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**BC Civil Liberties
Association**

Protecting the freedoms of
British Columbians since 1962

BILL C-55: THE PUBLIC SAFETY ACT

Trading Real Liberties for False Security

C-55, also known as the *Public Safety Act (PSA)*, replaces Bill C-42, a draconian bill introduced by the Federal Government shortly after September 11th and recently withdrawn due to strong criticism by the BCCLA and like-minded groups and individuals. The BCCLA intends to appear before the Legislative Committee on Bill C-55 in the coming months.

The new Bill C-55 is, in the Association's view, unnecessary legislation. Unnecessary, and dangerous, as it represents a significant and wholly unjustified intrusion on the fundamental civil liberties and democratic rights of all Canadians. All of the potential threats which the *PSA* allegedly is designed to address can be adequately dealt with under the *Emergencies Act*. The *Emergencies Act* was introduced in 1988 to replace the old *War Measures Act* to ensure that government would have the powers necessary to address emergency situations while at the same time protecting civil liberties and democratic processes. Most tellingly, the *Emergencies Act* specifically recognizes that special emergency measures are subject to the *Charter of Rights and Freedoms*, "particularly with respect to those fundamental rights that are not to be limited or abridged even in a national emergency." No such recognition of the fundamental rights of Canadians is to be found in the new *Public Safety Act*.

New Powers, Few Restrictions

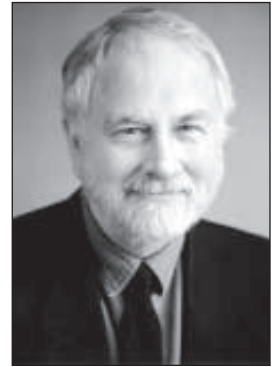
The new and "improved" *PSA* is an omnibus bill, which would amend a number of existing pieces of legislation, including the *Aeronautics*

Act, the *Canadian Environmental Protection Act*, the *Department of Health Act*, the *Food and Drugs Act*, the *Navigable Waters Protection Act*, and the *Canada Shipping Act*, among others. These amendments give the Ministers who administer those acts powers to declare "Interim Orders" when they believe immediate action is required in order to protect health, safety or the environment. Interim orders are, at their foundation, executive regulations without the usual Parliamentary or Cabinet scrutiny. Interim Orders are made by individual Ministers, acting without Cabinet approval, which need not be obtained for up to 45 days. They must be published in the *Gazette* within 23 days. Interim Orders need not be tabled in the House until the 15th day on which the House is sitting after the Order was made. Unlike under the *Emergencies Act*, there is no requirement that the House be convened if it is not sitting in order for such Orders to be tabled. Once created, such Interim Orders may continue in force for periods of up to two years.

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THE DEVILISH ADVOCATE / A message from our president

There is a wonderful old photograph of Mark Twain comfortably seated in a rocking chair, puffing on his pipe, and evidently thinking about nothing in particular. Twain provided the caption himself: MANKIND'S FRIEND AT REST. It is at once so hugely and sweetly preposterous that you want to pass through the lithograph (and the years) to give him a hug.



I cannot aspire to being mankind's friend, but certainly am at rest. I gave up my pipe in a fit of cowardice about 15 years ago, but I have an old rocking chair in my cabin in Desolation Sound, and have been thinking about nothing in particular. It's Summer, and even civil rights activists take their season of inactivity.

Or different activity. In my case it is helping the neighbours build their docks, and salmon fishing, and just being on the water at first and last light. Lots of wild things are busy at the margins – where the forest meets the clear cut, where the water meets the air, where the sea meets the shore, or at the divide of day and night especially. So I like to be in my boat at five in the morning, and again just at dark, looking.

Mergansers are a kind of diving duck, and their broods have just come off. The hens are fussily herding their ten or twelve chicks along the shoreline, frantically feeding while keeping an eye out for danger. The bald eagles regard this as the free KFC time of year, when the take out is, literally, baby duck.

It's an interesting dynamic. The bigger the brood, the more exposed the hen must be in her efforts to secure enough food to keep the family from starving; but the more exposed, the more likely that the chicks will be picked off by the eagles, with the result that the hen can then focus more on security and less on food.

