

Information number E115039484H

Jurisdiction Lethbridge

Court The Alberta Court of Justice

Crown His Majesty the King

Accused Name(s) WIDDOWSON, Frances

Date, time and location of scheduled trial Date and time: TBD
320 4th Street South
Lethbridge AB
T1J 1Z8

If no trial date set, date and type of next appearance October 27, 2026 at 1:30PM

List of charges: Trespass to Premises Act, s. 3.1

Persons bringing application (for purposes of Service)

Name Christopher Fleury (Counsel for Frances Widdowson)

Address Charter Advocates Canada
[REDACTED]

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Email [REDACTED]

Type of application (check one)

☐ This is an application to be brought at trial

☒ This is a pre-trial application

☐ This is an application under s. 278.93 or 278.3 of the Code

☐ This is an application under Rule 2.8

The clerks have scheduled the following date for the pre-trial hearing:

OR an application to abridge time and schedule the application will be made on the following date (add courtroom and time)

The estimated time to argue the application is: 2-3 Hours

Concise statement of subject of See Appendix A attached

Application:

Statement of grounds: See Appendix A attached

Statement of relevant facts: See Appendix A attached

Relief sought: See Appendix A attached

Legal authorities to be relied upon: See Appendix A attached

The following materials or evidence will be also relied upon:

- ☐ Transcripts, ordered on Click or tap to enter a date. and expected to be ready by Click or tap to enter a date.
- ☐ Written argument
- ☒ Affidavit(s)
- ☒ Case law with the following citations
See Appendix A attached
- ☐ Agreed statement of facts
- ☐ Oral testimony

IT IS UNDERSTOOD that the opposing party or parties must be served with this Application and any other materials to be relied upon, in accordance with the Alberta Court of Justice Rules of Court:

☒ (Check to acknowledge)

THE RESPONDENT'S NAME AND
CONTACT INFORMATION is:

Alberta Crown Prosecution Service,

and Gail MacKillican,

Privacy Officer,

Dated at Belleville, Ontario

On 26-10-19

Signature of Applicant or legal representative

APPENDIX A

CONCISE STATEMENT OF THE SUBJECT MATTER OF THE APPLICATION

1. This is an application to compel production of third-party records in the custody of the University of Lethbridge (the “**University**”).
2. The Applicant, Frances Widdowson (“**Dr. Widdowson**” or the “**Applicant**”), is charged with one count of trespassing pursuant to section 3.1 of the *Trespass to Premises Act*. The alleged trespass occurred in a cafeteria on the University’s property on April 25, 2026.
3. Months earlier, on February 4, 2026, the University issued Dr. Widdowson a trespass notice of indefinite duration. The trespass notice followed her attendance on campus to engage with the public on the claim “The Residential Schools were genocidal”. As a result of an “advisory email” sent by the University notifying University students and faculty of her presence, Dr. Widdowson was quickly surrounded by an unruly and violent mob. Rather than issuing trespass notices to the individuals who were engaged in disruptive activity, the only person issued a trespass notice was Dr. Widdowson.
4. In contemporaneous and subsequent statements, both public and internal, the University denounced Dr. Widdowson’s views and acknowledged that the content of her expression was at least one factor in its decision to issue the indefinite trespass notice.
5. As part of her legal defence to the trespass charge Dr. Widdowson will be filing an application alleging that the University’s decision to ban her indefinitely from the University campus was an unreasonable infringement of her freedom of expression. She will seek a stay of the charge on that basis.

6. In an effort to develop a fulsome factual foundation to the anticipated *Charter* application, the Applicant's legal counsel has made requests for records to the University via the *Access to Information Act* ("**ATIA**") procedure.¹ In response the University has produced documents which contain significant redactions.
7. Dr. Widdowson asks this Court to order the production of the unredacted records. They are relevant to the proposed *Charter* application and in particular: whether the trespass notice's purpose was to limit Dr. Widdowson's constitutionally protected expression and whether the University considered any less impairing alternatives than an indefinite trespass notice.
8. This matter is set for trial in front of a Justice of the Peace on Oct 27, 2026, at 1:30PM in Lethbridge. Where a Justice of the Peace does not have jurisdiction to hear the proposed *Charter* Application,² and that this third-party records application must be brought before the trial judge,³ the Applicant submits that this matter ought to be scheduled in front of a Judge of the Alberta Provincial Court.

