

BCCLA

2013 ANNUAL REPORT



B.C. CIVIL LIBERTIES ASSOCIATION
ANNUAL GENERAL MEETING
WEDNESDAY MAY 7, 2014 / 7:00 PM
LABATT HALL, SFU HARBOUR CENTRE
515 WEST HASTINGS STREET
VANCOUVER, BC

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PRESIDENT'S REPORT / LINDSAY M. LYSTER



The great civil rights leader, Dr. Martin Luther King Jr., said in his 1965 speech on the steps of the State Capitol in Montgomery, Alabama, on the conclusion of the Selma to Montgomery March, that “the arc of the moral universe is long, but it bends towards

justice.” At the BCCLA, we know that to be true. We know that over the nearly 52 years of our existence as an association, there have been many changes and developments in Canadian society and law that have contributed to making our country a more just place to live. There have been diverse victories for rights and freedoms across a diverse range of domains: from the hard-fought recognition and protection of LGBTQ+ people to the development of police oversight mechanisms; from the gains in the ongoing struggle against racism and discrimination against people of colour to increased protection for the rights of drug users; and from the enhanced protection of the freedom of expression to advances in the rights of the accused. The list of those victories would take up this entire Annual Report, and has been written by the legions of people across Canada who have had the courage to stand up and fight for what they believe is right, and what they believe are their rights.

And yet, despite these decades of progress, it sometimes seems that the universe’s long arc has been bending further and further away from justice. We see almost constant attempts by governments of all stripes and at all levels to scale back hard-won rights and freedoms.

The tendency towards spying on all of us all of the time – in addition to targeted spying on people engaged in lawful, democratic activity here in B.C. (recalling that Dr. King was heavily spied upon in his day) – threatens the very core of our personal autonomy and our privacy rights, and there’s no telling what the long-term consequences of these incursions will be. New laws threaten to effectively take away voting rights from thousands of marginalized and young Canadians. New laws are being

considered that would put sex workers at risk through the recriminalization of sex work, undoing the *Bedford* decision, that great victory in the Supreme Court of Canada. The question of the rights of Indigenous peoples has yet to be resolved and government actions sometimes appear to work against the full realization of their rights, rather than in favour of it. Prisoners remain in indefinite solitary confinement in some Canadian jails, suffering under what is arguably the most inhumane treatment possible by the state. The province of B.C. comes up with ever new ways to put people’s privacy at risk. It has failed to act effectively or quickly to deal with the tragedy of missing and murdered women. Meanwhile, it puts energy into its civil forfeiture regime, under which individuals merely suspected of criminal involvement, who are neither charged with nor convicted of any crime, can have their property confiscated with little by way of due process in many cases, and with potentially disastrous results for their lives and livelihoods.

This never-ending onslaught of threats to our rights and freedoms is what keeps the BCCLA working so hard. We will not rest in our efforts to stand on guard for the rights and freedoms of everyone. This year we launched an historic lawsuit against Canada for its massive and, in our view, unconstitutional scheme of spying on everybody, all of the time. We are carrying the death-with-dignity fight, so courageously waged by Gloria Taylor and her co-plaintiffs, all the way to the Supreme Court of Canada (watch for this in October 2014). We were involved in 37 active pieces of litigation. We gave educational presentations to over 4,000 people and directly assisted nearly 2,000 individuals. We spoke out on a myriad of issues, each time attempting to ensure that respect for civil liberties and fundamental rights are a part of the public conversation in B.C. and in Canada.

As Dr. King well knew, the universe does not bend towards justice of its own accord. Each of us, working together, must grab hold of that arc and keep it bending towards justice. That is a task, not of a day or of a year, but of a lifetime. Thank you for continuing to support and work with the BCCLA as we reaffirm our resolve to work towards a freer, more just society.

2013 BY THE NUMBERS

Our board, staff,
volunteers, members
and donors made
2013 a success.

Here's a snapshot
of the year.

Provided **direct assistance to almost 2000 people** with civil liberties complaints covering a wide range of issues with a particular focus on complaints involving police and privacy issues.

Worked on **37 legal cases** including launching a lawsuit against Communications Security Establishment Canada (CSEC) aimed at stopping illegal spying on Canadians, and announcing that we will take the fight for the right to death with dignity to the Supreme Court of Canada.

Received support from **90 lawyers** who volunteered their time donating 2,878 *pro bono* hours.

Distributed **thousands of copies of free public education resources** for Canadians, including our recently updated guide for youth, *Rights Talk: Students and Civil Liberties at School*, and our new *HIV and Occupational Exposure: A Guide for First Responders and Their Families*.

Reached thousands of people at more than **60 free public education events**, held across the country, including our *Youth and Civil Liberties* forum in Vancouver, which was attended by more than 200 high school students.

Gave more than **550 media interviews**.

2013

BCCLA VICTORIES FOR RIGHTS

Thanks to our vigorous casework, litigation and public education programs, the BCCLA regularly helps initiate or change the course of policies related to free speech, democracy and accountability for government and other powerful actors. Here is a selection of our favourite victories from the past year.

