a "stakeholder" in the reform of the criminal justice system, was invited to tender submissions to the Criminal Justice Review Committee, an *ad hoc* committee established by the Attorney General of Ontario, the Ontario Court of Justice, and Ontario Criminal Lawyers' Association. The Committee tabled its report in February 1999.

In 1998, representatives of AIDWYC met with then federal Minister of Justice, the Honourable Anne McLellan, to discuss AIDWYC's proposals for amendments to the *Criminal Code* by which wrongful convictions may be more readily addressed and remedied. The discussions focused primarily on reforms to Criminal Code sections 686 (the scope of the review powers of provincial courts of appeal in criminal cases) and 690 (the so-called "royal prerogative of mercy", and its replacement by an independent commission).

Subsequently, on October 26, 1998, the Minister of Justice released a consultation paper entitled "*Addressing Miscarriages of Justice: Reform Possibilities for Section 690 of the Criminal*". The consultation paper, and the enumerated questions to which the Minister sought answers, extended beyond section 690 reforms to include other measures intended to reduce the risk of factual miscarriages of justice such as expanding the jurisdiction of courts of appeal and relaxing the rules governing the introduction of fresh evidence on appeals. On February 12, 1999, AIDWYC tendered its response to the consultation paper to the Minister by way of a 49-page brief signed by AIDWYC members in all ten provinces.

On February 10, 1999, AIDWYC met with then Attorney General of Ontario, the Honourable Charles Harnick, and Murray Segal, then Assistant Deputy Minister (Criminal Law) to discuss the legislative reforms mooted in the section 690-consultation paper issued by the federal Department of Justice. Parallel approaches have been made to the Attorneys General of several other provinces.

AIDWYC appeared by invitation before the Legal Affairs Committee of the House of Commons and the Legal and Constitutional Affairs Committee of the Senate in 2001 to make submissions and answer questions regarding proposed amendments to section 690, as contained in Bill C-15A. In each case, AIDWYC's verbal submissions were supplemented by separate written briefs.

In recognition of its expertise, AIDWYC has been invited to establish and participate in committees which give policy advice to key government institutions. In 2003, AIDWYC worked with the Attorney General of Manitoba in the creation of the Manitoba Hair Evidence Review Committee. AIDWYC provided two members for the Committee, one a lawyer, the other a forensic scientist, whose work led to Kyle Unger's case being presented to the Minister for review. A second case in which the Committee conducted post-conviction mtDNA typing was in the case of Robert Sanderson, whose case is currently being worked on by AIDWYC. AIDWYC has permanent members on the Centre of Forensic Sciences Advisory Committee and the Forensic Pathology Advisory Committee.

INTERVENER

AIDWYC has also intervened on a number of cases involving miscarriages of justice. In the spring of 1999, AIDWYC applied for and was granted leave to intervene, in writing and by way of verbal submissions, before this Honourable Court in the cases of *R. v. Biniaris*, *R. v. Molodowic* and *R. v. G. (A.)*. All three cases dealt with the scope of "unreasonable verdict" as a ground of appeal as set out in s. 686(1)(a)(i) of the Criminal Code, and related jurisdictional issues affecting rights of appeal. AIDWYC and the Innocence Project (which was also granted leave to intervene) submitted a joint factum and council from each organization shared the 30 minutes permitted for verbal submissions. The substantive and jurisdictional positions advanced by AIDWYC appear to have been adopted by this Court in its reasons in *R. v. Biniaris*, [2000] 1 S.C.R. 381.

The Supreme Court of Canada granted AIDWYC's application for intervention in *Hill v. Hamilton Wentworth Police Services Board et al.* The appeal was argued on November 10, 2006. Hill is a significant case for the wrongly convicted as it seeks to uphold the tort of negligent investigation. On October 4, 2007, the Supreme Court of Canada confirmed that the police may be sued by persons who are wrongly accused or convicted of a crime if an investigation is conducted negligently.

AIDWYC was granted intervener status in *Reynolds vs. City of Kingston Police Services et al.* before the Court of Appeal for Ontario. The Reynolds case concerns the rule of witness immunity/absolute privilege in a negligence action against pathologist Dr. Charles Smith. The appeal was argued on February 12, 2007. On March 14, 2007 the Ontario Court of Appeal ruled in Ms. Reynolds favour, she will be allowed to proceed to trial. Dr. Smith will have to prove in a court of law his witness immunity claim.

AIDWYC received intervener status in the case of *R. v. Hart* (confession obtained from Mr. Big Operations) whose case will be heard by the Supreme Court in December and *R. v. McArthur* (decision will impact Canadians who in the future wish to have the propriety of their conviction reviewed by the Minister of Justice on the basis that a miscarriage of justice likely occurred. On July 31, 2014 the Supreme Court found that the evidence against Hart procured through the "Mr. Big" operation was not admissible and would be excluded in any new trial.

In August, 2014, Crown Prosecutors in Gander announced that they will not seek another murder trial for Hart and Supreme Court Justice David Peddle granted the Crown's request to withdraw murder charges against him due to insufficient evidence.