It's horribly fascinating (or fascinatingly horrible) to watch the little dramas of biological balance play themselves out. Good Darwinians that we all are, we must, of course, be reconciled to the evolutionary discipline at work; but it doesn't seem to be much of a consolation to a mother Merganser, simply hysterical at the loss of each and every one of her offspring. Life is lived in the particular and actual mode, not the general or the virtual.

Or perhaps I should say, this is so for the animals. Escaped or exiled from the state of nature, we live mindful of both the theoretical and the practical, the general and the particular. We contemplate evolutionary imperatives and *raison d'État* as well as the lived

experiences of all creatures, great and small.

And so, double-minded, striving for balance, we intervene. We decide, for instance, that no matter how pressing the theoretically attainable quantum of public interest in security from terrorism, we will not permit torture. We decide that each and every individual living person has a right to be free from the horrific experience of torture, no matter how great the general interest may be. In this respect, rights are an affirmation of the significance of individual, lived experience – the deep source of our commitment to equality – and they are a check on the seemingly irresistible power of “big picture” political and social forces. Not a denial or repudiation of politics, but a democratization and humanization of it.

There can be no doubt that rights complicate things, and mess up neat calculations of utility. Once you step up to the plate for one merganser, or one homeless person, or one political prisoner, or one censored bookstore, it's hard to say how it will all turn out. You're at the wild edge that divides the big picture from the little picture, and the only certainty you can have is the reality and worth of individual others.

But the point is, finally, that uncertainty is not as bad a thing as pain, or injustice, and it is worth doing what can be done. So in a few weeks I'll be back at the office, working with the Board of Directors and the staff to save the world, one merganser chick at a time.

Maybe preposterous, but sweetly preposterous, and from the vantage of this rocking chair, good enough to live for.

JOHN DIXON, PRESIDENT

Unchecked Executive Power and Secret Laws

In addition, the PSA also gives the Transportation Minister power to declare “Security Measures” and “Emergency Directions” under the *Aeronautics Act*. As serious as they are, the concerns around Interim Orders pale in comparison with the issues surrounding these new powers.

A Security Measure created by the Minister of Transportation is essentially the equivalent of an Interim Order without *any* requirements for Cabinet approval, publication or tabling in the House, *ever*. The Minister can make a Security Measure for any matter relating to aviation security. The few limitations and safeguards which exist for Interim Orders are, with the exception of a 90-day sunset clause (which may be extended indefinitely by the Minister), entirely absent.

By way of an Emergency Direction the Minister may direct anyone to do or refrain from doing anything if, in his opinion, it would protect the public, passengers, air-travel related facilities or “aviation safety”. Like Security Measures, Emergency Directions are not subject to any requirements for Cabinet approval, publication or tabling. Unlike Security Measures, they are not subject to a sunset clause.

The Minister can delegate the authority to make both Security Measures and Emergency Directions to subordinates within the Ministry of Transport. Both Security Measures and Emergency Directions are presumptively secret; disclosure by anyone other than the person who made them is expressly forbidden and punishable. This presumptive secrecy appears at odds with the provision that no one shall be found to have contravened any Security Measure or Emergency Direction unless reasonable steps have been taken to bring its purport to the notice of persons likely to be affected by it. Even this provision would appear to leave open the extremely troubling possibility that a person who was not likely to have been affected by such a regulation could still be convicted for breach-

ing it without having been made aware of it. Even in court, a person would not automatically have the right to know what rule he or she broke – the Minister is given the opportunity to convince the judge not to disclose the Measure or Direction in issue.

All of these new categories of executive regulations are exempt from key provisions of the *Statutory Instruments Act*. These exemptions mean that no Interim Orders, Security Measures or Emergency Directions are subject to mandatory vetting by the Clerk of the Privy Council to ensure that they are authorized by statute and do not constitute an unusual or unexpected use of statutory authority. Notably, they are also not subject to examination to ensure that they do not trespass unduly on existing rights or freedoms and are not in violation of the *Charter*.

Right to Privacy?

Under further amendments to the *Aeronautics Act*, the PSA forces airlines to disclose passenger lists containing extensive personal information to the RCMP and CSIS so they can check for people who are wanted on warrants for offences punishable by five years or more in jail, or for “threats to the security of Canada.”