ENDED INDEFINITE SOLITARY CONFINEMENT IN WOMEN'S PRISONS

The BCCLA represented BobbyLee Worm, a 26 year-old Cree woman from Saskatchewan who was held in solitary confinement for more than three and a half years while in federal prison. During her years in solitary confinement, Ms. Worm spent up to 23 hours a day in an 8 by 10 foot cell. She was only 19 years-old and a first time offender when she entered prison. The BCCLA argued the federal government violated Ms. Worm's constitutional rights. Only two days after we filed our case, the government settled, providing a small measure of justice for Ms. Worm. Later that month, the Correctional Services of Canada cancelled the Management Protocol—the solitary confinement program that had been used against Ms. Worm. We will continue to work to end other programs that permit the inhumane use of solitary confinement.

FOUGHT FOR THE RIGHT TO DIE WITH DIGNITY

We litigated the appeal of our Death with Dignity case at the B.C. Court of Appeal, defending our victory in a hearing that lasted several days. We lost at the Court of Appeal, and are now taking our fight to the Supreme Court of Canada. You can read more details on the case on page 18, in the Litigation section of this report.

LAUNCHED THE FIRST-EVER LAWSUIT AGAINST CANADA'S ELECTRONIC SPY AGENCY

We are taking Canada's super-secretive electronic spy agency—Communications Security Establishment Canada (CSEC)—to court. We filed the case because we believe that secret and unrestrained government surveillance presents a grave threat to democratic freedoms. Read more about the case in our Feature section on page 8.

PROTECTED PRIVACY AT THE BORDER

Working with community groups, we succeeded in stopping the Canada Border Services Agency (CBSA) from filming and broadcasting for a reality TV show, the stories of vulnerable people they deal with in inland enforcement. We also got them to cancel an episode containing controversial footage of undocumented workers raided at their workplace. This was achieved through our public advocacy and filing of a privacy complaint on behalf of an affected individual. The CBSA's broadcasting of people's private information violates the rights of people dealing with border authorities, and potentially jeopardizes the safety of refugee claimants by publicizing their identities. Over 1,500 individuals signed BCCLA-developed legal forms to refuse their consent to be filmed for entertainment purposes at the border.

This year we are working to highlight the fact that people’s rights are continually placed at risk because the CBSA has no independent oversight or complaints body.

SUPPORTED THE RIGHT OF MOTHERS IN PRISON

The BCCLA intervened in a groundbreaking case that made clear that mothers in prison have the constitutional right to care for their newborn babies. The decision came from a lawsuit brought by two former prisoners at the Alouette Correctional Centre for Women. Patricia Block was sentenced when she was three months pregnant and was forced to hand over her baby shortly after giving birth. Amanda Inglis gave birth shortly before the warden cancelled the program. The Court decided that cancelling the program was unconstitutional because it separated babies from their mothers during a critically formative period and interfered with their attachment to their mothers.

INCREASED EDUCATIONAL PROGRAM INITIATIVES

We released several new publications, including *HIV and Occupational Exposure: A Guide for First Responders and Their Families* and *Rights Talk: Students and Civil Liberties at School*. We spoke to over 4,000 people about their civil rights at more than 60 events across Canada, including hosting a fantastic educational conference for high school students in B.C.

SECURED FREEDOM OF EXPRESSION OF WORKERS

When a complaint was filed under Alberta’s privacy legislation against a union for video-taping at a picket line and posting those images online, the BCCLA intervened in the resulting



MEDIA AT BCCLA PRESS CONFERENCE

court case. We argued that the Supreme Court of Canada has to carefully balance the privacy rights of people captured on film with the freedom of expression of workers. The Supreme Court of Canada agreed with our argument, and recognized the fundamental importance of freedom of expression, particularly picketing, in the context of labour disputes. The Court struck down the law, instructing the Alberta legislature to draft a new law that will allow freedom of expression to be balanced along with privacy rights.

LAUNCHED REPORT ON POTENTIAL PRIVACY IMPLICATIONS OF THE B.C. SERVICES CARD

We completed our year-long project—funded in part by the federal Privacy Commissioner’s office—about so-called “smart card” identity management systems, launching the report, *A National ID Card by Stealth? The B.C. Services Card: Privacy Risks, Opportunities and Alternatives*, at a packed workshop in Vancouver. We revealed the card poses a number of civil liberties threats by creating a new government identity management scheme in which citizens have little control as to how their personal data is used or shared.

STOP ILLEGAL SPYING



CSEC

The Communications Security Establishment Canada (CSEC) is Canada's equivalent to the American National Security Agency (NSA).

CSEC can conduct
**SECRET AND UNCHECKED
SURVEILLANCE
of Canadians**



WHY IT MATTERS TO YOU:

SECRETIVE

Who they are watching, what they do with our private information, and whether they share our information with other agencies or countries, are among the many things that

**CSEC WON'T
TELL US**

EXPENSIVE

CSEC is building a brand new 72,000 sq.m. state of the art headquarters that will cost Canadian taxpayers almost

**\$1.2
BILLION**

OUT OF CONTROL

There is no court or parliamentary committee that monitors CSEC's interception of private Canadian communications and metadata.

**NO WARRANT
IS REQUIRED**

LEARN MORE & TAKE ACTION:

bccla.org/stop-illegal-spying

IT'S TIME TO STOP

ILLEGAL SPYING

BCCLA LAUNCHES LAWSUIT TO DEFEND OUR PRIVACY RIGHTS

From tracking wireless devices at Canadian airports to indiscriminate gathering of webcam images by spies in the United Kingdom, news reports around the world have revealed a shocking picture of global intelligence gathering.

In October, the BCCLA filed a lawsuit against the federal government aimed at stopping illegal surveillance of Canadians.

