



Justice Centre  
for Constitutional Freedoms

2016  
Annual Report

*Defending the Constitutional  
Freedoms of Canadians*

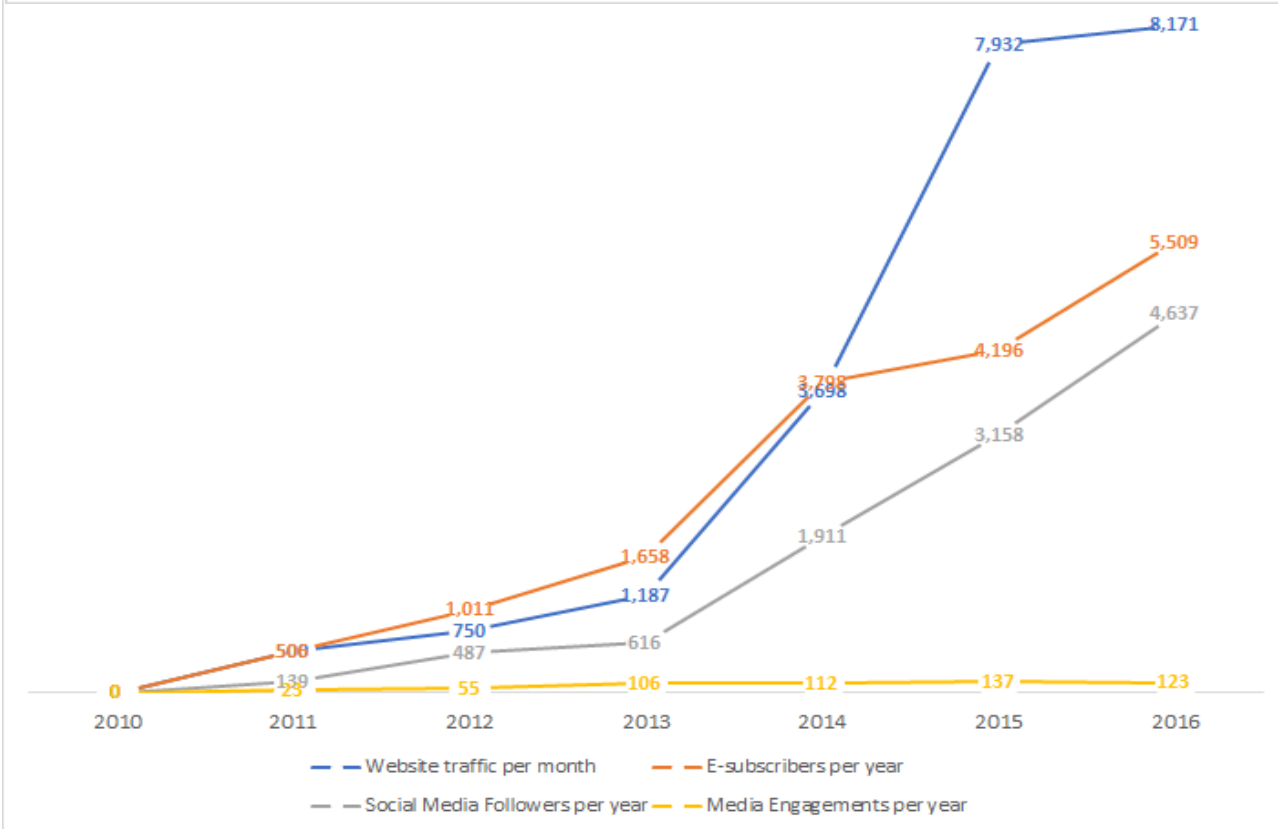
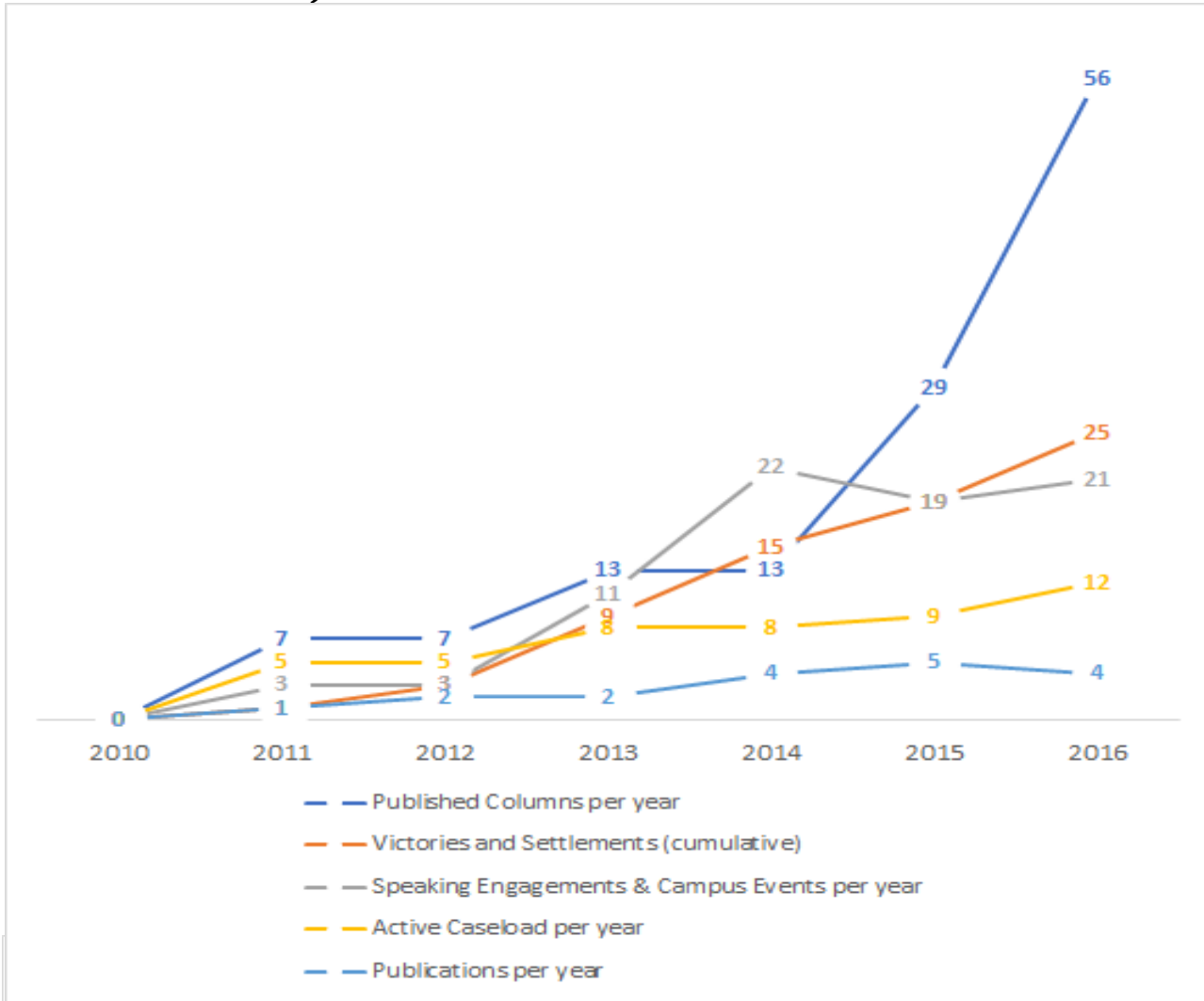
#253, 7620 Elbow Drive SW, Calgary, AB • T2V 1K2

Phone: (403) 475-3622

[www.JCCF.ca](http://www.JCCF.ca)



## Justice Centre Growth 2010-2016



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## *Letter from the President and Chairman of the Board*

Since its founding in 2010, the Justice Centre has fought to protect the constitutional freedoms of Canadians through education and litigation. Thanks to the generous support of Canadians who care about freedom and justice, the Justice Centre in 2016:

- secured a victory for free expression against the Brandon University Student Union, which denied club status to a student pro-life club, resulting in the club's events not receiving funding and, in some instances, not being permitted to occur.
- helped secure victories for the Charter freedoms of Trinity Western University in the Nova Scotia Supreme Court, BC Supreme Court, Nova Scotia Court of Appeal and BC Court of Appeal
- secured a victory for free expression for Mary Stanko against the St. Catharines Library Board, which had censored her newsletter for referring to the "supremacy of God" in the preamble to the Charter
- published the 2016 Campus Freedom Index, grading the policies and practices of 60 Canadian universities in regard to free expression
- secured a victory for Collette Schouten against the City of Calgary when it attempted to censor a peaceful political display in a city park
- sued the student union at Ryerson University for banning the Men's Issues Awareness Society student club from campus
- advocated for the conscience rights of medical professionals before a Parliamentary Committee, regarding "Medical Assistance in Dying" legislation, and
- advocated for the religious freedom of Kevin Kisilowsky, stripped of his Marriage Commissioner's license by the Manitoba government because of his commitment to traditional marriage.