The Privacy Commissioner of Canada has already publicly raised his concern that this new law forces all individuals taking flights to self-identify to the police and CSIS – a consequence directly contrary to the right to privacy guaranteed by the *Charter*. We concur with his opinion. If air travel passengers must self-identify, why not train passengers? Bus passengers? Boat passengers? Pedestrians?

This aspect of the PSA, like many of its provisions, goes far beyond any legitimate security issue raised by the threat of terrorist attacks. There is no rational basis for believing that persons who may be wanted on a warrant for alleged offences such as fraudulently altering brands on cattle or taking possession of drift timber pose any threat to public safety on an airplane. It is, as pointed out by the Privacy Commissioner, nothing more than a power grab by

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British Columbia Civil Liberties Association

425 – 815 West Hastings Street
Vancouver, British Columbia
Canada V6C 1B4

Phone: (604) 687-2919

E-mail: info@bccla.org

Web: www.bccla.org

Office hours: 9 a.m. to 4:30 p.m.
Monday to Friday

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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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BCCLA Urges City of Vancouver to Endorse Safe Injection Sites


BCCLA Executive Director Murray Mollard made a submission to Vancouver City Council urging it to endorse a resolution in support of the efforts of Vancouver Mayor Philip Owen and the Federation of Canadian Municipalities to convince the federal government to initiate a trial of safe injection sites in various cities across Canada.

Our submission emphasized that support for the resolution simply reflects the City of Vancouver's current position encapsulated in its Four Pillars policy which endorses harm reduction through supervised injection sites. These sites have proven to provide a variety of key benefits including:

- reduced drug overdoses generally and deaths from overdosing,
- reduced rate of transmission of HIV, Hepatitis C, and other diseases,
- improved access to health care and treatment,
- reduced public nuisance involving street drug use, and
- reduced policing, court and medical costs.

We also encouraged councillors to follow the lead of a large majority of Vancouver residents who support safe injection sites. In particular, we warned of the danger of being beholden to a small but vocal minority of residents and business interests who oppose safe injection sites on moral and economic grounds.

On May 2, 2002, Vancouver City Council voted unanimously to support the creation of a federal trial of safe injection sites in Canada. The Association eagerly awaits the actual creation of such sites in Vancouver in the near future.

 For a comprehensive report on safe injection sites visit the Canadian HIV-AIDS Legal Network at www.aidslaw.ca

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the police, resulting in far-reaching infringements on the privacy rights of Canadians.

New and Somewhat Improved

Controlled Access Military Zones prevent the free movement of citizens in areas where they are declared – the military can forcibly remove whomever they wish. The power to create such zones virtually anywhere was one of the most troubling aspects of the

now-withdrawn Bill C-42. The proposed Controlled Access Military Zones have been restricted in the new PSA to military equipment and designated military land – a significant improvement. However, serious problems remain. The Minister of Defence can still make a Zone without any parliamentary or Cabinet oversight or review. Nor are persons who may be affected by the designation of a Zone necessarily entitled to notice of their creation: the Minister can dispense with any notice requirements if he considers it advisable to do so for reasons of international relations, national defence or security. There is no restriction on the size a Zone can be, and the fact that a Zone can be created wherever military property exists leaves open the possibility of such property (such as tank or personnel carrier) being deliberately placed wherever the Minister wishes to create a Zone. Given that Zones can move with designated property the spectre is raised of moving controlled access zones at protests where the military is deployed for security purposes.

What Can You Do?

The BCCLA plans to go to Ottawa to make submissions on this Bill when it is referred to committee. The Bill itself is available at: www.parl.gc.ca. Click on "Bills" and then "Government Bills" and make sure you have lots of spare time – this new bill clocks in at 105 pages. You can make your views known by writing to the Minister responsible:

The Honourable David M. Collenette, P.C., M.P.,
Minister of Transport, House of Commons,
Parliament Buildings, Ottawa, Ontario, K1A 0A6

Or write the Legislative Committee on Bill C-55:

Philippe Méla, Clerk
Pièce/Room 650, 180 Wellington, Ottawa, Ontario K1A 0A6
Telephone: (613) 996-1595, Fax: (613) 947-4177, E-mail: melap@parl.gc.ca

Changes in Canada's Drug Policy: Just a Pipe Dream?

As part of its study of Canada's anti-drug legislation and policies on cannabis, the Senate Special Committee on Illegal Drugs came to Richmond, B.C. on May 14th as one of the 6 cities in which it planned to hold "town hall meetings" for citizen input on drug policies.