Since filing our lawsuit, we have heard from concerned citizens across Canada. You have reached out to us on twitter and social media. You have attended panel discussions. You have written, emailed and phoned.

We try to answer some of your most common questions below.

WHAT IS BCCLA'S LAWSUIT ABOUT?

We claim that two aspects of CSEC's domestic spying activities violate the Charter of Rights and Freedoms protections against unreasonable search and seizure and infringe on free expression:

- 1) The collection of private communications when Canadians are communicating with someone outside of Canada
- 2) The collection of metadata information that is produced when a Canadian uses a mobile phone or accesses the internet

Currently, CSEC is allowed to read Canadians' emails and text messages, and listen to their phone calls with someone outside of Canada.

All that CSEC needs to intercept Canadians' phone calls, emails and texts is permission

from the Minister of National Defence. Once the Minister gives his secret "authorization," CSEC is allowed to eavesdrop on Canadians.

In addition to collecting Canadians' private communications, CSEC uses a secret ministerial directive to collect and analyze the metadata information that is automatically produced each and every time a Canadian uses a mobile phone or accesses the internet.

Metadata is digital surveillance. Private metadata information includes the exact geographic location of the mobile phone, records of phone calls made and received, and logs of internet sites accessed. Metadata is like a digital trail and it allows CSEC to track an average Canadian like the police tailing a suspect.

There is no court or Parliamentary committee that monitors CSEC's interception of our private communications or metadata information. This kind of unchecked, mass surveillance is unconstitutional and presents a grave threat to our democratic freedoms.

WHY DID BCCLA FILE THIS LAWSUIT?

As a supporter of the BCCLA, you know that our mandate includes the preservation, defence and protection of civil liberties across Canada. That mandate is our job—and it is why we filed this lawsuit.

We filed our case because CSEC's operations will chill Canadians' free expression—because widespread and indiscriminate surveillance will cause Canadians to censor themselves out of fear that the personal, political or intimate details of their lives will be collected by the government.

We filed our lawsuit because Canadians who have friends, family, associates, or political allies in the countries that CSEC is targeting may simply stop engaging in what are otherwise perfectly legal communications.

We took on this fight because we reject the notion that Canadians have to choose between protecting their security and preserving their constitutional rights.

And we started this case because we find ourselves in the midst of a global battle over increased internet surveillance and we know that real, robust privacy protections are essential to preserving a free and open digital world.

WHAT DOES THE BCCLA WANT TO ACHIEVE?

The BCCLA filed this lawsuit to uphold human rights of Canadians and to ensure that the federal government protects Canadians' rights to privacy and free expression—now and in the future.

BCCLA's goal is to achieve real change by bringing the government's actions into line with the constitution. We want greater transparency around CSEC's operations related to Canadians. We want CSEC to be held to a much higher standard of accountability so that Canadians can feel confident that their rights are being respected. The status quo is

unacceptable, because unchecked surveillance is fundamentally incompatible with our rights and freedoms.

WHAT HAPPENS NEXT?

There is no doubt that we have a long fight ahead of us. It is likely that the federal government will try to kick us out of court, challenging our ability to bring this case in the public interest. It may also be difficult for us to access some of the evidence the Court will need to decide our case.

We hope that you are excited about our work on this issue. If you want to help us stop illegal spying, we encourage you to visit our website at www.bccla.org to read more about the case and learn ways to spread the word about the case on social media.

When we go out in the world to talk about this case, we are often asked whether Canadians really care about government spying. We think that you do.

Over the next few months, we encourage you to sit down and have a conversation about these issues with your friends, your spouse, your children—talk about why you believe that privacy matters, about why free expression is important to you, and about why you stand with the BCCLA against widespread government surveillance.



PEOPLE



BCCLA STAFF

Back row from left: Raji Mangat, Alyssa Stryker, Jasmine Yen, Jessi Halliday, Grace Pastine, Charlotte Kingston, Josh Paterson, Jim Braunagel. Seated: Micheal Vonn and Caily DiPuma.

THREE CHEERS FOR PRINCE GEORGE!

Thank you to Sandra Nadalin, Francisco Cabanas and all the Northern Chapter Steering Committee members for their continuing work to grow our Prince George office. Thank you as well to Carlene Keddie and Heather Elliott who also served as Steering Committee members until spring of 2013. We are so thankful for their help to give the BCCLA a presence in Northern B.C. Their hard work and willingness to help their community continues to inspire us.

BCCLA VOLUNTEERS

The BCCLA depends on the support of people who volunteer their time, skills, and passion. In 2013 volunteers helped us extend our reach into the community. They helped us plan and execute nearly every part of our Liberty Awards Gala and Fundraiser. They contributed thoughtful original content to our website, and so much more. In short, they knocked our socks off. We would like to thank and acknowledge the work of our in-office volunteers including:

SUMMER LAW STUDENTS

Laura Crestohl
Menka Sull
Danielle VanderEnde

VOLUNTEERS

Tyler Carlson
Liz Cave
Tiffany Chan
Sarah Clarke
Kelly Douglas
Bobby Farshi
Zuleika Gedeon
Hira Ghunman
Amy Gill

Kevin Hennessy
Safeera Jaffer-Hirji
Chaerean Kim
Vicky Law
Sumra Mahmoud
Nevin Massing
Erin Pavan
Jennine Punzalan
Sonya Reid
Jessie Saunders
Humza Sayed
Amandeep Sehmbro
Sally Shin
Jessie Simpkin
Jeanie Smith



• When privacy means for democracy by Michael Vann
Too often, the safety of whole countries is pitted against the privacy. This paradigm gets it wrong. Privacy is a collective value, other democratic values including free expression, autonomy
Michael Vann is the Policy Director for the BCCLA and one of prominent privacy advocates.