We have many more battles to fight in 2017, including court actions against student unions, universities and governments.

In six short and productive years, the Justice Centre has been able to expand its reach and impact, by increasing our media engagement, speaking opportunities, published reports and online communications. We are reaching more Canadians than ever before, with information about the state of our constitutional rights and freedoms, and what Canadians can do to defend them.

The Justice Centre is now supported by 2,500 donors across Canada, employs six full-time staff, and represents clients across Canada. With a dedicated team of lawyers, the Justice Centre is positioned to take on more cases in 2017 than ever before. Our strength as an organization is vital, given the growing and pervasive threats facing our constitutional rights and freedoms.

Yours for freedom and justice,



John Carpay  
President



Daniel Mol  
Chairman of the Board of Directors



## ***Court actions and favourable out-of-court settlements***

### **Trinity Western University v. Law Societies (BC, Ontario, Nova Scotia)**

The law societies of B.C., Ontario and Nova Scotia have refused to recognize the proposed law school of Trinity Western University (“TWU”), a private Evangelical Christian university in Langley, B.C. This in spite of the fact that these three law societies openly and publicly acknowledge that TWU’s law program meets academic standards and professional requirements.



*Trinity Western University in Langley, B.C.*

TWU commenced three separate court actions, in BC, Ontario and Nova Scotia. The Justice Centre intervened in all three cases, arguing for the Charter section 2(d) freedom of association, which the law societies, as government bodies, have violated.

The Federation of Law Societies of Canada has approved the law program of TWU as meeting academic and professional standards. All three law societies admit there is nothing wrong with TWU’s law program, but claim that TWU’s Community Covenant discriminates against the LGBTQ+ community. The Community Covenant prohibits numerous legal activities such as vulgar or obscene language, drunkenness, viewing pornography, gossip, and sexual activity outside of the marriage of one man and one woman.

The Justice Centre argues that the Charter section 2(d) freedom of association means that every charity, ethnic and cultural association, sports club, temple, church, and political group has the right to establish its own rules and membership requirements.

On July 26, 2016, the Nova Scotia Court of Appeal ruled in favour of TWU, citing the ruling of the Nova Scotia Supreme Court, wherein Justice James Campbell stated:

The Charter is not a blueprint for moral conformity. Its purpose is to protect the citizen from the power of the state, not to enforce compliance by citizens or private institutions with the moral judgments of the state.

On November 1, 2016, the Court of Appeal of British Columbia ruled in favour of TWU. On June 29, 2016, the Ontario Court of Appeal ruled against TWU.

### **Brandon University Students for Life v. Brandon University Students’ Union**

Students for Life has been active on campus since 2012, when it first sought student group status from the Brandon University Students’ Union (“BUSU”). BUSU initially denied recognition to Students for Life, but after receiving a legal warning letter from the Justice Centre, BUSU changed its position and granted student club status to Students for Life in September of 2013. Since then, Students for Life has conducted numerous peaceful events on campus to engage with fellow students.

In November 2015, BUSU revoked the club status of Students for Life, without informing this student club of BUSU’s intentions to do so, and without providing any opportunity for Students for Life to defend itself. BUSU further failed to



inform Students for Life that its student group status had been revoked.

BUSU justified revoking Students for Life’s official club status on the following grounds:

- the club’s message has made some students feel “uncomfortable” and “intimidated”;
- the club was affiliated with a Canadian pro-life group that BUSU “had issues with”;
- the club’s beliefs did not align with the Canadian Federation of Students’ official pro-choice stance; and
- the club was redundant, because the issues of suicide and abortion are already being addressed by the LGBTQ Collective and the Women’s Collective.

In February 2016, BUSU told Students for Life that it might be able to regain club status if this student group “changed its views” and refrained from talking about “personal issues” and from sharing its views “out to a larger body.”

The Justice Centre filed a court application on behalf of Students for Life against BUSU in July of 2016, seeking reinstatement, and a Court Order prohibiting BUSU from further illegal discrimination.

In August of 2016, BUSU agreed to reverse its decision, and recognized Students for Life as an official student group in the 2016-2017 school year.

### American Freedom Defense Initiative v. City of Edmonton

The Justice Centre represented a non-profit human rights advocacy group in a court action against the City of Edmonton. The City cancelled bus advertisements that opposed the “honour killings” of women and girls, in response to complaints about the ads.

In October of 2013, ads ran on Edmonton Transit buses reading “Muslim Girls Honor Killed By Their Families”, showing photos of Aqsa Parvez and six other women, murdered for choosing to live by Western values like women’s equality. The rest of the ad read “Is your family threatening you? Is there a fatwa on your head? We can help: go to FightforFreedom.us”.

So-called “honour killings” occur when a woman is considered to have sullied the family’s honour through some sexual indiscretion, or even perceived immodesty. Her killing is considered to cleanse the family’s honour. Aqsa Parvez was only 16 when she was strangled to death for refusing to wear a hijab. Aqsa’s brother and father felt that not wearing a head scarf dishonoured the family, so they killed Aqsa in her own home in Mississauga, on December 10, 2007.

 **BU Students for Life**  
@bustudents4life Following

@JCCFCanada thanks to you, we are able to have #freespeech on campus!  
#shareyourthoughts



RETWEETS 2 LIKE 1

2:17 PM - 30 Jan 2017



*Bus ad sponsored by AFDI on Edmonton Transit bus*

The transit ads were paid for by the American Freedom Defense Initiative (AFDI), a non-profit, non-partisan human rights advocacy group. The organization defends freedom of speech, freedom of conscience, individual rights, and the equality of all people before the law.

Edmonton Transit pulled the ad after Edmonton City Councillor Amerjeet Sohi called to complain about it. The head of Edmonton Transit immediately ordered the ad taken down, without seeing the ad, considering its contents, or contemplating freedom of expression as defined by the Supreme Court. Edmonton Transit

refused to explain to AFDI why the ad was pulled. Only after AFDI started a court action did Edmonton start to claim that the ad was anti-Muslim.

Edmonton Transit has no consistent standard when it comes to bus ads. It previously dismissed complaints about a pro-Islamic ad, posted on buses, stating: “ISLAM The message of Abraham, Moses, Jesus and Muhammad”, an assertion sure to be offensive to Jews and Christians. The Supreme Court requires governments to be neutral. But there is nothing neutral about permitting a pro-Islamic ad while removing an ad that Edmonton Transit (months later) called anti-Islamic.

On October 4, 2016, the court rejected AFDI’s free expression claim, upholding Edmonton’s arbitrary double standard. This decision has not been appealed.

## **Calgary v. Reicher**

In December 2015, Peter Reicher was standing by the entrance to a Calgary C-Train station, handing out postcards which invited people to attend his church’s free New Year’s concert. Despite the fact that Mr. Reicher was not impeding pedestrian flow or causing any problems, he was ordered to stop by a Calgary Transit officer. The officer told him that he was not allowed to distribute postcards there, and ordered him to move across the street.

Mr. Reicher complied and crossed to the other side of the road which parallels the train tracks, and continued handing out postcards on the pedestrian overpass that links the sidewalk to the C-Train station. A short while later, Mr. Reicher was again ordered to stop, this time by two Transit officers, who issued him a \$250 ticket for violating a Calgary bylaw that prohibits passing out written materials without the prior approval of a city official.