AIDWYC received intervener status in the case of *R. v. Hinse* which was heard in the Supreme Court in November 2014.

CLIENTS

AIDWYC has also played an important role advocating for persons who have been wrongfully convicted. AIDWYC receives applications for assistance from wrongful

conviction claimants on a routine basis; many of these are assigned to volunteer counsel across the country to review and assess. AIDWYC actively prosecutes the claims of those who it accepts as having been wrongfully convicted, including the following:

- (a) Robert Baltovich of Ontario (acquitted April 22, 2008)
- (b) Chris Bates of Quebec
- (c) Wilbert Coffin (deceased) of Quebec
- (d) Ron Dalton of Newfoundland (acquitted June 24, 2000)
- (e) Jim Driskell of Manitoba (Charges stayed March 3, 2005)
- (f) Randy Druken of Newfoundland (exonerated August 30, 2000)
- (g) Anthony Hanemaayer of Ontario (acquitted June 25, 2008)
- (h) Leighton Hay of Ontario (withdrawal November 28, 2014)
- (i) Dinesh Kumar of Ontario (acquitted January 18, 2011)
- (j) Clayton Johnson of Nova Scotia (acquitted February 18, 2002)
- (k) William Mullins-Johnson of Ontario (acquitted October 15, 2007)
- (l) Tammy Marquardt of Ontario (withdrawal June 7, 2011)
- (m) David Milgaard of Saskatchewan (exonerated July 18, 1997)
- (n) Frank Ostrowski of Manitoba (released pending decision of Justice Minister)
- (o) Greg Parsons of Newfoundland (exonerated November 5, 1998)
- (p) Romeo Phillion of Ontario (charges withdrawn April 29, 2010)
- (q) Sherry Sherrett-Robinson of Ontario (acquitted December 7, 2009)
- (r) Tom Sophonow of Manitoba (acquitted 2000)
- (s) Steven Truscott of Ontario (acquitted August 28, 2007)
- (t) Kyle Unger of Manitoba (acquitted October 23, 2009)
- (u) Erin Walsh (N.B.) (acquitted March 14, 2008)
- (v) Jack White of Ontario (charges withdrawn November 26, 2010)
- (w) Richard Brant of Ontario (acquitted May 4, 2011)

Until 2011 AIDWYC reviewed cases outside our borders. In 2002 **Steven Crawford** who had spent 28 years in PA prisons was released. In 2004 **Maurice Carter** of Michigan was released but sadly died three months later prior to a full exoneration. In 2006 **Cy Greene** of New York was acquitted after 22 years in prison. **Anthony Persiano** of New York was released in 2004 without being exonerated. Mr. Persiano continues to fight to clear his name. **Johnnie Savory** of Illinois was charged with murder at the age of 14 years, he spent 30 years in prison until finally being released in 2006. He and his supporters have requested that DNA evidence be released for testing and finally that request was granted in September 2013. Johnnie Savory was pardoned by the Governor of Illinois in 2014.

ASSOCIATIONS

Since its inception, AIDWYC has maintained ongoing association with a number of like-interested bodies in other jurisdictions: in particular, in the United States, with Centurion Ministries in New Jersey, with the Southern Center for Human Rights in Atlanta, Georgia, with the Center on Wrongful Convictions and the Death Penalty in Chicago, Illinois, Innocence Projects throughout the United States and Australia and with the Alliance for Prison Justice in Boston, Massachusetts. AIDWYC is a member of the Innocents Network that is based in the United States and whose members represent advocacy groups from several countries. AIDWYC also co-operates on a routine basis with the Innocence Project, a student-resourced organization with similar goals that is based at Osgoode Hall Law School at York University in Toronto. AIDWYC has also developed professional relationships with several individual counsel and academics in the United States and in the United Kingdom who have worked on cases of notorious miscarriages of justice such as the following cases:

- a) Madame Nguyen Thi Hiep
- b) Madame Tran Thi Cam
- c) William Sampson
- d) Mahar Arar

INTERNATIONAL ADVOCACY

AIDWYC has played a significant role in wrongful conviction cases in the U.S.

John Willis (Illinois) was convicted of five “beauty shop” rapes in Chicago in 1989. In 1999, AIDWYC arranged post-conviction DNA testing at the Centre of Forensic Sciences in Toronto, which resulted in his complete exoneration.

Kenneth Charron (Missouri) was convicted of rape in St. Louis in 1985 and sentenced to 40 years’ imprisonment. The Innocence Project in New York sought AIDWYC’s assistance in having post-conviction DNA tests conducted. In 2002, AIDWYC successfully lobbied Missouri’s State Attorney to release the exhibits and the testing was done. The DNA results established that Mr. Charron was the perpetrator of the crime.