John McIntyre, a board member of the BCCLA, attended the meeting to present the Association's position on the criminalization of drug use – a position that has remained remarkably constant for more than 30 years. In 1969, when it presented to the LeDain Commission of Inquiry into the Non-Medicinal Use of Drugs, the BCCLA's position was the same as it was on May 14th before the Special Committee: the criminalization of the possession and use of drugs is unjustifiable and should be eliminated.

The position of the BCCLA in 1969 and before the Special Committee in 2002 is based on two main tenets. First, that respect for personal autonomy demands that the State not interfere with the personal choices made by individuals for the purposes of imposing a particular morality upon them; and second, that the imposition of criminal law prohibitions can only be justified where the impugned conduct presents some serious risk of harm to others or society as a whole.

The evidence does not support the view that the use or possession of drugs presents the risk of serious harm to others – in fact, the North American experience has indicated the converse is true. The harms associated with the criminalization of drugs, including the imposition of criminal records, creation of a criminal drug sub-culture, and expenditures of financial and human resources in the "war on drugs" are significant and serious.

In Vancouver and other major Canadian metropolitan centres, residents are affected by the negative consequences of the "war on drugs" every day. These consequences include petty crime used to feed drug habits, increased rates of HIV/AIDS due to a lack of safe injection sites, hidden and potentially dangerous "grow ops" constructed and maintained in rental housing, and the creation of a marginalized class of people who may have difficulty accessing health care and other public services.

McIntyre's presentation to the Committee concluded with a recommendation that decriminalization

of marijuana would be "a good start" to a larger strategy to remove all criminal sanctions for drug use and possession in our society.

The committee is scheduled to present its report to the Senate in August 2002.

ACTION ALERT!

You can help by sharing your opinion with the Senate Special Committee on Illegal Drugs on how you feel about Canada's drug policies. All submissions are translated and shared with the Committee directly. Contact the Committee via Postage-free mail:

Special Committee on Illegal Drugs
The Senate, Ottawa, Ontario K1A 0A4
E-mail: iddi@sen.parl.gc.ca Fax: (613) 947-2104

BCCLA Decries Closure of Drug Treatment Facility

The Campbell Valley Women's Centre, the only intensive residential treatment facility in B.C. for young women aged 13 to 18 addicted to drugs and alcohol, closed on March 31, 2002. The facility's closure was the direct result of the provincial government's decision to refuse to provide the funding necessary to keep it operating. The Centre was unique in treating high risk, high need young women: 80% of its clients had a history of sexual abuse, and 60% admitted to being exploited in the sex trade. The Association brought this issue to the media's attention in what ultimately proved an unsuccessful attempt to persuade the government to rethink its priorities. At a time when untold millions of dollars are being spent to finance the forensic excavation of a pig farm in Coquitlam which served as the tragic graveyard for a yet unknown number of drug addicted women working in the sex trade, we can only wonder why the government continues to refuse to fund the kinds of programs which would give young women a fighting chance to overcome their addictions and make a different kind of life for themselves.

Announcing the Vancouver Foundation BCCLA Endowment Fund

A sure way for BCCLA supporters to leave a lasting legacy to help the BCCLA continue its work in perpetuity is to make a gift or bequest to the Vancouver Foundation BCCLA Endowment Fund. The original capital of every gift is retained by the fund but income generated is available for the Association's ongoing work.

Major gifts to the fund have been made to honour important Board members such as BCCLA founder Reg Robson and past President Kay Stockholder, both of whom have passed away in recent years.

One easy way for anyone to give to the Vancouver Foundation BCCLA Endowment Fund is to include the Association in your will.

Long time BCCLA Board member Steven Davis is a good example. According to Steven: "I left a legacy in my will to the BCCLA so that it can continue its essential work to protect the civil rights of all Canadians, rights that are at the centre of a free and democratic society." Likewise for Board member Warren Bourgeois who has left \$5,000 in his will to the BCCLA. Board member Tom Gore has left everything in his will to the BCCLA in the event his daughter predeceases him.

The Endowment Fund has recently been restructured. In December 2001, the BCCLA Board of Directors voted to place all capital bequests and gifts that had been made to the BCCLA endowment fund with the Vancouver Foundation. Since the creation of this fund in 1986, BCCLA supporters have donated approximately \$94,000 in capital endowments.