STATEMENT OF RELEVANT FACTS

Background

9. Dr. Widdowson is an academic, public commentator, and formerly a tenured professor at Mount Royal University in Calgary. She is charged with one count of trespassing pursuant to section 3.1 of the *Trespass to Premises Act* for attending at a University cafeteria on April 25, 2026.

¹ [Access to Information Act](#), SA 2024, c A-1.4

² [Justice of the Peace Regulation](#), Alta Reg 6/1999, s 3(2)(b).

³ [R. v. McNeil](#), 2009 SCC 3 at [para 27](#).

10. The Applicant has instructed her counsel to bring a *Charter* application alleging that the University's decision to ban her indefinitely from the University was an unreasonable infringement of her freedom of expression. She will seek a stay of proceedings on that basis.
11. The Applicant and the University have had an acrimonious relationship.
12. On January 30, 2023, Dr. Widdowson was scheduled to deliver a public lecture at the University entitled "*How Woke-ism Threatens Academic Freedom*" at the invitation of University professor of philosophy Paul Viminiz. The University ultimately cancelled the lecture. It informed Professor Viminiz on January 30 that the booked room would be unavailable and no alternative university facilities would be provided.
13. Dr. Widdowson sought judicial review of the decision to cancel the lecture. In its final decision the Court ultimately found that Dr. Widdowson's freedom of expression was engaged⁴ and that "the Decision was fundamentally and fatally flawed. The University erred in law by not expressly considering and mentioning the *Charter* in making the Decision"⁵
14. The findings of fact in the judicial review strongly suggest that the University was opposed to the specific content of Widdowson's expression and cancelled the lecture on that basis. The central reason for cancelling the lecture was "to ensure that the University's community was safe." The word "safe" does not reference physical safety but rather that "assertions that seek to minimize the significant and detrimental impact of Canada's residential school system are harmful."⁶

⁴ [Pickle v. University of Lethbridge](#), 2026 ABKB 659 at paras [78-81](#).

⁵ [Pickle](#) at para [84](#).

⁶ [Pickle](#) at para [70](#).

15. The content of Dr. Widdowson's expression at issue in the judicial review, namely Canadian residential schools, is precisely the content at issue in the case at bar and the anticipated *Charter* application.

The Trespass Notice

16. The circumstances which led to the University's issuance of a trespass notice are as follows. On February 4, 2026, Dr. Widdowson attended the University campus at the invitation of Anthony Hall, a Professor Emeritus of the University of Lethbridge, to participate in a Spectrum Street Epistemology session on the claim "The Residential Schools Were Genocidal." Spectrum Street Epistemology is an interactive Socratic method in which participants rate their agreement with a claim and are then invited to explore the reasons and evidence behind their position, and whether they would change that position if contrary evidence were provided.

17. Within minutes of Dr. Widdowson announcing her intention to attend the University on social media, the University sent an email to all faculty and students describing Dr. Widdowson as a "controversial figure" whose views were "upsetting and disrespectful." The University did not name Dr. Widdowson in email, stating internally that it did not wish to "amplify her."

18. As a direct consequence of the University's email, a large group of students and others converged on the University atrium with the intention of harassing Dr. Widdowson and Dr. Hall and preventing them from proceeding. The group used drums and instruments at close range to drown out Dr. Widdowson. They displayed signs telling Dr. Widdowson to "fuck off" and expressing the hope that her "ears bleed". Dr. Widdowson's whiteboard, Spectrum Street Epistemology mats, and backpack were

stolen by the group. Throughout the harassment and criminal behaviour Dr. Widdowson remained peaceful and civil.

19. Instead of issuing trespass notices to any of the individuals engaged in disruptive and criminal behaviour, the University issued a single trespass notice to Dr. Widdowson. Perversely, the stated reason for the issuance of the notice was that she was “observed engaging in the interference in or disruption of the operation of the University, including the interference with or disruption of the normal business of University staff, students and visitors...”