The Supreme Court of Canada has ruled that the requirement to receive prior permission before handing out literature violates the constitution, in the case of *Saumur v City of Quebec*, [1953] 2 SCR 299. There, Justice Locke stated that “the true purpose of the by-law is not to regulate traffic in the streets but to impose a censorship on the written expression of religious views and their dissemination, a constitutional right of all of the people of Canada....”

The Justice Centre encouraged Mr. Reicher to assert his freedom of expression and provided him with guidance and advice in navigating the initial steps in the proceedings. Shortly after City prosecutors became aware that a Charter defense would be raised, they informed Mr. Reicher that they would be withdrawing the charge for violating the bylaw.



## **BC Civil Liberties Association v. University of Victoria**

The Justice Centre intervened in the B.C. Court of Appeal, on behalf of campus free speech rights, in the case of BC Civil Liberties Association v. University of Victoria.

This case arose in 2013, when the U-Vic pro-life student club Youth Protecting Youth (YPY) was granted approval by the university administration to conduct a small, peaceful demonstration on campus, involving students holding pro-life signs, handing out pamphlets, and engaging fellow students in conversation. The day prior to this university-approved YPY event, club president Cam Cote received a call from the University administration informing him that approval had been withdrawn, such that YPY could not proceed with expressing its opinions on campus.

This 11th-hour reversal was the result of opposition from the University of Victoria Student Society (UVSS). The student union's complaints to the University administration boil down to complaints about the content of YPY's beliefs and expression. There were no complaints of any YPY member having engaged in misconduct, inappropriate behaviour, or violating university rules and policies. The complaint was directed purely at YPY's message and opinions.

Prior to 2013, the student union (UVSS) had a long track record of censoring YPY. The tactics used by UVSS have included denying or removing club status from YPY; withholding funding from YPY (while funding all other campus groups); preventing YPY from advertising its events; and filing complaints against YPY for "harassment" based solely on YPY's beliefs and expression (and not based on any harassing behaviour or misconduct on the part of YPY members).

The censorship methods of UVSS are, unfortunately, used by many student unions, from Victoria, BC to St. John's, Newfoundland. What is arguably worse in this case is that the U-Vic administration abdicated its own responsibility to uphold free speech rights on campus, and instead chose to follow the dictates of the student union.

As an intervener in this case, the Justice Centre argued before the BC Court of Appeal that the University of Victoria's decision was unreasonable, and that the University does not have unfettered discretion to censor the peaceful expression of opinion on campus, even if the University is not a "government" body and not subject to the Charter. Victoria lawyer Frank Falzon argued that U-Vic is a public body, subject to administrative law principles, including the requirement to give great weight to the free expression rights of all students, and all opinions.

In 2016, the Court of Appeal ruled that the Charter does not apply to public universities, as they are not government entities, even if taxpayer-funded. However, the Court has left the door open to accepting the argument, in future court cases, that universities are bound by principles of administrative law, which require them to treat all students equally without discriminating on the basis of students' beliefs.

## **Colette Schouten v. City of Calgary**

Colette Schouten is a Calgary mother concerned about the lack of any laws in Canada protecting the unborn. She wanted to raise awareness and sought to set up a public display at Eau Claire Park, consisting of 10,000 small pink and blue flags. Volunteers would be present to engage with passersby.

In August 2016, Calgary denied Ms. Schouten's application, stating that the City "places priority" on events with "a recreational, cultural, environmental or community wellness mandate".





The Justice Centre sent a letter to the City explaining how Charter section 2 freedom of expression applies in city parks, and demanding that the City reverse its denial of Ms. Schouten’s application. The City reversed its decision and granted Ms. Schouten a permit to set up the display on the same date she originally sought, and in the same location she originally desired. On Saturday, September 10, Ms. Schouten and a large number of volunteers set up the display and communicated their message to the public without incident.



*Colette Schouten's display, September 10, 2016*

photo credit: We Need A Law



*Mary Stanko at St. Catharines Public Library*

## **Mary Stanko v. St. Catharines Public Library Board**

Canada’s public libraries serve a critical function in a free and democratic society: providing all members of the public, regardless of financial status, with access to information (whether it be for education, news or entertainment) on nearly all topics and from numerous views. In recognition of the important public function they serve, our public libraries are subject to the Canadian Charter of Rights and Freedoms.

For the past 18 years, Mary Stanko has been publishing a community newsletter for seniors in the St. Catharines area. The newsletter provides information on local events, historical sketches, and editorials, often written by Ms. Stanko herself.

The St. Catharines Public Library has pamphlet and newsletter stands designed for members of the public to share notices and materials of an educational or cultural nature.

Over the past 18 years, each issue of Ms. Stanko’s newsletter has been distributed and made available to the public through the newsletter stands in the various branches of the St. Catharines Public Library.

However, the St. Catharines Public Library refused to allow Ms. Stanko to place her Spring 2015 issue of the newsletter in their newsletter stands. In the Spring 2015 issue, Ms. Stanko wrote an editorial quoting the Charter and its recognition of the “Supremacy of God,” while critiquing the abandonment of God in society. For example:

*Yet, why are we law-abiding citizens allowing these Apostates and Atheists, who are in the minority, to install their undemocratic rule of terror in which mention of HIS Name has become anathema in Public Governments, their arms length Commissions, Colleges of Physicians and Surgeons, Universities and some Secular Media?*



... How can our Highest Court debunk the above preamble to profess a theistic faith as “an interpretation of a freedom of conscience & religion that authorizes the state to consciously profess a theistic faith?”

The Justice Centre wrote to the Library Board, explaining how Ms. Stanko’s letter was both educational and cultural, and outlining the Library’s duty as government not to censor materials based on the content of the views expressed. The Library Board reversed its prior decision, and agreed to place the newsletter it had rejected in its newsletter stands.

## Voices of the Nations v. Toronto

In October 2015, the City of Toronto’s Yonge-Dundas Square Board of Management denied Voices Of The Nations (VOTN) its right to continue using Yonge-Dundas Square for its annual multicultural musical festival.

VOTN describes its mission as “to provide a venue and unite the various denominations, cultures and the outstanding talents within the Christian community” and “to embrace and celebrate the wonderful diversity in the city.” Held the first weekend in August, this annual festival showcases the talents of numerous performing groups and artists from a broad cross-section of the Christian community.

Natalie Belman, the Manager of Events for Yonge-Dundas Square (YDS) told VOTN that their festival had violated the YDS policy against “proselytizing,” stating, “it doesn’t matter if it’s speaking or singing. Either way, if you’re praising Jesus or “praise the Lord” and “there’s no God like Jehovah,” that type of thing, that’s proselytizing.”

The Justice Centre sent a legal warning letter to the YDS Board, and later gave an oral presentation before it, explaining that the decision to ban VOTN violated freedom of religion and freedom of expression as protected by the Canadian Charter of Rights and Freedoms. After much discussion between Justice Centre lawyer Marty Moore and YDS lawyers, the YDS Board reversed its decision to ban VOTN from Yonge-Dundas Square, and the event went ahead in August of 2016.

The YDS policies, including its policy against “proselytizing”, are currently under review. The YDS Board has agreed to consider the Justice Centre’s submissions that the prohibition against “proselytizing” is unconstitutional as it undertakes its policy review.



## Servatius v. School District 70

In September of 2015, Candice Servatius received a letter from the principal of John Howitt Elementary School (JHES) in Port Alberni, BC, where her two children attend. The letter informed parents that JHES would be hosting a “Traditional Nuu-chah-nulth Classroom/Student Cleansing” performed by a “Nuu-chah-nulth Member” in the school’s classrooms. The letter did not provide a date for when these cleansing rituals would take place.

The letter from the school described specific beliefs of the Nuu-chah-nulth: “everything is one, all is connected” and “everything has a spirit.” The school’s letter described in detail how the cleansing ritual would “cleanse” the classroom and students’ “spirits” of bad “energy.” The letter claimed that without cleansing, the classroom and even the furniture would harbour negative “energy” and would not be safe until the “energy” was “released.” The students were required to participate in the cleansing ritual by holding onto a cedar branch while having “smoke from Sage fanned over [their] body and spirit.” Agree or disagree with these beliefs as you wish, but there is no denying that these aboriginal teachings are as “religious” as any that might be found in the Bible or Koran.

Concerned about the explicitly religious nature of the cleansing ritual, Mrs. Servatius went to the school to learn more. She was shocked to find out that this “cleansing ritual” had already been imposed on her children.

