

AIDWYC

the association in defence of the wrongly convicted

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 an entirely voluntary, non-profit association dedicated to assisting factually innocent persons who have been wrongfully convicted.

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 perspective and to act in defence of all persons who had been wrongfully convicted.

AIDWYC's Honourary President is 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 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 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 hosted a conference in November 2002, Innocents Behind Bars 2002: In Defence of the Wrongly Convicted coupled 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.

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 appointing AIDWYC standing Commissioner Kaufman noted AIDWYC's demonstrated "continuing 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 oral 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 October 2003 the Lamer Inquiry began in St. John's Newfoundland. This inquiry looked into the wrongful convictions of Greg Parsons, Ronald Dalton and Randy Druken. AIDWYC was granted standing at the hearing into the Terms of Reference as well as the Inquiry. AIDWYC submitted AIDWYC was granted standing Justice Antonio Lamer released his 45-page report on June

On January 17, 2005 the Inquiry into David Milgaard's wrongful conviction began in Winnipeg, Manitoba. AIDWYC lawyers Hersh Wolch, Joanne McLean and James Lockyer represented David Milgaard and Joyce Milgaard respectively. The Inquiry resumes on August 28, 2006.

The James Driskell Inquiry began on July 17, 2006. AIDWYC lawyers Al Libman and James Lockyer represent James Driskell. Other members of AIDWYC will be participating in the Inquiry.

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 Code*". The consultation paper, and the enumerated questions to which the Minister sought answers, extended beyond section 690 reform 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 oral submissions were supplemented by separate written briefs.

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 oral submissions, before this Honourable Court in the cases of *R. v. Binias*, *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 divided as between their counsel the 30 minutes permitted for oral submissions. The substantive and jurisdictional positions advanced by AIDWYC appear to have been adopted by this Court in its reasons in *R. v. Binias*, [2000] 1 S.C.R. 381.

AIDWYC has also plays 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) David Milgaard of Manitoba
- (b) Gregory Parsons of Newfoundland
- (c) Clayton Johnson of Nova Scotia
- (d) Steven Truscott of Ontario
- (e) Ronald Dalton of Newfoundland
- (f) Chris Bates of Quebec
- (g) Randy Druken of Newfoundland
- (h) Romeo Phillion of Ontario
- (i) Jim Driskell of Manitoba
- (j) William Mullins-Johnson of Ontario
- (k) Kyle Unger of Manitoba
- (l) Robert Baltovich of Ontario and others.

AIDWYC also reviews and assesses the merits of cases outside our borders. In 2002 Steven Crawford who had spent 28 years in PA prisons was released. Currently we are seeking the release of Maurice Carter of Michigan, Max Soffar of Texas, Cy Greene of New York, Scott Watson of New Zealand, Greg Brown of Pennsylvania, William Mayo of Georgia, Anthony Persiano of New York, and Robert Hilliard of Louisiana.

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 the Centurion Ministries in New Jersey, with the Southern Center for Human Rights in Atlanta, Georgia, with the Center on Wrongful Convictions in Chicago, Illinois, and with the Alliance for Prison Justice in Boston, Massachusetts. 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.

AIDWYC maintains a website www.aidwyc.org and publishes a Journal twice a year.

690 and 696.1 Applications

690 applications

Clayton Johnson, submitted March 31st 1998
Steven Truscott submitted November 29, 2001

696.1 applications

Jim Driskell November 13, 2003
Romeo Phillion May 15, 2003
Kyle Unger September 13, 2004
Gaston St. Pierre June 2005
William Mullins-Johnson September 21, 2005

Inquiries

Guy Paul Morin Inquiry April 9, 1998
Thomas Sophonow Inquiry June 2000
Lamer Inquiry (Ron Dalton, Randy Druken, Greg Parsons) September 23, 2003
David Milgaard Inquiry January 17, 2005
James Driskell Inquiry July 17, 2006