The University’s Records Regarding the Trespass Notice

20. By letter dated February 13, 2026, Glenn Blackett (counsel to Dr. Widdowson in the judicial review described above) wrote to the University requesting records related to Dr. Widdowson’s attendance on the University campus on February 5. There was further correspondence between Mr. Blackett and the University regarding the statutory authority to disclose the records and correcting the date of attendance from February 5 to February 4.

21. Ultimately, by letters dated April 2 and May 12, 2026, the University’s privacy officer replied to Mr. Blackett enclosing records which, in her opinion, were responsive to the February 13 request. The enclosed records were redacted under the following exceptions to disclosure contained in Division 2 of the *ATIA*: s. 19 (Disclosure harmful to business interests of a third party), s. 20 (Disclosure harmful to personal privacy), s. 23 (Disclosure harmful to law enforcement), s. 29 (Advice from officials) and s. 32 (Privileged information).

22. The unredacted portions of the disclosed records reveal the following about the University's opinion about Dr. Widdowson's views and its reasons for issuing the trespass notice:

- a) that one of the perspectives that it balanced in its decision making was that Dr. Widdowson "should not even be permitted on campus given the hateful nature of her overall speech, and the lack of rigour";
- b) that Dr. Widdowson's views are "upsetting and disrespectful" to many community members;
- c) that it does not wish to amplify Dr. Widdowson's views;
- d) that "the views expressed by [Dr. Widdowson] do not align with the values of the University of Lethbridge"; and
- e) that the University received pressure from unknown third parties to exclude Dr. Widdowson from the University.

The Alleged Trespass

23. The Violation Ticket which initiated this proceeding particularizes the alleged trespass as occurring on or about April 25, 2026, at 1:30 PM at 4401 University Drive West on the University. The charge arises out of events occurring on the University of Lethbridge on April 24 and 25, 2026. It is uncontroversial that Dr. Widdowson was in fact on the University's property on April 25 and she will admit as such at the trial of this matter.

24. On April 25, 2026, Dr. Widdowson attended the University campus to have coffee with students and explain to them the Spectrum Street Epistemology method. The cafeteria in which she met the students was largely empty at the time of the meeting. Neither

Dr. Widdowson, nor the students that she was meeting with, were disruptive in any way.

25. As a result of her attendance at the University on April 25, Dr. Widdowson was arrested by officers of the Lethbridge Police Service. She was handcuffed, searched, and forcibly removed from the campus. She was ultimately released from custody later that day after being issued the Violation Ticket.

The University's Records Regarding the Alleged Trespass

26. By letter dated August 24, 2026, Christopher Fleury (counsel for Dr. Widdowson for the charge before the Court) wrote to the University requesting records related to Dr. Widdowson's attendance on the University campus on April 24 and 25, 2026.

27. By letter dated September 16, 2026, the University's privacy officer replied to Mr. Fleury enclosing records which, in her opinion, were responsive to the August 24 request. The enclosed records were redacted under the following exceptions to disclosure contained in Division 2 of the *ATIA*: s. 20 (Disclosure harmful to personal privacy), s. 29 (Advice from officials) and s. 32 (Privileged information).

STATEMENT OF GROUNDS

28. The sole issue in this Application is the disclosure of third-party records in the custody of the University.

The Relevant Principles

29. A third-party records application, often referred to as an "O'Connor Application"⁷, is a two-stage process:

⁷ [*R. v. O'Connor*](#), 1995 CanLII 51 (SCC).

1. First the applicant must satisfy the Court that the record is likely relevant to the proceedings against the accused. If so, the Court will order the production solely for the Court's inspection.
 2. Second, the Court must then determine, after inspection, what portions of the documents are to be produced for the defence and her counsel.⁸
30. An *O'Connor* application must be brought before the judge seized with the trial, although it may be heard before the trial commences.⁹
31. Relevance with respect to the first step is “a reasonable possibility that the information may assist the accused in the exercise of the right to make full answer and defence, including the ability to meet the Crown’s case, raise a defence, or otherwise consider the conduct of the defence.”¹⁰
32. The first stage determines whether materials should be provided to the court for review. At this stage the burden is upon the Applicant, but the standard should *not* be treated as particularly onerous.¹¹
33. In considering the ambit of the information that can assist in the trial, regard must be given to the particular issues in the case and to the governing rules of evidence and procedure. This does not mean that only material that would be admissible at trial should be produced. Material that would not, on its own, be admissible may nonetheless be of use to the defence, for example, in cross-examining a witness on matters of credibility or in pursuing other avenues of investigation.¹²

⁸ *O'Connor*; *McNeil* at [para 27](#).