Her daughter explained that she had been coerced by the teacher to participate in the cleansing ritual. When Mrs. Servatius’ daughter expressed to her teacher that she did not want to participate, the teacher told Mrs. Servatius’ daughter that it would be “rude” not to participate in the religious ritual and that “all” the students were “required” to participate.

In January of 2016, Mrs. Servatius learned from her children that a prayer based on Aboriginal spirituality had been performed at a JHES student assembly, with explicit references to an unspecified “god”. JHES did not notify parents.

School District 70 claims that these ceremonies and prayers are merely “cultural” and therefore not religious.

The School District’s claim that these are cultural practices is true, but misses the point. There is a world of difference between teaching children about Islam, and requiring children to kneel on prayer rugs in the direction of Mecca and say a prayer to Allah. In similar fashion, students can benefit from learning about aboriginal religious beliefs without being coerced to participate in religious rituals and ceremonies.

The fact that a religious ritual like smudging might also be “cultural” is irrelevant to whether religious freedom has been violated, according to the Supreme Court of Canada.

In *Mouvement laïque quebécois v. City of Saguenay*, the court ruled that “the state must neither encourage nor discourage any form of religious conviction whatsoever. If the state adheres to a form of religious expression under the guise of cultural or historical reality or heritage, it breaches its duty of neutrality.” The Saguenay ruling rejected a compromise policy to have the atheist leave the Council Chambers during the prayer, because this exacerbates discrimination:

If he chose to exclude himself from the prayer either by refusing to participate in it or by leaving the chamber, he would be forced to reveal that he is a non-believer... Such interference constitutes an infringement of the complainant’s freedom of conscience and religion.

In spite of the cultural benefits that might flow from having children say the Lord’s Prayer in schools, courts have interpreted the Canadian Charter of Rights and Freedoms as including a right to be “free from” religion. That means not coercing children or adults to participate in any religious prayer, ritual, ceremony or practice.

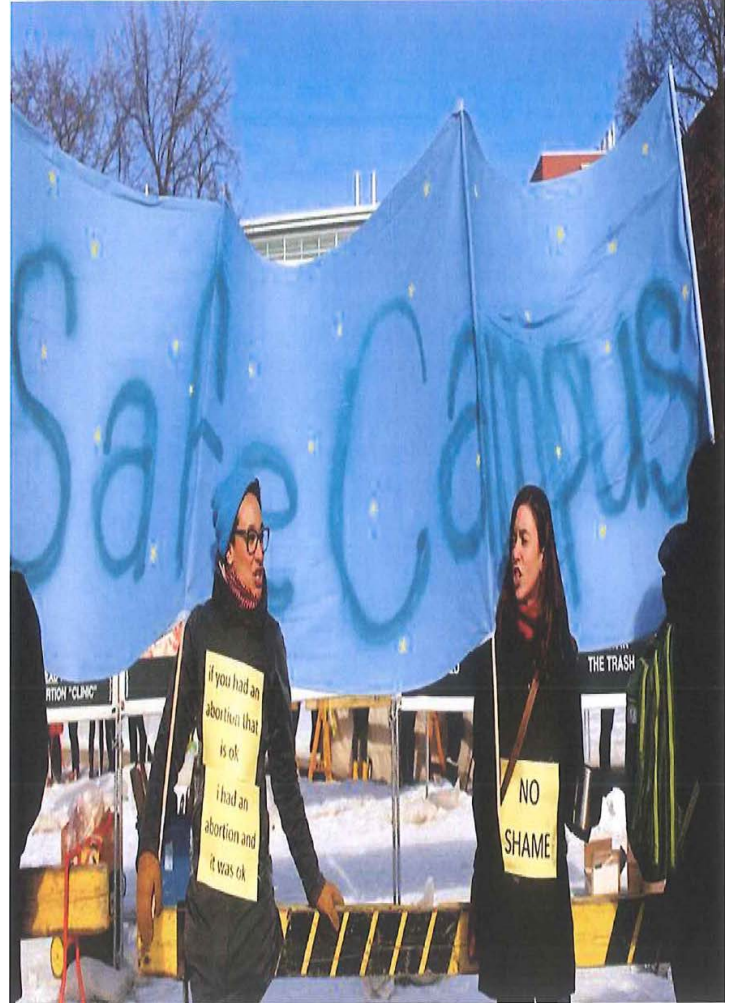


## UAlberta Pro-Life v. University of Alberta

The Justice Centre is acting on behalf of Amberlee Nicol, Cameron Wilson, and the student club UAlberta Pro-Life in their court application against the University of Alberta to challenge a \$17,500 “security fee” demanded by the University in order for the group to set up a peaceful display on campus in February 2016. The court application also challenges the University’s decision to condone violations of the Code of Student Behaviour directed against the pro-life club in March of 2015.

On January 11, 2016, UAlberta Pro-Life applied for University authorization to set up a stationary educational display on campus on February 23 and 24, 2016. On February 12, only eleven days prior to the scheduled event, the University of Alberta demanded \$17,500 in “security fees” as a condition for proceeding with their peaceful educational display. The University demanded that pro-life students pay for the wages of security guards and police, for the costs of barricading the venue, and for the potential misconduct of people who would violate the University’s Code of Student Behaviour by obstructing and disrupting the display. Unable to pay \$17,500, UAlberta Pro-Life was forced to cancel its planned event.

In March of 2015, UAlberta Pro-Life had held a similar event, which (then) President Indira Samarasekera supported through a public statement that the University must facilitate and protect the peaceful expression of all views, regardless of popularity. In defiance of the President’s clear statement about free expression and the rule of law, a student-led mob blockaded and obstructed the club’s display, in violation of the Code of Student Behaviour. Although the University had advance notice that a mob was being organized to obstruct the display, and although Dr. Samarasekera had warned that any misbehaviour would be investigated and prosecuted, the University of Alberta Protective Services (UAPS) did nothing to stop the blockade of the club’s display. UAPS did not photograph or seek to identify any blockading student, even though the Code clearly prohibits students from disrupting or obstructing University-related functions.



*Students obstructing UAlberta Pro-Life display on campus*

On March 11, 2015, UAlberta Pro-Life filed a formal complaint with UAPS against the disruptive students who violated the Code of Student Behaviour, presenting UAPS with a large volume of photographs, as well as Facebook posts in which students openly and publicly bragged about disobeying the Code. Eight months later, UAPS confirmed that the University would neither charge nor prosecute the students who disrupted, blocked and obstructed the March 2015 display on campus. In February of 2016, the University of Alberta Office of Student Conduct and Accountability affirmed this UAPS Decision

In its court application, UAlberta Pro-Life seeks a declaration that the decision made by the University of Alberta to impose a \$17,500 security fee on the club is illegal and unjustifiably infringes the fundamental Canadian value of freedom of expression, also protected by section 2(b) of the Canadian Charter of Rights and Freedoms. UAlberta Pro-Life seeks to prohibit the University from pricing controversial and unpopular speech out of existence. UAlberta Pro-Life further seeks a declaration that condoning the illegal conduct of the students who disrupted and blockaded the March 2015 University-authorized campus event is unreasonable. This court application will be heard in Edmonton June 8 and 9, 2017, in Edmonton.



## **Ryerson Men's Issues Awareness Society v. Ryerson Students' Union**



The Men's Issues Awareness Society at Ryerson (MIAS) is a student group established in 2015 "to host discussions and bring social awareness to issues that disproportionately affect men and boys, such as higher rates of suicide, homelessness, workplace injuries and failure in school." Nearly half of MIAS' members are women.

In 2015, the Ryerson Students' Union (RSU) denied club status to MIAS, simply because RSU disagrees with the opinions and viewpoints of MIAS.

MIAS is now excluded from RSU club services such as funding, advertising, event approval services, and free room and facility bookings, even though MIAS members are required to pay fees to RSU. RSU has recognized over 80 other student groups, ranging from ideological and religious clubs to shared ethnic and hobby clubs. Without student group recognition, MIAS has been forced to hold events off campus, unable to afford booking event rooms on campus. This has made it very difficult for the group to engage with their peers and attract new members.