IN THE COMMUNITY

In 2013 the BCCLA participated in more than 60 community events and public speaking opportunities, engaging with more than 4,000 Canadians across the country.

Here are just a few:

NORTHERN CHAPTER WORKSHOPS!

Thanks to a team of dedicated volunteers we were able to host a number of events out of our Prince George chapter, including one on surveillance, organized and delivered by the volunteers themselves!

● PRINCE GEORGE

ENDING THE ISOLATION

BCCLA Counsel Raji Mangat travelled to the icy University of Manitoba to deliver a conference presentation on our ongoing work to end indefinite solitary confinement in Canadian prisons.

● VANCOUVER

YOUTH AND CIVIL LIBERTIES

Caseworker Alyssa Stryker organized our 9th annual **Youth and Civil Liberties** conference for more than 200 high school-aged students, challenging Vancouver's young people to think about issues as diverse as internet censorship to contemporary feminism.

● WINNIPEG





RODRIGUEZ REVISITED
 Litigation Director Grace Pastine spoke to the McGill Journal of Law's colloquium series about our *Carter v. Canada* case, and our position that terminally and incurably ill Canadians have the right to autonomy and choice at the end of life.

BEST BRAINS EXCHANGE!
 Policy Director Micheal Vonn was invited by the Canadian Institute of Health Research to present on policy challenges to safe and effective medical marijuana program.

MICHEAL GOES TO WASHINGTON!
 Policy Director Micheal Vonn was one of only a few Canadian delegates invited to Washington, D.C. for the *Computers, Freedom & Privacy Conference*. While there, Micheal initiated the **Washington Statement**—an international agreement calling for better data protection.

PEG

MONTRÉAL

HALIFAX

WASHINGTON

CASEWORK

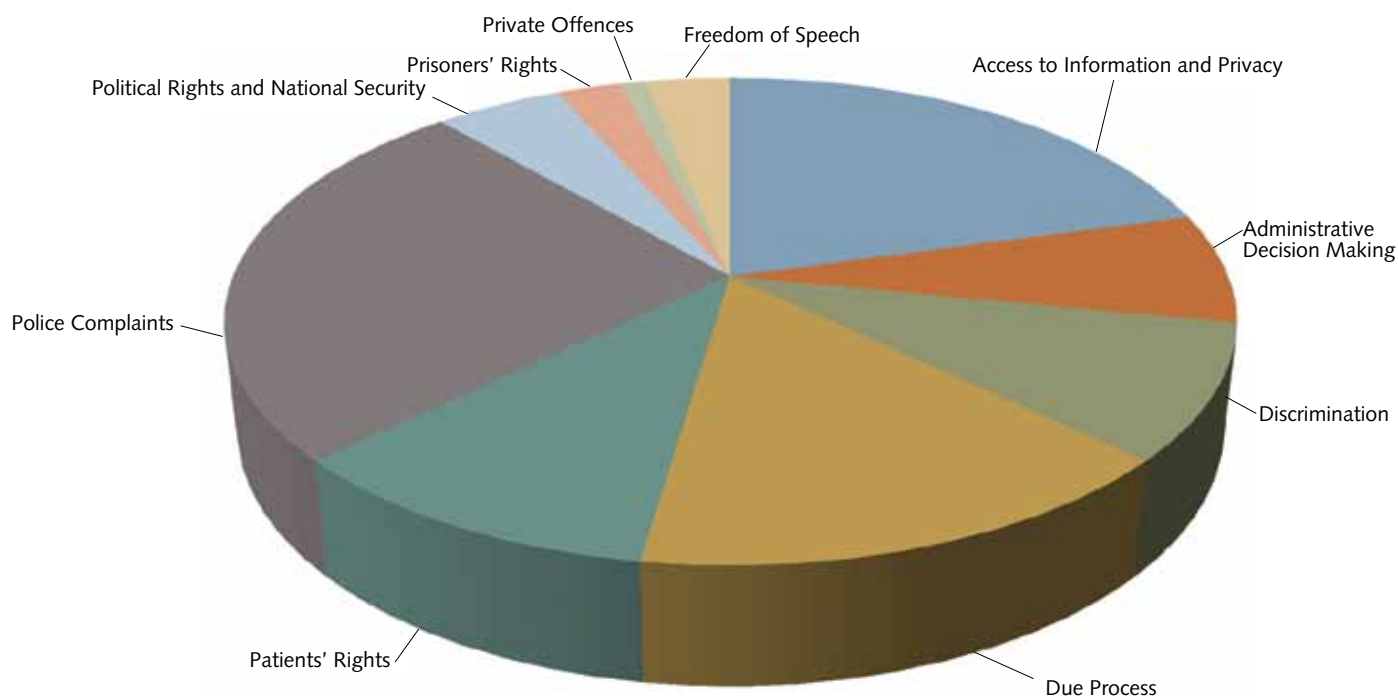
COMPLAINT ASSISTANCE / HELPING PEOPLE

In 2013, the BCCLA was a resource for nearly 2000 individuals seeking assistance or direction with their civil liberties concerns. While the majority of these requests came from within British Columbia, they also included 112 requests from other parts of Canada. As we become more well-known outside our own backyard, individuals throughout the country have come to see us as a national leader in our field, and a source of guidance for them as they struggle to defend their own civil liberties on a day-to-day basis.