Earlier in 2001, BCCLA Treasurer Alan Rowan had initiated a review of management of the endowment fund. Though the fund had grown to almost \$300,000 over the years as a result of investment income, Rowan wondered whether prudent investing could result in even better returns. As a result, a Board subcommittee consisting of Stephen Katz and Larry Cohen as well as Executive Director Murray Mollard and BCCLA auditor John Wilson considered investment options. After meeting with Vancouver Foundation staff, they recommended that the BCCLA Board place the Endowment Fund with the Vancouver Foundation.

According to Treasurer Rowan: "The Vancouver Foundation is one of the most respected community



BCCLA's Murray Mollard with Law Foundation President & CEO Richard Mulcaster.

foundations in North America and has an excellent track record of responsibly managing its assets while providing a very good return. With the Vancouver Foundation's low administrative costs and strong reputation, we believe that BCCLA supporters who wish to leave a legacy in perpetuity to the BCCLA will have great confidence that their contribution will make a lasting impact on protecting civil liberties in B.C. and Canada."

Part of the Endowment Fund restructuring also included the creation of the BCCLA Stabilization Fund which consists of all remaining funds from investment income. This fund will be used to provide revenue to make up for budgetary deficits as well as for occasional special projects for which the BCCLA can not otherwise obtain funding. The monies in this fund will be managed by Odium Brown investment advisors with BCCLA oversight by an advisory committee consisting of Treasurer Alan Rowan, Stephen Katz, Larry Cohen and Murray Mollard.

For more information about leaving a legacy to the Vancouver Foundation BCCLA Endowment Fund, contact BCCLA Executive Director Murray Mollard.

Helen Daniels

Membership Secretary Assistant

Over its 40 years, the BCCLA has been fortunate to have had many volunteers give their time and expertise to the cause of civil liberties. Though many give much to our cause, a select few, through their dedication and efforts, exhibit an exceptional commitment to our organization and are worthy of special recognition.



Helen Daniels has indeed been just such a precious resource to the BCCLA. Beginning her work with the Association in 1977, her volunteer efforts for the B.C. Civil Liberties Association have now spanned 25 years. For personal reasons, Helen will be ending her volunteer work with the Association later this year.

At the time she began volunteering, the Association operated a modest one room office near the Downtown Eastside. Since that time, Helen has witnessed many changes as BCCLA Board members and staff have come and gone. Despite these changes, Helen tells us she has continued to give her time for two reasons. First, she continues to believe in and wishes to support the work of the Association in protecting civil liberties and human rights. Second, she has continued to volunteer because of the people she works with at the Association. In particular, Helen singles out BCCLA Membership Secretary Lil Woywitka with whom she works closely in preparing tax receipts for BCCLA members and donors.

Former Executive Director and now BCCLA Vice President John Russell, who also started as a volunteer at the same time Helen joined and who has worked with her for many years, relates: "Helen Daniels has been a great unsung friend to the B.C. Civil Liberties Association. All those who have worked with her think of her with the fondest affection. She will be missed."

Lil Woywitka also pays tribute: "I have never seen Helen lose her enthusiasm for the work of the Association and what we are up to. She brings with her a practical sense of how she can contribute to civil liberties and diligently has done so. Over the years, she has become a good friend to me. I will miss her."

The words of thanks from our Annual Report in 1979 are as apt today as they were then:

"The work of one volunteer, Helen Daniels, merits special appreciation. Helen's tireless efforts on behalf of the Association have gone well beyond her duties as Membership Secretary (an onerous task in itself!). She deserves a very special vote of thanks from all of us."

On behalf of the Board of Directors and members of the Association, we thank you Helen and wish you the very best. We hope that in the future you'll drop by the BCCLA office to visit us with our promise not to put you to work but simply to enjoy your company.

Call for volunteers

Help! The B.C. Civil Liberties Association needs volunteers to assist with various administrative tasks in the office, with special events and other jobs. In particular, the Association needs help with updating membership lists, tax receipting and organizing special events.

If you:

- have a keen commitment to protecting our rights and freedoms,
- have some spare time to devote to assisting the BCCLA with its mandate, and
- are organized, responsible and have good communication skills,

then contact Lil Woywitka in our office at (604) 687-2919 or e-mail us at info@bccla.org.