RSU claims that there is no need for a men's issues group because other groups like the Women and Trans Collective are already addressing many of the issues MIAS seeks to focus on. Further, RSU claims that men have "systemic privilege," and that a group focused on men's issues, by its mere existence and by peacefully promoting its concerns, will "harass" women and make them feel "unsafe".

MIAS amended its club constitution to re-affirm its already-existing commitments to remain independent of any external control, to reject all forms of violence and hate speech, to take all precautions for safety at any group functions, and to provide a safe place for discussions free of fear for personal safety.

The Justice Centre has filed a court application against RSU on behalf of MIAS. MIAS seeks a declaration that RSU's denial of club status was contrary to the principles of natural justice and procedural fairness; tainted by a closed mind and bias; made in bad faith; exceeds RSU's jurisdiction; and is contrary to RSU's own policies and rules. MIAS further argues that it is unreasonable, discriminatory and contrary to fundamental common law values and the values of the Canadian Charter of Rights and Freedoms, by failing to respect Ryerson University students' freedom of expression and freedom of association. This court application further seeks an order prohibiting RSU from limiting access to its services and other resources on account of the thoughts, beliefs, opinions, expressions or associations of students or student groups. It is expected that this court application will be heard in 2017.

## **Speak for the Weak v. Student Association at Durham College and University of Ontario Institute of Technology**

In 2015, the Student Association of Durham College and University of Ontario Institute of Technology ("Student Association") refused to grant club recognition to Speak for the Weak, due to the student group's stance on abortion. The Student Association claims that allowing a pro-life club on campus would constitute "systemic societal oppression", and would violate "human rights". The Student Association further claims that only clubs which support abortion are "equity-seeking," and therefore allowed on campus.



from ideological and religious clubs to shared ethnic and hobby clubs. Without student group recognition, MIAS has been forced to hold events off campus, unable to afford booking event rooms on campus. This has made it very difficult for the group to engage with their peers and attract new members.

Speak for the Weak spent most of the fall semester unsuccessfully attempting to appeal the decision to the Student Association’s Board of Directors. Without club status, student groups cannot gain access to Student Association space and resources, making it very difficult to conduct activities and engage with the student body.

In a court application filed on behalf of Speak for the Weak, the Justice Centre argues that the Student Association has violated its own policies and rules, failed to follow the principles of natural justice, based its decision on irrelevant considerations, and failed to respect students’ freedoms of expression and association.

## **Students for Life v. University of Toronto Mississauga Students’ Union**

The University of Toronto Mississauga Students’ Union (UTMSU) refused to renew the club status of Students for Life for the 2015-16 year, effectively barring the student group from using the student centre and accessing student union resources. As a result, in September of 2015, Students for Life could not join other campus clubs in setting up a table during clubs’ week—a key event for recruiting new members.

UTMSU had granted club status for Students for Life in the prior school year, but changed its mind specifically because of Students for Life’s “stance on Abortion”. UTMSU’s mission statement includes a commitment “[t]o safeguard the individual rights of the student, regardless of race, creed, sex ... or personal or political beliefs,” and lists “strength in diverse voices and opinions” as a “fundamental belief.”

After receiving a legal warning letter from the Justice Centre in October 2015, Russ Adade, UTMSU Vice-President, changed his previous rationale for denying club status to Students for Life, namely, the club’s stance on abortion. Adade instead told Students for Life that the reason their club was denied status was “violations and discrepancies we found within your constitution in relation to the clubs handbook and UTMSU operational policy as it pertains to clubs.”

Students for Life immediately made the required changes to their constitution, but UTMSU has continued to deny club status. The Justice Centre has therefore filed a court application on behalf of Students for Life against UTMSU for violating its own rules, for acting with bias and bad faith, for breaching the rules of natural justice and procedural fairness, and for failing to respect students’ fundamental freedoms of expression and association.

## **Toronto v. Fountas**

Erik Fountas was peacefully expressing his beliefs on a public sidewalk when Toronto Police charged him with obstructing a street.

Around noon on February 2, 2016, Erik Fountas and a colleague began preaching near the corner of Yonge Street and Gould Street. Erik was preaching on a wide sidewalk area, near a large concrete staircase that leads up to a Ryerson University building. Erik was preaching at the street edge of the sidewalk, facing toward the staircase, when a small crowd formed in front of him.



The Toronto Police Service (TPS) received a complaint about a comment Erik allegedly made while he was speaking to the small group of listeners. Two TPS officers requested that Erik leave. When he refused, they issued him a ticket for “encumbering a street” and therefore violating 313-2A of the Toronto Municipal Code. The By-law in question states:

“No person shall obstruct, encumber, injure or foul or cause or permit the obstructing, encumbering, injuring or fouling of any street.”

The TPS officers claimed that the crowd listening to Erik was so large that it blocked entirely the passage of pedestrians on the Gould Street sidewalk.

The Justice Centre is representing Erik as he challenges the ticket and defends his freedom of expression. The trial is scheduled for May 29, 2017.

## **Kisilowsky v. Manitoba**



*Kevin Kisilowsky*

The Justice Centre is representing a former Manitoba Marriage Commissioner, Kevin Kisilowsky, who lost his licence to perform marriages after he indicated that he was unable to perform same-sex ceremonies, based on his religious beliefs.

Kevin Kisilowsky was stripped of his license to perform marriages by Vital Statistics in September of 2004. Vital Statistics informed Mr. Kisilowsky that he must perform same-sex ceremonies regardless of his religious beliefs. The Manitoba Human Rights Commission provided no assistance to Kevin Kisilowsky in regard to his complaint that the government was discriminating against him on the basis of his religious beliefs.

Apart from Mr. Kisilowsky, all of Manitoba’s approximately 1,000 marriage commissioners are willing and able to provide same-sex ceremonies. There is no lack of access to same-sex weddings. Yet Manitoba takes the position that Mr. Kisilowsky must be willing to provide this service. Mr. Kisilowsky is asking only that the government provide reasonable accommodation for him, as other provinces have done for their marriage commissioners, without imposing hardship on any party.

On November 21, 2016, the Court of Queen’s Bench delivered its judgment, dismissing Mr. Kisilowsky’s Charter claims.



## 2016 Essay Contest

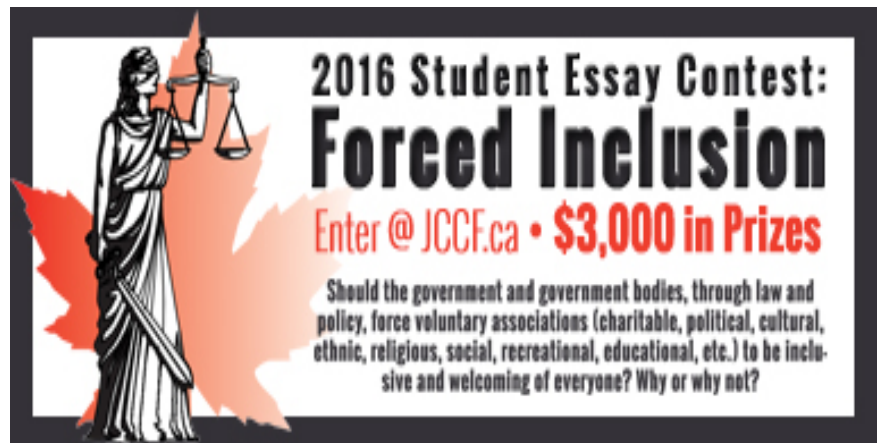
The Justice Centre’s annual essay contest promotes a better and deeper understanding of the free society, by educating our future leaders about the importance of constitutional freedoms. Essay questions in previous years have been as follows:

- (2013) “Positive rights versus negative rights: which should prevail, and why?”
- (2014) “With only a minority of Canadians attending a place of worship regularly, is it important to preserve freedom of religion and conscience in Canada’s increasingly secularized society? Why or why not?”
- (2015) “To what extent have Canadians abandoned the principles and liberties of the Magna Carta? If Magna Carta freedoms have been lost, what must Canadians do to regain them, and to preserve existing ones?”

In 2016, the Justice Centre asked students:

*Should the government and government bodies, through law and policy, force voluntary associations (charitable, political, cultural, ethnic, religious, social, recreational, educational, etc.) to be inclusive and welcoming of everyone?*

We received 70 submissions from students who attend 18 different colleges and universities in seven provinces. The winning essays are posted at [www.JCCF.ca/EssayContest](http://www.JCCF.ca/EssayContest).