The cases that we dealt with in 2013 spanned every conceivable area of our civil liberties and human rights mandate, from police issues and prisoners' rights, to free speech and access to information. We were there to assist in any way we could, providing guidance with police complaints and access to information requests, writing letters of support for individuals to make use of while advocating on their

own behalf, or helping with referrals to other organizations when we did not have the ability to assist directly. While some complaints were not easily categorized, the chart below provides a general idea of the distribution of the casework we handled in 2013.

While we try our best to assist all the individuals who contact us, a significant number of the



requests we receive continue to be from individuals desperate for low-cost legal advice, something that we are not able to provide. We try to connect individuals with the extremely limited options available for accessing such services through various non-profit organizations, but of course, these overburdened *pro bono* clinics cannot replace a functioning and robust legal aid system. The frequency of these requests is a sobering daily reminder that the chronic underfunding of legal aid continues to adversely affect many of B.C.'s most vulnerable, and that access to justice is a right from which many are excluded.

Here are just a few of the many cases we worked on last year:

DEFENDING THE RIGHTS OF INDIVIDUALS LIVING WITH MENTAL ILLNESS

Our caseworker was contacted by a health professional concerned about a section of the *Health Professions Act* that has a discriminatory effect on professionals living with mental illness. Part of this law currently requires that hospitals report health professionals hospitalized for mental health reasons to their professional college. This is the case even when the individual's ability to do their job is in no way compromised following their release. The BCCLA is currently working in collaboration with the Canadian Mental Health Association to draft a submission to the provincial government asserting the need for changes to the legislation so that it no longer discriminates against those with mental health issues.

SUPPORTING NURSES FIGHTING FOR FREE SPEECH

A group of nurses concerned about the province's mandatory flu vaccination policy for health care workers wanted to share their views with their colleagues by leaving print materials in staff lounges and posting on staff bulletin boards. The hospital where they

worked told them they could not do this, although the distribution did not take place on the employer's time or disrupt work in any way. After receiving a letter from the BCCLA reminding them of their obligations to respect their employees' right to free speech, the hospital backed down and allowed the nurses to continue to exercise their *Charter* rights.

FIGHTING AGAINST A GOVERNMENT USING DEFAMATION LAWSUITS TO STIFLE CITIZEN SPEECH

The BCCLA has long argued that it is unacceptable for governments to use the threat of defamation lawsuits to scare critical citizens into silence. These so-called SLAPP suits (Strategic Lawsuits Against Public Participation) constitute a serious threat to free speech and democracy. In 2013 we helped draw media attention to a case in the District of Lillooet, where the chief administrative officer was suing three citizens for defamation— on the municipality's dime. We will continue to fight against such lawsuits, unwavering in our commitment to protect the right of people to criticize their governments without fear of being threatened by a lawsuit.

INCREASING CAPACITY TO DEFEND CIVIL LIBERTIES THROUGH CASEWORK IN NORTHERN BRITISH COLUMBIA

The BCCLA's caseworker travelled to Prince George to provide intensive training to our Northern Chapter's volunteer steering committee, increasing their capacity to assist individuals who seek help from their office. While our Vancouver office assists many individuals from all across the province, we believe it is important that we also have an on-the-ground presence in the North. The training provided ensures that the Prince George volunteers have the tools they need to provide the same sorts of complaint assistance services that are available to those in Vancouver.

PRIVACY

THEN AND NOW

The BCCLA's longest standing Policy Director, Micheal Vonn, reflects on the last ten years.

Big round numbers... they make me think back. Spring 2014 marks my ten year anniversary as Policy Director of the BCCLA. Civil liberties principles haven't changed, but a lot has changed in terms of the kinds of challenges we face. In many ways it's a significantly different world. And in the privacy sphere, it's a different universe.

PRIVACY THEN

- Focus on data protection legislation
- Acclimatizing folks to the very idea of "privacy law"
- Important but low-profile work
- The stuff of hard-core policy wonks

PRIVACY NOW

- Post-Snowden
- The internet
- Human genomics
- Big data, biometrics
- Secret population-based electronic surveillance of the better part of the globe...

Although privacy legislation was still pretty new in 2004, British Columbia was actually at the forefront of thinking about complex privacy issues like cross-border data flows. In 2004, the B.C. Information and Privacy Commissioner conducted a public inquiry into the provincial government's proposal to outsource the administration of the Medical Services Plan (MSP) to a US company subject to the *USA PATRIOT Act*. This inquiry was the first of its kind and the results were eagerly awaited in countries all over the world.

The response to the call for submissions was unprecedented. The Commissioner received over 500 submissions—from concerned citizens, from NGOs, from governments, from labour and health organizations. (My personal favourite was from the FBI. As I recall it was the shortest of any of the submissions, and essentially, consisted of the FBI saying that it would "neither confirm nor deny" that they were going to grab our data if it came within their reach. Uh, ya. Thanks for that.)

Our submission on the implications of the *USA PATRIOT Act* on Canadians' privacy rights was my very first big file for the Association. It was my trial-by-fire introduction to the vortex of legal and technical complexities and stubborn security-state secrecy that would be the hallmark of so many of the privacy challenges in the coming years.