Advocating Civil Liberties to Government Officials

Over the course of a year, the BCCLA meets with various officials from the legislative and executive branches of government. The last several months have been no exception as we met with various individuals to promote civil liberties.

In March, 2002, a BCCLA delegation met with Solicitor General Rich Coleman to discuss a variety of issues including closure of provincial correctional facilities, double bunking of inmates, the billing of prisoners for phone calls, drug courts, complaint systems for special provincial constables, sex offender registries, government responses to terrorism and concerns about access to MLAs' offices as a result of threats. Though we did not find a lot of common ground between our concerns and the views of Mr. Coleman, it was a useful exchange of perspectives.

BCCLA President John Dixon, Executive Director Murray Mollard and Policy Director Lindsay Lyster

The Association urged [B.C. Ombudsman] Mr. Kushner to become more vocal and public in defending the important non-partisan role his office plays in promoting fair treatment of citizens by the provincial government.

met with new RCMP Deputy Commissioner Bev Busson to discuss policing matters post September 11, policing of political demonstrations and RCMP handling of complaints against Professor Sunera Thobani's outspoken criticism of US foreign policy. The meeting was cordial and served to establish an important line of communication with Deputy Commissioner Busson.

The Association also met with B.C. Ombudsman Howard Kushner to discuss his plans for his office given the pending government cutbacks. All independent offices of the legislature including the Information and Privacy Commissioner, the Ombudsman, and the Police Complaints Commissioner are facing up to 40% cuts over three years. The Association urged Mr. Kushner to become more vocal and public in defending the important non-partisan role his office plays in promoting fair treatment of citizens by

the provincial government. Regrettably, Mr. Kushner has since announced that he is considering closing his Vancouver office. The BCCLA has objected to the cuts announced by government for these important democratic institutions. We hope that Mr. Kushner jettisons his proposal to close the Vancouver office and fights vigorously to retain his funding.

The BCCLA has worked long to establish credible and effective civilian oversight mechanisms for law enforcement and security agencies. Recently, we met with officials of three such agencies – Shirley Heaffy, Chair of the Commission for Public Complaints against the RCMP, members and staff of the Security Intelligence Review Committee which oversees the Canadian Security Intelligence Service, and Barb Murphy, who was recently appointed Acting Police Complaint Commissioner following the resignation of Don Morrison.

We agreed with Ms. Heaffy that added authority for the RCMP to combat terrorism should be accompanied by increased accountability. We have written the Solicitor General to urge him to beef up oversight powers to include auditing authority that does not require a formal complaint to be lodged.

Our discussion with SIRC was productive as well. We relayed concerns that had been expressed to us by members of the Muslim community that they were being unfairly targeted by the RCMP and CSIS and urged SIRC to be more proactive in informing Canadians of its oversight responsibility. As a result of our discussions, we have written the government requesting that it amend new legislation to clarify SIRC's role in dealing with potential whistleblowers.

Finally, we urged Acting Commissioner Murphy to take a proactive role in restoring the public's confidence in the Office of the Police Complaint Commissioner following the controversy associated with Mr. Morrison's tenure.

Submissions to Parliamentary Committees

We continue to be asked to appear before parliamentary committees to provide our views on important policy issues.

In February 2002, BCCLA Board Member Jason Gratl appeared before the House of Commons Standing Committee on Justice and Human Rights to provide our submissions on the proposed *Blood Samples Act*. This private members bill would have authorized the involuntary court-ordered testing of persons suspected of carrying the Hepatitis B, Hepatitis C or HIV viruses in circumstances where health care workers, firefighters, police officers or “Good Samaritans” believed they might have been exposed to the virus. The BCCLA was opposed to this bill on the basis that it would violate the bodily integrity and privacy rights of those involuntary tested and implicitly discriminate against intravenous drug users and sexual minorities. The Committee, having heard our submissions and those of other concerned groups, decided not to refer the bill to the House for third reading, with the result that the *Blood Samples Act* is effectively dead.