## 2016 Campus Freedom Index and CampusFreedomIndex.ca

The Justice Centre released its sixth annual Campus Freedom Index in November 2016. Using a five-tier letter scale (A, B, C, D and F), the Index grades universities and student unions on their stated policies (what they say) and their practices (what they do). The report uses specific, measurable and replicable criteria to assess the free speech climate on Canadian university campuses, giving university administrators and student union executives clear standards they can adopt to better protect free speech rights for students. Each university receives four letter grades, for (1) university policies, (2) university practices, (3) student union policies, and (4) student union practices.

With 240 grades awarded to 60 campuses, Canada’s universities and student unions in 2016 have received only six ‘A’ grades—two fewer than in 2015. Conversely ‘F’ grades were earned 32 times: seven times by universities, and 25 times by student unions.

The Campus Freedom Index also provides insight into the number of taxpayer dollars that are spent by our public universities. The 60 universities that were graded in the 2016 Campus Freedom Index together received \$13.8 billion from provincial and federal governments. The campuses earning at least one ‘F’ grade receive more than \$7 billion annually from our federal and provincial governments.





## CAMPUS FREEDOM INDEX

To access the provincial listings, please use the interactive map to the right or the search box below.



The Justice Centre for Constitutional Freedoms (JCCF.ca) brings you the 2016 Campus Freedom Index, measuring the state of free speech at 60 Canadian public universities.

The 2016 Campus Freedom Index is now housed in its own interactive web-database. CampusFreedomIndex.ca includes the data for all 60 universities and student unions surveyed. Users can quickly find and share information on the state of free speech at their campus. They can compare their rankings with other universities across the country, and better understand why their school got the grades it did.



In 2016 the Justice Centre launched [www.CampusFreedomIndex.ca](http://www.CampusFreedomIndex.ca), a comprehensive web-database about free speech on campus. CampusFreedomIndex.ca houses all the data contained in the 2016 Campus Freedom Index report, including a Summary of Findings, Grades, Methodology, and information on the policies and practices of each of the 60 universities and student unions contained in the Index. The website also displays graphs, charts and images associated with the report in an attractive manner that can easily be shared online and through social media platforms like Facebook, Twitter, Reddit, and Google searches. Thanks to this new website, the public are now able to locate quickly and easily the specific information they want to know about free speech at their own school, and share that specific information in a way that is user-friendly and optimized for social media.

### Fixing the Constitution

If the public does not have a solid understanding of our constitution, of our fundamental law and its foundation in popular consent, we're in far greater danger of blundering into a sudden crisis of governance, or indeed a constitutional crisis.

That's why we at the Justice Centre think it's important to be ready, with a publicly available road map for understanding our constitution and how it protects our rights and freedoms.



In 2016, the Justice Centre teamed up with Robson-Pellerin Communications to produce a documentary film about the history, strengths and weaknesses of our current Constitution. This documentary film project was led by Dr. John Robson and Brigitte Pellerin, building on their remarkable 2015 documentary on the 800th anniversary of Magna Carta.

Fixing the Constitution explains in solid historical detail where our traditional rights came from and how our institutions evolved to protect them, and assesses the efficacy of our current constitutional model.

This documentary details the story of our constitution from the beginning of liberty under law in Roman times right down to the present day in a captivating, concise and widely available format that helps us equip more Canadians with the intellectual ammunition to defend their constitutionally-enshrined freedoms.



*Dr. John Robson filming in the United Kingdom*

Thanks to the support of Canadians who chipped in to crowdfund this important project, in 2016, we established the basic storyline of the documentary, began filming within Canada, toured the country to speak about the importance of this film, and underwent a fact-finding and filming mission to the United Kingdom, and the United States, to explore the historic roots of our parliamentary and legal institutions, and the related developments of the American republic.

The film is now available online at [www.FixTheConstitution.ca](http://www.FixTheConstitution.ca)

## **Campus free speech events**

Since 2013, the Justice Centre has sponsored “Free Speech Walls” on campuses across Canada. Students, usually members of a pro-freedom campus club like Students for Liberty or Generation Screwed, build a stand-alone whiteboard in a well-known and well-travelled space on campus, and invite other students to share their thoughts and ideas on the wall, in an exercise of their free expression rights. At these Free Speech Walls, students hand out information about the *Campus Freedom Index*, drawing attention to the grades earned by their own university. The Justice Centre provides sponsorship (in the range of \$250 for each university club that hosts a Free Speech Wall), which makes a large difference to students who otherwise could not afford even these modest costs. A similar campus event consists of large Free Speech Balls, standing ten feet tall, on which students write their comments while this moveable ball is bounced across campus.

Since 2013, Free Speech Wall and Free Speech Ball events have been hosted at Brock University, Carleton University, Concordia University, Dalhousie University, McGill University, Queen’s University, Trent University, University of Calgary, University of Ottawa, University of Toronto, University of Waterloo, Wilfrid Laurier University, and York University. These Free Speech Walls and Balls – and the responses to them – have helped to draw public attention to the importance of free expression to the free society, and the *Campus Freedom Index* specifically.



The following events were sponsored by the Justice Centre in 2016:

- March 16-17, Concordia University (Montreal), hosted by Generation Screwed Concordia
- September 21-22, Simon Fraser University (Burnaby), hosted by SFU Students for Liberty
- October 11, University of Toronto, hosted by U of T Students for Free Speech



*Students at Simon Fraser University raise a free speech wall on campus, September 2016*

## Public speaking engagements

In 2016, the Justice Centre was invited to speak at the following events:

- January 28, 2016 – Calgary, Alberta – John Carpay addressed a class of journalism students at the Southern Alberta Institute of Technology (SAIT) about constitutional law
- February 1, 2016 – Ottawa, Ontario – Jay Cameron presented recommendations to the Special Parliamentary Joint Committee on Physician Assisted Dying
- February 22, 2016 – Calgary, Alberta – John Carpay spoke at St. Thomas Moore Church about the Alberta government's Bill 10 and Gender Guidelines, and implications for parental rights in education
- February 26, 2016 – Calgary, Alberta – John Carpay spoke at St. Cecilia's church about the Alberta government's Bill 10 and Gender Guidelines, and implications for parental rights in education
- March 7, 2016 – Calgary, Alberta – John Carpay spoke to parents and other members of the public at Clear Water Academy about the Alberta government's Bill 10 and Gender Guidelines, and implications for parental rights in education



- March 8, 2016 – Calgary, Alberta – John Carpay spoke at East Side Academy about the Alberta government’s Bill 10 and Gender Guidelines, and implications for parental rights in education
- March 16, 2016 – Nanaimo, BC – John Carpay addressed political science students at Vancouver Island University via skype about constitutional issues raised by the Trinity Western University court actions in three provinces
- April 8, 2016 – Red Deer, Alberta – John Carpay spoke about Bill 10 and parental rights in education at the annual conference of the Alberta Home Education Association
- April 9, 2016 – Red Deer, Alberta – Marty Moore spoke at the annual conference of the Alberta Home Education Association about constitutional freedoms protected by section 2(b) of the Charter.