The BCCLA didn't actually set out to become leaders in Canadian privacy advocacy. We just, as always, intended to meet the most pressing civil liberties challenges wherever they arose. In the last ten years, privacy advocacy has gone from a few diligent folks talking about issues that often struck the public as perhaps a little obscure, to being acknowledged by the global community as one of the most pressing human rights issues of the twenty-first century.

And twenty-first century privacy issues are not all big digital national security surveillance matters. There are exploding numbers of local

provincial electronic health record * (and they are),

- To the transition house sector fighting to keep the personal information of women and children fleeing violence out of the provincial Integrated Case Management database where it can never be secured against clients' abusers or their networks.

Privacy is integral to almost every aspect of civil liberties and our lives, from the personal—including personal safety and autonomy—to the integrity of all of our

major institutions, from a free press to democracy itself.



BCCLA POLICY DIRECTOR, MICHEAL VONN

As book-ends for this last ten years, we go from our participation in the historic public inquiry into the *USA PATRIOT Act* to our launch of the historic constitutional challenge to surveillance by the Communications Security Establish-

ment Canada (CSEC), one of our own national security agencies.

and provincial programs involving reckless data collecting and disclosing. Many of which pose immediate, serious and sometimes dire consequences for people:

- From the people who say that they would never phone 9-1-1 in a mental health crisis again because of their experience of having that information disclosed to prospective employers who request a “police records check”,
- To the 31% of people who are less likely to test for sexually transmitted infections and HIV if their test results are part of the

It's been an exhausting, exhilarating ten years of cutting edge privacy research, advocacy and education, fostering public awareness, and building partnerships. In addition to thinking back, big round numbers also prompt thoughts of the future. Every indication is that the fight will only intensify. And the BCCLA and its supporters will be meeting the challenge.

**B.C. Centre for Disease Control STI Update, 13 Feb 2014.*

LITIGATION

OUR THANKS TO THE LEGAL COMMUNITY

The BCCLA stands poised to uphold fundamental rights and freedoms in the courts through strategic litigation. In 2013, the BCCLA litigated over 35 cases on a broad range of civil liberties issues, including police accountability, prisoners' rights, voting rights, freedom of expression, and national security. The *pro bono* legal talents of lawyers working on behalf of the BCCLA have been vital to our success in the courts. The following is small selection of our cases from 2013.

DEATH WITH DIGNITY

CARTER ET AL. V. CANADA

Supreme Court of Canada

The BCCLA continues to lead the fight for compassion and choice at the end of life. We filed a lawsuit that asserts that the laws that criminalize doctors for helping competent, seriously ill individuals who wish to hasten death are unconstitutional. There are few rights more deeply personal than the right to determine how much suffering to endure at the end of life.

The B.C. Supreme Court ruled in a landslide victory in 2012 that the *Criminal Code of Canada* provisions against physician-assisted dying violate the rights of the gravely ill and gave Parliament one year to rewrite the laws. The federal government appealed. The B.C. Court of Appeal overturned the lower court's ruling in late 2013 and upheld the ban, stating that it was bound by the Supreme Court of Canada's twenty-year-old Rodriguez decision. Recently, the Supreme Court of Canada announced that it would hear our case in October, 2014.

Since the Court's decision in Sue Rodriguez's case, there has been a sea change in social thinking on these issues. A significant number of countries now allow for physician-assisted dying. The experience in these countries reveals that fears about physician-assisted

dying are unfounded. Our lawsuit has reignited a national debate on choice in dying and we will continue to advocate for legal change for Canadians who want to have the right to choose a dignified and peaceful death. The plaintiffs are represented by **Joseph Arvay, Q.C.** and **Alison Latimer** of Farris and **Sheila Tucker** of Davis LLP.

FREEDOM OF EXPRESSION

U.F.C.W., LOCAL 401 V. ALBERTA (AG)

Supreme Court of Canada

In 2006 the United Food and Commercial Workers Union, Local 401 went on strike and picketed an Edmonton casino to protest working conditions. The union posted a sign stating that the union might videotape individuals who crossed the picket line and post those images on a website. A complaint alleged that this was in violation of Alberta's *Personal Information Protection Act*. At issue was whether by restricting the union members' ability to use the video, the privacy legislation at issue infringed the union members' right to free expression.

The BCCLA was an intervener in the case. We argued that the Supreme Court of Canada must balance the right to privacy against freedom of expression very carefully in the context of a labour dispute. The Supreme Court of Canada agreed with us, determining



ELAINE SHAPRAY FILED AN AFFIDAVIT IN SUPPORT OF OUR DEATH WITH DIGNITY APPEAL; WITH GRACE PASTINE, BCCLA LITIGATION DIRECTOR

that Alberta’s privacy legislation does not achieve a constitutionally-acceptable balance between the interests of individuals in controlling the collection, use and disclosure of their personal information and a union’s freedom of expression. The BCCLA was represented by our president, **Lindsay M. Lyster** and **Jessica Derynck** of Moore Edgar Lyster.

