



Criminal Lawyers' Association
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**Press Release
For Immediate Distribution**

April 17, 2010 – **The Criminal Lawyers' Association (Ontario) “CLA” calls for an immediate inquiry into Ontario’s inadequate court interpretation services.** In his November, 2005 judgment in *R. v. Sidhu*, Superior Court Justice C. Hill identified serious problems with court interpretation services in Ontario. He concluded that Ontario’s court interpretation services were not meeting the standard required by Section 14 of the *Canadian Charter of Rights and Freedoms*. Following that judgment, the CLA urged the Attorney General for Ontario (1) to identify those cases in which inadequate court interpretation may have resulted in a miscarriage of justice and (2) to develop a system for ensuring that court interpretation was restricted to interpreters who were adequately qualified and trained for the task.

The Ministry of the Attorney General spent years developing a new process for testing and training court interpreters. Beginning in June, 2009, proficiency tests of 225 Ontario court interpreters¹ have produced the following results:

- Seventy-seven of the 225 (34%) test are now unaccredited because they did not pass the proficiency testing;
- Sixty-nine (31%) are now conditionally accredited because they failed a portion of the test and thus require ongoing training and education;
- Only forty-six (approximately 20% of those tested) are fully accredited
- Of the 33 new recruits tested, none achieved accredited status.

The Ministry of the Attorney General has announced that, for “less complex” criminal cases, it intends to continue to use “conditionally accredited” interpreters and that it may even use unaccredited court interpreters when neither accredited or conditionally accredited interpreters are available. No details have been provided as to how or when a determination will be made that a criminal case has been deemed “less complex” such that the interpreter provided **may** be one who is not fully accredited.

The CLA is also concerned that, since the *Sidhu* judgment five years ago, the Ministry has made little or no effort to identify those cases in which inadequate court interpretation may have resulted in a miscarriage of justice. “The Ministry could start by

¹ Two interpreters have retired since taking the proficiency testing.

simply identifying those cases in which the interpreters who failed the tests had provided the interpretation,” said Paul Burstein, President of the CLA. “We’ve been urging them to do so for almost five years now.” The CLA also urges the Ministry to immediately develop a process for audio recording any criminal trial in which an interpreter is used so as to preserve the best evidence for future review if there are concerns over the adequacy of the interpretation services.

“This issue is not only of grave concern to the CLA and all its members,” said Paul Burstein. “The dismal results of these proficiency tests risk bringing the administration of justice into disrepute. In a very real sense, if a person cannot understand the proceedings because of inadequate interpretation they cannot have a fair trial. The Supreme Court of Canada made that very clear over 15 years ago.” In addition, this should be a concern for all the citizens of this Province who expect that the criminal justice system will produce reliable convictions and acquittals. “Whether you are an accused, a witness or just a court observer, if the translation is inadequate, the reliability of the court’s determination is imperiled and the potential for miscarriages of justice increases dramatically”, said Paul Burstein.

The CLA looks forward to working with the Ministry of the Attorney General in a collaborative effort to address the historical and future consequences of Ontario’s inadequate court interpretation services.

The Criminal Lawyers' Association (CLA) is one of the largest specialty legal organizations in Canada, with more than 1,000 members. We are a voice for criminal justice and civil liberties in Canada. Our advice and perspective is sought by all levels of government and the judiciary on issues relating to legislation and the administration of criminal justice. We also assist our members in every aspect of the practice of criminal litigation. The Association is governed by an executive and board of directors elected by the membership. A more detailed description of our organization is located at <http://www.criminallawyers.ca>

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