Steven Crawford (Pennsylvania) was 14 years old when he discovered the body of his 13 year old friend and neighbour under a car in his family’s garage. He was charged with the murder in 1974. Between 1974 and 1978, Mr. Crawford was tried and convicted of murder three times based on evidence of his blood-stained palm print on the car. In 2001, it was discovered that the police laboratory notes had been altered to suggest that Mr. Crawford’s palm was already bloody when it touched the car. In 2002, as part of its extensive campaign to free Mr. Crawford, the Illegals a motor cycle group of lawyers some of which were AIDWYC Directors held a press conference and later met with the District Attorney and persuaded him to agree to a new trial. Three days after AIDWYC’s intervention, Mr. Crawford was released on a \$1.00 bail. He had spent 28 years in prison. His murder conviction was then quashed and the charge was withdrawn on July 16, 2002. Steven Crawford and his sister flew to Toronto to thank AIDWYC at a party that was thrown in their honour.

Roger Coleman (Virginia) was executed in the electric chair for rape/murder in 1991. AIDWYC was approached by Centurion Ministries (Princeton, New Jersey), the first organization to be established to advocate on behalf of the wrongly, to arrange for post-execution DNA testing in 2006. Tests arranged by AIDWYC at the Centre of Forensic Sciences in Toronto established that Mr. Coleman had committed the crime for which he had been executed.

Maurice Carter (Michigan) was convicted in 1976, of the attempted murder of an off-duty police officer. The case against Mr. Carter was very weak and contradictory eye-witness testimony. There was no physical evidence, no fingerprints, no fibres, no blood, no hairs and no motive. AIDWYC was approached by Doug Tjapkes, a Michigan church organ salesman and former journalist who first met Mr. Carter in 1995 when visiting the prison he was incarcerated. Mr. Tjapkes studied Mr. Carter's case and became completely convinced that he was innocent and committed himself to securing his freedom. Numerous groups began to join forces with Mr. Tjapkes including the Wisconsin Innocence Project and the Centre on Wrongful Convictions (Illinois) to help bring about the exoneration and freedom of Mr. Carter. The Illegals and other representatives of AIDWYC attended press conferences and rallies over the years to bring attention to Mr. Carter's case. In July 2004, Governor Jennifer Granholm commuted Mr. Carter's sentence due to his extreme failing health and on the recommendation of the Michigan Parole Board. The Illegals and other AIDWYC representatives travelled to Michigan to welcome Mr. Carter when he was released from prison. Sadly Mr. Carter passed away only three months later on October 25, 2004 at the age of 60. Canadian writers Alicia Payne and Donald Molnar wrote a play about Mr. Carter's case which has been performed across Canada and the United States. Doug Tjapkes wrote a book about his relationship with Mr. Carter and still hopes to one day clear his name.

DEATH PENALTY

AIDWYC supports the campaign against the death penalty worldwide.

Canadians aboard who were sentenced to death who AIDWYC advocated on behalf of:

Joseph Stanley Faulder (Jasper, Alberta) was sentenced to death in the State of Texas. In 1998 and 1999, AIDWYC campaigned to have his penalty commuted by sending three separate delegations to meet State officials. Mr. Faulder was executed by lethal injection in June, 1999.

Madame Nguyen Hiep and her elderly mother, Madame **Tran Cam**, were convicted in 1997, of exporting heroin from the Socialist Republic of Vietnam. Madame Nguyen was sentenced to death and Madame Tran was sentenced to life imprisonment. As part of AIDWYC's campaign to commute their sentences and secure their return to Canada, AIDWYC's senior counsel, along with members of the Toronto Police Heroin Squad, met with the Vietnamese Ambassador in Ottawa in 2000. On Easter Monday, 2001, Madame Nguyen was executed in the Hanoi prison yard by firing squad. Madame Tran's sentence was commuted later in 2001 and she was allowed to return to Canada. Madame Nguyen left behind a loving family including two sons who fought courageously for her release.

William Sampson in 2002 was sentenced to death by beheading in Saudi Arabia for murder. AIDWYC was approached by his father, James Sampson and began advocating for the commutation of his sentence and his return to Canada. As part of the campaign, AIDWYC's senior counsel met with Saudi Arabia's Ambassador in Ottawa. In 2006, Mr. Sampson was released and deported to the U.K. Mr. Sampson has since passed away,

Maher Arar in 2005, AIDWYC's senior counsel was appointed by the Department of Foreign Affairs as the observer at **Maher Arar's** trial in Damascus, Syria. However, the trial was held without advance notice so counsel could not attend. Mr. Arar was subsequently released and allowed to return to Canada. AIDWYC's counsel later gave evidence at the Arar Inquiry before Associate Chief Justice Dennis O'Connor.

AIDWYC RECOGNITION and AWARDS

May 28, 2003, AIDWYC was awarded the **Distinguished Service Award** by Pro Bono Ontario.

In 2007, AIDWYC was presented with the **Ontario Bar Association President's Award** in recognition of the organization's advocacy for wrongly convicted Canadians and its role in public education and legal reform.

In August 2011, the **International Society for the Reform of Criminal Law** presented its Pro Bono Award to AIDWYC in recognition of its contributions to criminal justice, law reform, the public interest, and the rule of law.

AIDWYC maintains a website www.aidwyc.org.