CENSORSHIP

BCCLA & CÔTÉ V. UNIVERSITY OF VICTORIA

B.C. Supreme Court

The BCCLA and a member of a University of Victoria pro-life student club filed a constitutional lawsuit naming the University of Victoria and its Student Society, seeking relief from the persistent, illegal censorship of the civil, peaceful expression of pro-life opinion on the campus. The Petition, filed in B.C. Supreme Court, centers on the University’s attempted cancellation of a “Choice Chain” event in 2012, and its threats to punish students who participated in similar events in the future. The University purported to cancel the event because the Students’ Society, which has a long history of antagonism to the student club, characterized pro-life advocacy as “harass-

ment”. The BCCLA regards safe, effective access to abortion as a civil right—both as a matter of democratic principle, and as a fixture of Canadian law since the decision of the Supreme Court of Canada in the Morgentaler case of 1988. But we regard all attempts to silence dissent through programs of systematic harassment as obnoxious to democracy. The petitioners are represented by **Craig Jones, Q.C.** and **Emily Unrau** of Branch MacMaster LLP.

VOTING RIGHTS

HENRY, ET AL. V. A.G. CANADA AND THE CHIEF ELECTORAL OFFICER OF CANADA

B.C. Court of Appeal

There are few rights more fundamental in a democratic society than the right to vote. The federal government amended the *Canada Elections Act*, requiring electors to prove their identity and residence by prescribed means before casting a ballot in a federal election. The voter ID amendments have the potential to deny the right to vote to thousands of voters who do not have and cannot obtain the identification the government accepts for voting. The BCCLA intervened in the case at both the B.C. Supreme Court and the B.C. Court of Appeal, arguing that the new voter identification rules impose a barrier to voting that disproportionately affects certain groups, such as homeless, indigenous, and rural voters. We also argued there is little evidence to suggest there was a voter fraud problem to justify changes to the legislation.

Unfortunately, both the B.C. Supreme Court and the B.C. Court of Appeal held that while the amendments do infringe on the *Charter’s* s. 3 electoral rights, the infringement is justifiable under s. 1. If the case is appealed to the Supreme Court of Canada, the BCCLA will seek leave to intervene in this important case. The BCCLA was represented by **Daniel Burnett, Q.C.**, of Owen Bird LLP and **Mathew Good** of Hordo, Bennett, Mounteer LLP.

RIGHTS OF SEX WORKERS

CANADA (ATTORNEY GENERAL) V. BEDFORD, ET AL.

Supreme Court of Canada

Terri-Jean Bedford, Amy Lebovitch and Valerie Scott started this case in 2007, challenging three *Criminal Code* provisions that prohibit various aspects of adult sex work, arguing that the prohibitions against living off of the economic benefits of sex work, working in a brothel or communicating with customers increase the dangers faced by sex workers.

In a watershed victory, the Supreme Court of Canada unanimously ruled that the laws are unconstitutional. The Court found that the prohibitions impose dangerous conditions on sex work and prevent people who are engaged in a lawful activity from taking steps to protect themselves from the risks of the activity. The Court gave Parliament one year to come up with new legislation, should it choose to do so. The BCCLA intervened in the case and hailed the decision as a legal victory that will help ensure that adult sex workers have safety and control and the ability to determine the circumstances of their work. The decision signals the end of an era of discrimination against sex workers, and is a welcome closing chapter on these failed laws – although the federal government has indicated it may be planning to re-impose criminal sanctions on sex work transactions by different means. **Brent Olthuis** and **Stephanie McHugh** of Hunter Litigation Chambers and **Megan Vis-Dunbar** represented the Association.

POLICE ACCOUNTABILITY

WOOD V. SCHAEFFER

Supreme Court of Canada

If a police officer witnesses a bank robbery, should he consult a lawyer before he writes

his notes on the event? Most Canadians would say no. You might be surprised to learn that until recently, Ontario Provincial Police consulted with lawyers before preparing their police notes when one of their own was under investigation for using deadly force.

Recently, the Supreme Court of Canada delivered a strong rebuke to that practice. In a victory for police accountability, Canada's top court ruled that the duty to write independent notes is central to the integrity of the criminal justice system. The BCCLA intervened in the appeal.

The appeal involved two separate, tragic police shootings. Douglas Minty was a 59-year-old developmentally disabled man. Levi Schaeffer was 32-year-old who suffered from psychiatric problems. In both incidents, police officers had confrontations with the men, then shot and killed them. Superior officers instructed the officers who witnessed the shootings to refrain from making their police notes on the incident until they had spoken with lawyers. Only after the officers received legal advice did they write and surrender their notes to Ontario's Special Investigative Unit (SIU), the civilian agency responsible for conducting independent investigations into deadly incidents involving the use of police force.

In rejecting the practice, the Supreme Court of Canada emphasized that independent police investigation is essential to maintaining the public's confidence in the police. The majority wrote, "When the community's trust in the police is at stake, it is imperative that the investigatory process be—and appear to be—transparent." **Andrew I. Nathanson** and **Gavin R. Cameron** of Fasken Martineau represented the BCCLA.

We extend our deepest gratitude to the lawyers who have volunteered their time for the BCCLA in 2013. Our work would not be possible without their contributions.