⁹ *McNeil* at [para 27](#).

¹⁰ *R. v. Sandhu*, 2020 ABQB 459 at [para 33](#); *R. v. Gubbins*, 2018 SCC 44 at [para 23](#).

¹¹ *R. v. Mills*, 1999 CanLII 637 (SCC) at [para 46](#).

¹² *McNeil* at [para 44](#).

34. In assessing whether to produce records to the accused, the Court at the second stage of *O'Connor* “must examine and weigh the salutary and deleterious effects of a production order and determine whether a non-production order would constitute a reasonable limit on the ability of the accused to make full answer and defence.”¹³ In balancing these competing rights the Court should consider the following non-exhaustive list of factors:

- a) the extent to which the record is necessary for the accused to make full answer and defence;
- b) the probative value of the record in question;
- c) the nature and extent of the reasonable expectation of privacy vested in that record;
- d) whether production of the record would be premised upon any discriminatory belief or bias; and
- e) the potential prejudice to the complainant's dignity, privacy or security of the person that would be occasioned by production of the record in question.¹⁴

35. In ordering the production of records, it is open to the Court to tailor production through redactions or conditions, including restrictions on dissemination, to avoid unnecessary invasions of privacy.¹⁵

The Principles Applied

36. The Applicant seeks records in the custody of the University that speak to the following issues:

¹³ *O'Connor* at para 30.

¹⁴ *O'Connor* at para 31.

¹⁵ *McNeil* at paras 43-46.

- a) University staff and administrators' opinion about the content of Dr. Widdowson's expression;
- b) Dr. Widdowson's attendance at the University on February 4;
- c) the issuance of the February 4 trespass notice;
- d) Dr. Widdowson's attendance at the University on April 24 and 25; and
- e) her arrest for trespass on April 25.

37. These records are required by the Applicant to make full answer and defence to her trespass charge and specifically to litigate the breach of her section 2(b) *Charter* rights and to bring an application for a stay on that basis.

38. Precedent exists for such an application in Alberta. In *R. v. Whatcott*,¹⁶ the defendant was charged with trespassing after peacefully distributing flyers at the University of Calgary despite an indefinite campus ban imposed following complaints about his earlier leaflets. The Provincial Court held that the university's use of trespass legislation to suppress this expression infringed s. 2(b) of the *Charter*. Preventing the distribution of material merely because someone found it offensive was not a pressing and substantial objective. Further the indefinite ban was disproportionate. The proceedings were stayed as a result.¹⁷

39. Dismissing the Crown's appeal, the Court of Queen's Bench confirmed that the *Charter* applied to the university's decision, emphasizing its connection to the University's educational mandate and its invocation of statutory powers and state enforcement machinery.¹⁸ It upheld the finding of an unjustified infringement and

¹⁶ *R. v. Whatcott*, 2011 ABPC 336.

¹⁷ *R. v. Whatcott*, 2011 ABPC 336 at [paras 19–28](#).

¹⁸ *R. v. Whatcott*, 2012 ABQB 231 at [paras 30–37](#).

added that handcuffing, searching and detaining the defendant was disproportionate to his peaceful distribution of flyers.¹⁹

40. Similar to *Whatcott*, the issues to be raised in the anticipated *Charter* application include:

- a) whether the purpose or effect of the University's decision to issue the trespass notice infringed Dr. Widdowson's freedom of expression;²⁰
- b) whether the University's objective in issuing the trespass notice was pressing and substantial;²¹
- c) whether the objective was rationally connected to the issuance of the trespass notice;²²
- d) whether a trespass notice of indefinite duration was a minimal impairment of Dr. Widdowson's freedom of expression;²³ and
- e) whether the trespass notice was otherwise a disproportionate infringement of that freedom.²⁴

41. As noted above, the redacted records at issue in this application were provided to the Applicant upon request of records relevant to the Applicant's "February 5, 2026, visit to the [University] campus and associated protest" and her "attendance at the University of Lethbridge campus on April 24 and 25, 2026." The factual matrix of this proceeding and the anticipated *Charter* application is precisely those two visits by Dr.