*John Carpay speaking at Generation Screwed conference in Quebec City*

- May 4, 2016 – Ottawa, Ontario – Jay Cameron addressed Charter section 2(a) freedom of conscience and religion before the Standing Committee on Justice and Human Rights, regarding Bill C-14.
- May 7, 2016 - John Carpay addressed students at Generation Screwed Quebec City action forum
- May 14, 2016 – Edmonton, Alberta – Parents for Choice in Education invited John Carpay to speak at a peaceful rally at the Legislature regarding the constitutionality of Alberta’s Bill 10 and the gender Guidelines.
- May 14, 2016 – Calgary, Alberta – Parents for Choice in Education invited Marty Moore to speak at a peaceful rally regarding the constitutionality of Alberta’s Bill 10 and the gender Guidelines
- September 29, 2016 – Burnaby, BC – John Carpay addressed students at Simon Fraser University about the importance of free expression to preserving democracy



*Marty Moore speaks at Parents for Choice in Education rally in Edmonton*

- October 11, 2016 – Calgary, Alberta – John Carpay spoke at a luncheon of the Knights of the Round Table about freedom of association and judicial activism
- November 5, 2016 – Calgary, Alberta – James Kitchen gave a presentation on parental and conscience rights to members of the Calgary Ethiopian community.
- November 10, 2016 – Red Deer, Alberta – James Kitchen gave a presentation about religious freedom and parental rights in education to Muslim, Jewish and Christian religious leaders
- November 12, 2016 – Calgary, Alberta – James Kitchen addressed the Alberta home-school community on parental and conscience rights
- November 25, 2016 – Canmore, Alberta – John Carpay addressed a conference of the Association of Christian Schools International on parental rights in education, and on defending the free society



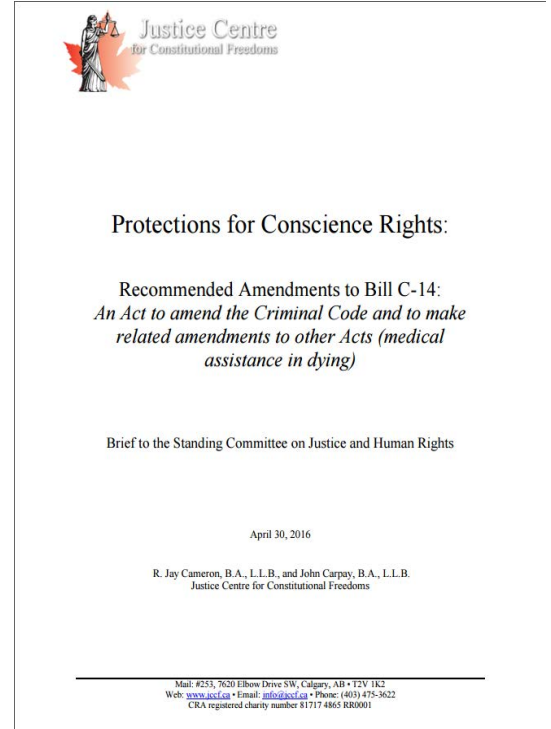
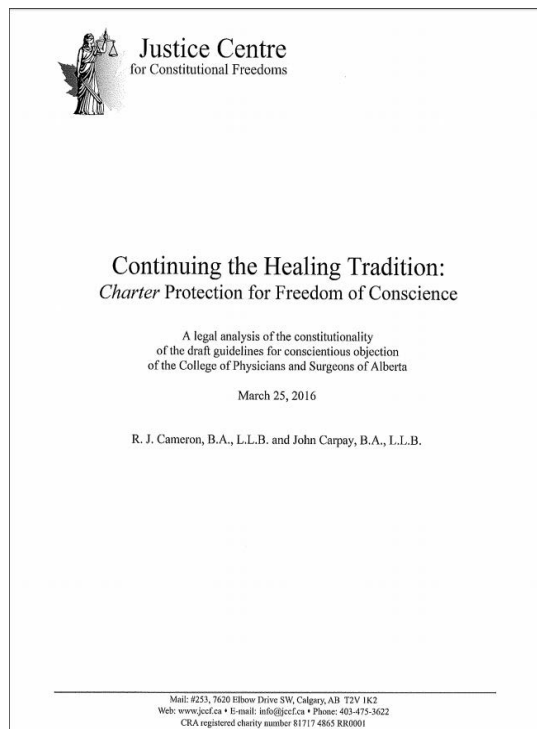
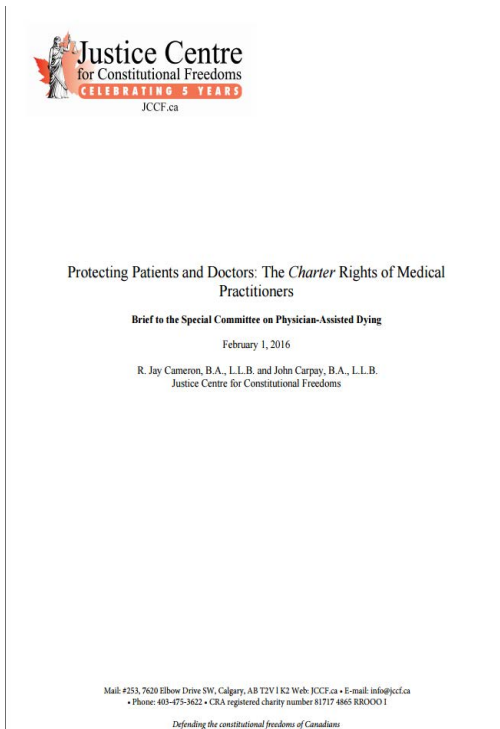
*Jay Cameron gives testimony before Standing Committee on Justice and Human Rights*



## Publications on legal issues relevant to the preservation of the free society

In 2016, the Justice Centre researched and released three new legal analyses on issues affecting Canadians’ constitutional freedoms. The federal government’s response to the Supreme Court of Canada ruling in *Carter v. Canada*, which mandated that Parliament create legislation on “medical assistance in dying” (MAID), fails to protect the conscience rights of medical practitioners who have moral objections to participating in MAID. The Justice Centre therefore presented its recommendations to the Special Joint-Parliamentary Committee on Physician-Assisted Dying to enshrine protections for conscience rights in its legislation. The Justice Centre also assessed the constitutionality of the guidelines for conscientious objection put forward by the College of Physicians and Surgeons of Alberta. The Justice Centre’s publications in 2016 are listed as follows:

- Protections for Conscience Rights: Recommended Amendments to Bill C-14: An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying), April 2016
- Continuing the Healing Tradition: Submitted to the College of Physicians and Surgeons of Alberta, March 2016
- Protecting Patients and Doctors: The Charter Rights of Medical Practitioners: Submitted to the Special Joint-Parliamentary Committee on Physician-Assisted Dying, February 2016



## Published columns

In 2016 the Justice Centre saw 56 guest columns published in the National Post, Globe and Mail, Calgary Sun, Calgary Herald, Huffington Post, C2C Journal, Winnipeg Sun, The Province, Vancouver Sun, Battlefords News-Optimist, Troy Media, Edmonton Sun, The Interim, Brandon Sun, The Chronicle Journal, NetNewsLedger, Toronto Sun, Yorkton Review, Moncton Times-Transcript, Waterloo Region Record, New Brunswick Telegraph Journal, and Prince Arthur Herald:



- Sheltering law students from outrage not a step forward  
Calgary Sun, December 27, 2016
- Student unions held to account on free speech  
The Interim, December 14, 2016
- Failing campus freedom  
C2C Journal, December 5, 2016
- The truth about Castro and Trudeau’s sickening indifference to reality  
Winnipeg Sun, November 30, 2016
- Forcing native smudging on Canadian school kids breaches the Charter  
The Province, November 29, 2016
- These Two-Faced Universities are Threatening Free Expression on Campus  
Huffington Post, November 18, 2016
- Gay-Straight Alliances: the clash of religions  
The Interim, November 15, 2016
- David Eggen’s homeschool closure unfair to parents  
Edmonton Sun, October 28, 2016
- Court upholds Edmonton’s double standard on bus ads  
Edmonton Sun, October 19, 2016
- Fighting back  
The Interim, October 6, 2016
- Marriage commissioners must fight for Charter-protected rights  
The Interim, September 26, 2016
- Defending the right to speak out against honour killings  
National Post, August 13, 2016
- Wrong to blame Christianity for Orlando attack  
The Interim, August 12, 2016
- Student unions must respect free speech, or pay in court  
Brandon Sun, August 6, 2016
- Complacency puts our liberty at risk  
Calgary Sun, August 4, 2016
- There’s no right not to be offended  
National Post, July 28, 2016 (
- The Road Back From Serfdom  
C2C Journal, July 27, 2016
- Court wrong to reject Trinity Western program accreditation  
Toronto Sun, July 10, 2016

## OPINION COLUMNISTS

### GUEST COLUMN

## Carpay: Sheltering law students from outrage not a step forward



BY JOHN CARPAY

FIRST POSTED: TUESDAY, DECEMBER 27, 2016 10:18 PM MST



At various times in history, and in various places, the authorities have sought to crush anti-slavery speech, anti-Communist speech, and a multitude of political and religious doctrines deemed to be heretical.