Greg Allen Hunter Litigation Chambers
 Anne Amos-Stewart Bull, Houser & Tupper LLP
 Joseph Arvey, Q.C. Farris Vaughan Wills & Murphy LLP
 Colleen Bauman Sack Goldblatt Mitchell LLP
 Mark Benton, Q.C. Legal Services Society
 Audrey Boctor Irving Mitchell Kalichman, SENCRL/LLP
 Catherine Boies Parker Farris Vaughan Wills & Murphy LLP
 Mathieu Bouchard Irving Mitchell Kalichman, SENCRL/LLP
 Ward Branch Branch MacMaster LLP
 Holly Brinton Fasken Martineau DuMoulin LLP
 Daniel Burnett, Q.C. Owen Bird Law Corporation
 Gavin Cameron Fasken Martineau DuMoulin LLP
 Jessica Campbell Branch MacMaster LLP
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 Catherine J. Wong Catherine J Wong Law Corporation
 Margot Young, Faculty of Law, University of B.C.
 Michelle Yung Farris Vaughan Wills & Murphy LLP (articling student)
 Angela Juba McCarthy Tétrault LLP

FINANCIAL REPORT

MEMBERSHIP HAS ITS REWARDS

As BCCLA member you receive:

- One vote at our Annual General Meeting (Family Memberships entitle two family members to vote)
- Invitations to special events, including our annual Members Evening
- Our newsletter, annual report and regular updates on our cases and outreach activities
- Information on how you can get more involved with our work
- A charitable tax receipt for the full amount of your membership

To take out a new membership, check the status of your current membership, or renew your support, call 604.630.9750, email development@bccla.org, or visit www.bccla.org.

In 2013, the BCCLA continued to be in a good financial position, finishing the year with a modest surplus as our staff and board have worked hard to be cost-conscious and to stretch our supporters' money the farthest it can go. In addition to our grant funding, we received slightly more than our target for individual donations in 2013, and we need to continue to grow that support.

We are fortunate to have loyal members and donors who step up, year after year, with generous contributions. Thank you to all of our supporters. You help us educate people across the country on their rights and freedoms; provide assistance to people who are affected by civil liberties violations; and make it possible for us to challenge laws that fail to uphold civil liberties and human rights.

Monthly supporters, especially, provide ongoing support and allow us to plan longer-term. There is strength in numbers and a growing network of people is providing stable, monthly support to the Association. These supporters provide a reliable source of income that means we can plan our long-term education and outreach activities, and invest in important legal challenges. If you are not already a monthly donor and are interested in signing up, contact our Director of Development, Jasmine Yen, at 604.630.9750 or jasmine@bccla.org.

We also owe a great deal of thanks to the Law Foundation of British Columbia whose vision and funding have played an invaluable role in our ability to carry out our mandate. And of course, we owe thanks to the many dedicated lawyers who've contributed hundreds of pro bono hours to our work.

Thank you again for your continuing support—it is because of you that we can continue to protect and further basic human rights and freedoms in Canada.

FINANCIAL STATEMENTS

British Columbia Civil Liberties Association

STATEMENT OF OPERATIONS AND CHANGES IN FUND BALANCES for the year ended December 31, 2013

	2013			2012	
	GENERAL FUND	STABILIZATION FUND	TRUST FUND	TOTAL 2013	TOTAL 2012
REVENUE					
Membership & donations	387,816	—	—	387,816	482,205 *
Law Foundation of BC - operating grant	313,600	—	—	313,600	313,600
Specified grants earned	63,894	—	—	63,894	150,818
Gaming revenue earned	53,331	—	—	53,331	49,481
Miscellaneous and special events	35,603	—	—	35,603	60,637
Investment income	3 44	4,719	26,752	31,815	32,051
Realized gains (losses) on sale of investments (net)	—	(9,589)	1 1,842	2,253	(6,000)
Adjustment of investments to market value	—	7,003	85,158	92,161	32,293
Endowment distributions	4,271	—	—	4,271	4,035
Amortization - deferred capital grants	3,283	—	—	3,283	4,131
CLE registrations	285	—	—	285	8,240
	862,427	2,133	123,752	988,312	1,131,491
EXPENSES					
Salaries & benefits	705,203	—	—	705,203	630,590
Rent & utilities	58,801	—	—	58,801	58,100
Office operating	50,948	—	—	50,948	61,669
Professional fees	29,906	—	—	29,906	28,106
Litigation costs	29,340	—	—	29,340	31,718
Fundraising	25,349	—	—	25,349	22,593
Travel and accommodation	18,595	—	—	18,595	33,283
Amortization	16,390	—	—	16,390	16,094
Meetings, publications, events	13,739	—	—	13,739	25,094
Newsletter	10,011	—	—	10,011	13,363
Bank charges	6,686	—	—	6,686	6,130
Conference	6,377	—	—	6,377	26,228
Contracting	1,903	—	—	1,903	23,979
Insurance	1,715	—	—	1,715	1,662
Architectural costs	—	—	—	—	45,601
	974,963			974,963	1,024,210
Excess of revenue (expenses) for year	(112,536)	2,133	123,752	13,349	107,281 *
Fund balances, beginning of the year	130,023	163,209	806,935	1,100,167	992,886
Inter-fund transfers	147,677	(39,634)	(108,043)	—	—
Fund balances, end of year	165,164	125,708	822,644	1,113,516	1,100,167

* This amount includes a \$100,000 donation to our capital fund to support a future new office for the BCCLA. Based on our regular in-year revenue and expenses, our excess of revenue was \$7,281.

The complete 2013 BCCLA audited financial statements are available at www.bccla.org.

This statement is subject to final audit approval and adoption by our members at the 2014 Annual General Meeting.

BC Civil Liberties Association

2014

Liberty Awards Gala

Celebrating exceptional
contributions to human rights
and civil liberties in Canada

**THURSDAY
JUNE 19, 2014**

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The Democratic Commitment is a publication of the British Columbia Civil Liberties Association. The Association was established in 1962 and is the oldest continuously active civil liberties association in Canada. Its mandate is to preserve, defend, maintain and extend civil liberties and human rights in British Columbia and across Canada.

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