¹⁹ *R. v. Whatcott*, 2012 ABQB 231 at [paras 40-50](#).

²⁰ See: *Montréal (City) v. 2952-1366 Québec Inc.*, 2005 SCC 62 at [para 56](#).

²¹ See: *R. v. Oakes*, 1986 CanLII 46 (SCC) at [para 69](#).

²² *Oakes* at [para 70](#).

²³ *Oakes* at [para 70](#).

²⁴ *Oakes* at [para 70](#).

Widdowson to the University. By providing the records in this context, the University has essentially conceded that they are “likely relevant” to the proceedings against Dr. Widdowson. The primary consideration in this Application is therefore the balancing required under stage two of the *O’Conner* framework.

42. The most significant redactions in the records provided by the University rely on two categories exceptions to disclosure under the *ATIA*: s. 29 (Advice from officials) and s. 32 (Privileged information) of the *ATIA*. In many cases full pages have been blacked out citing only these sections of the *ATIA*.

43. Section 29(1) of *ATIA* contains subsections (a)-(h), each of which protect certain categories of information. The University does not particularize which subsection it relies upon. The University is most likely relying on subsection 29(1)(b) which prevents disclosure which “reasonably could be expected to reveal... (b) consultations or deliberations involving (i) officers or employees of a public body, (ii) a member of the Executive Council, or (iii) the staff of a member of the Executive Council.” The internal deliberations of University officers and/or employees are precisely relevant to the issues of whether the purpose of the trespass notice was to limit Dr. Widdowson’s freedom of expression and whether the University considered any other alternatives which infringed the freedom to a lesser degree.

44. While this information may be properly redacted under the *ATIA* regime, it ought to be disclosed in a criminal/quasi-criminal prosecution pursuant to *O’Connor*.

45. Any concerns about privacy that arise in these records can and should be addressed by an order that the records obtained in this Application may only be used for the

purpose of making full answer and defence to the trespass charge. The Applicant does not object to the inclusion of such a clause in the Order.

46. With regards to redactions citing s. 32 of the *ATIA* (Privileged information), the Applicant acknowledges the high bar for production of these records²⁵ and therefore concedes that seeking their production at this stage would be premature. However, the Applicant retains her right to revisit this issue later in the proceedings, including following the conclusion of evidence.²⁶

47. Such further and other grounds as the Applicant may advise and this Honourable Court may permit.

RELIEF SOUGHT

48. The Applicant seeks an order under the *O'Connor* regime compelling the University to produce of records in its possession relevant to the following issues:

- a) University staff and administrators' opinion about the content of Dr. Widdowson's expression;
- b) Dr. Widdowson's attendance at the University on February 4;
- c) the issuance of the February 4 trespass notice;
- d) Dr. Widdowson's attendance at the University on April 24 and 25; and
- e) her arrest for trespass on April 25.

²⁵ See: [R. v. Fox](#), 2026 SCC 4; and [R. v. McClure](#), 2001 SCC 14.

²⁶ See: [Fox](#) at [para 70](#).

AUTHORITY RELIED UPON

LEGISLATION

[Access to Information Act](#), SA 2024, c A-1.4

[Justice of the Peace Regulation](#), Alta Reg 6/1999

JURISPRUDENCE

[R. v. McNeil](#), 2009 SCC 3

[Pickle v. University of Lethbridge](#), 2026 ABKB 659

[R. v. O'Connor](#), 1995 CanLII 51 (SCC)

[R. v. McNeil](#), 2009 SCC 3

[R. v. Sandhu](#), 2020 ABQB 459

[R. v. Gubbins](#), 2018 SCC 44

[R. v. Mills](#), 1999 CanLII 637 (SCC)

[R. v. Whatcott](#), 2011 ABPC 336

[Montréal \(City\) v. 2952-1366 Québec Inc.](#), 2005 SCC 62

[R. v. Oakes](#), 1986 CanLII 46 (SCC)

[R. v. Fox](#), 2026 SCC 4

[R. v. McClure](#), 2001 SCC 14