JOHN CARPAY

Assisted dying: Parliament must let doctors practise with a clear conscience

JOHN CARPAY

Special to The Globe and Mail  
Published Friday, Feb. 05, 2016 6:03AM EST  
Last updated Tuesday, Mar. 08, 2016 1:56PM EST



John Carpay · Become a fan  
Calgary lawyer and president of the Justice Centre for Constitutional Freedoms (www.JCCF.ca)



## Mischaracterizing Faith As Hate Gets Us Nowhere

Posted: 06/29/2016 4:07 pm EDT | Updated: 06/29/2016 4:59 pm EDT

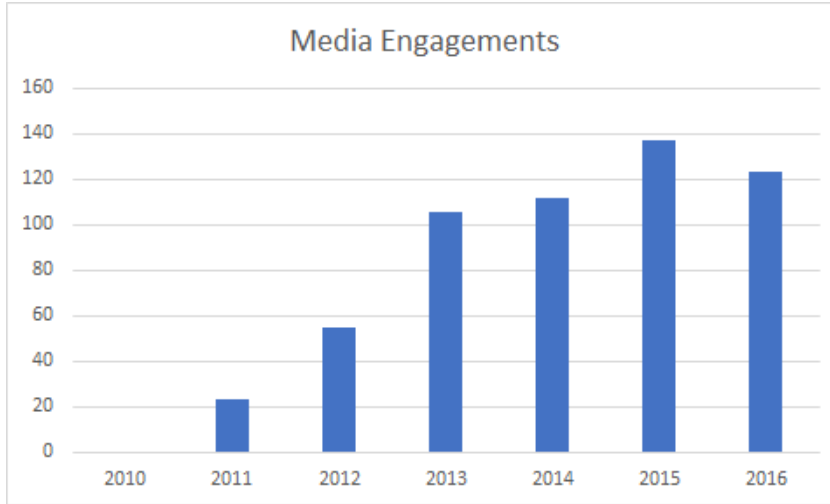


- CBC’s attack on religion an attack on free society  
The Interim, June 30, 2016
- Mischaracterizing Faith As Hate Gets Us Nowhere  
Huffington Post Canada, June 29, 2016
- Freedom of speech tradition pre-Charter  
The Interim, June 27, 2016
- When it comes to standing up for gay rights, corporate outrage is rather selective  
National Post, May 25, 2016
- Free speech on campus will prevail despite Charter ruling  
Vancouver Sun, May 13, 2016
- University censorship: darkness extends beyond campus pro-life clubs  
The Interim, May 9, 2016
- Ryerson student union shows its intolerance  
Toronto Sun, April 13, 2016
- Blaming the victims of coercion  
National Post, March 9, 2016
- Who are the real bullies in Alberta?  
Calgary Sun, March 5, 2016
- Parliament, not student unions, should vote on boycotting Israel  
Prince Arthur Herald, February 20, 2016
- Assisted suicide: Parliament must let doctors practice with a clear conscience  
Globe and Mail, February 5, 2016
- Parents simply must have the final say  
Calgary Sun, January 24, 2016
- The NDP’s genderless utopia  
Calgary Herald, January 16, 2016



## Media coverage and interviews

The Justice Centre uses the media to educate Canadians about constitutional freedoms. Our media presence has grown from 23 media interviews and mentions in 2011 to 123 media interviews and mentions in 2016.

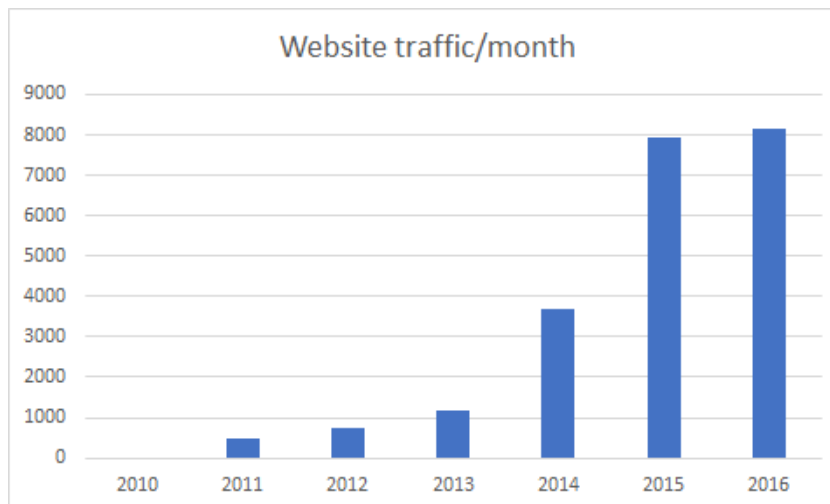


## Website traffic

The Justice Centre's website serves as the principal gateway for members of the public to learn about, and engage with, our activities and information. Continued increases in web-traffic are allowing the Justice Centre to carry out its mission more effectively.

Since the Justice Centre began recording website statistics in 2013, web traffic to JCCF.ca has been increasing at a growing rate. In 2013 JCCF.ca averaged approximately 2,500 page views monthly. This has grown to an average of 7,300 page views per month in 2016, more than 88,000 views during the year.

The same trend is seen in the number of unique visitors to the Justice Centre's website. In 2016 there were 55,416 unique visits to JCCF.ca, or 4,618 unique visitors per month, in contrast to less than 500 unique visitors per month in 2013. This marks an increase of more than 50,000 unique visitors per year.





## About the Justice Centre

The free and democratic society which the Canadian Charter of Rights and Freedoms holds out as our ideal can only be fulfilled by honouring and preserving Canada's heritage of freedom of expression, freedom of religion, freedom of association, constitutionally limited government, the rule of law, and the equality of all citizens before the law.

And yet these core principles of freedom and equality continue to be eroded by governments, and by governmental entities like Canada's public universities, human rights commissions and provincial law societies.

The Justice Centre for Constitutional Freedoms was founded in 2010 with the mission of advancing and promoting the core principles of freedom and equality through education and litigation. The Justice Centre's vision is for a Canada where:

- each and every Canadian is treated equally by governments and by the courts, regardless of race, ancestry, ethnicity, age, gender, beliefs, or other personal characteristics;
- all Canadians are free to express peacefully their thoughts, opinions and beliefs without fear of persecution or oppression;
- every person has the knowledge and the perseverance to control his or her own destiny as a free and responsible member of our society;
- all Canadians have the understanding and determination to recognize, protect and preserve their human rights and constitutional freedoms; and,
- all Canadians can enjoy individual freedom as responsible members of a free society.

The Justice Centre is a registered charity (charitable registration number 817174865- RR0001) and issues official tax receipts to donors for donations of \$50 or more. The Justice Centre is funded entirely by the voluntary donations of freedom-minded Canadians who agree with the Justice Centre's goals, mission, vision and activities. The Justice Centre is independent and non-partisan, and receives no funding from any government or government organization.

## Board of Directors

The Justice Centre is governed by a Board of Directors:

- Timothy Boyle, Lawyer, Spier Harben LLP (Calgary, AB)
- Bruce Hallsor, Managing Partner, Crease Harman LLP (Victoria, BC)
- Alan Honner, Barrister & Solicitor (Toronto, ON)
- Dr. David Livingstone, Professor of Liberal Studies and Political Studies, Vancouver Island University (Nanaimo, BC)
- Daniel Mol (Chairman), Lawyer, (Edmonton, AB)
- Dr. Marco Navarro-Genie, President, Atlantic Institute for Market Studies (Halifax, NS)
- Dr. Dwight Newman, Professor of Law, University of Saskatchewan (Saskatoon, SK)

## Advisory Council

The following individuals serve on the Justice Centre's Advisory Council:

- Dr. Barry Cooper, Department of Political Science, University of Calgary
- Troy Lanigan, President, Canadian Taxpayers Federation (Victoria, BC)
- Tom Ross, McLennan Ross LLP, Calgary (Calgary, AB)
- Brian Purdy, Defense counsel and retired Crown Prosecutor (Calgary, AB)
- Dr. Clive Seligman, University of Western Ontario Department of Psychology (London, ON)
- Michael Taube, journalist and public policy commentator