In April, Policy Director Lindsay Lyster traveled to Ottawa to appear before the same Committee to provide our submissions on their review of the Mental Disorder Provisions of the *Criminal Code*. These are the provisions which govern persons found unfit to stand trial or not criminally responsible on the basis of mental disorder. Our submissions focused on the plight of those persons languishing in forensic psychiatric institutions, in some cases for many years longer than they would have been incarcerated had they been found guilty of the crimes with which they were charged. Many such persons would pose no threat to the community were they to be released, yet remain institutionalized for a number of reasons, including the failure of the government to proclaim the capping provisions which would ensure that non-dangerous,

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MEET YOUR BOARD MEMBERS

Micheal Vonn

Micheal Vonn has been a member of the BCCLA’s Board of Directors for approximately four years. When asked how she came to join that august body, she blames it all on Craig Jones, our erstwhile President. Micheal heard Craig speak at a conference on legal and ethical issues relating to HIV-AIDS and was so impressed that he managed not only to convince her to join the Board, but also to go to law school.

Micheal will be graduating from UBC’s Faculty of Law following the completion of her studies this December. During the course of her studies, Micheal has distinguished herself by her outstanding performance in the national Wilson Moot, which



focuses on equality issues, winning the Eleanor S. Gregory Award for Greatest Merit in Moot Court. While attending law school, Micheal has continued her work with AIDS Vancouver, where she is currently employed as a Case Manager providing counseling and advocacy to persons with HIV and AIDS.

Micheal’s talents extend far beyond the counseling office and the court room. Micheal is a graduate of the UBC Theatre Department and has an extensive resume as an actor/writer/director/dancer/performance artist. Listeners to CBC Radio will know her from her monthly radio column on Richardson’s Roundup, “Letters From Law School”.

Micheal has found the experience of sitting on the BCCLA Board of Directors to be a challenging but rewarding one. She appreciates the experience of learning to make principled arguments and to do so in the company of persons of all political stripes. She has found that once she “outed” herself as a civil libertarian at law school she was called upon to justify everything from our position in the *Sharpe* case to our stance in *Trinity Western University*. She is happy to report that while her fellow students may not always have agreed with the Board’s positions, they could never find a flaw in the arguments for their justification.


The BCCLA Fights for the Rights of Sexual Minorities

Three current cases reflect the BCCLA's ongoing commitment to defend the equality and expression rights of gays and lesbians and other sexual minorities.

Supporters of the BCCLA will recall our ongoing participation in Little Sister's fight with Canada Customs over its attempts to prohibit entry of books into Canada on the basis of their allegedly obscene character. This battle has reached a new stage in which Little Sister's is appealing in B.C. Supreme Court the decision of Canada Customs to prohibit the importation of two comic books into Canada on the grounds of obscenity. The Meatmen comic books include fantasy drawings of gay sado-masochistic sex. The BCCLA fully supports Little Sister's in this important challenge to Canada Customs' unprincipled and inexcusable breach of the freedom of expression of members of the gay and lesbian community and all Canadians.

By the time this issue of the Democratic Commitment reaches you, Chris Sanderson, Q.C. of Lawson Lundell will already have appeared on behalf of the BCCLA in the Supreme Court of Canada as an intervenor in *Chamberlain v. Surrey School Board*. The BCCLA argued that the Surrey School Board's decision to refuse to approve three children's books which portray families with same sex parents in a positive light was contrary to the *School Act*. The *School Act* requires that public schools be conducted on "strictly secular and non-sectarian principles" and that "the highest moral values must be inculcated but no religious dogma or creed is to be taught". The

BCCLA argued that the *School Act* mandates that school boards must, in making their decisions, remain strictly neutral as between competing visions of the "good life", whether based on religious or secular world views. As a result, the Surrey Board violated the *Act* in basing its decision on its desire to avoid offending the religiously informed conscience of some parents who found the books morally offensive. Interested readers should look for Vice President John Russell's article in the May issue of *The Advocate*.

 The BCCLA's factum can be viewed on our web site at <http://www.bccla.org/factums.html>


Finally, the BCCLA publicly supported Marc Hall in his bid to attend his high school prom with his boyfriend. We were very pleased that the Ontario court issued an injunction forcing the Roman Catholic School Board to let Marc attend the dance. In our view, the School Board could not rely on its freedom of religion to deny Marc's right to equality without discrimination on the basis of his sexual orientation. In reaching this conclusion the Board relied on the fact that in Ontario Catholic schools are both constitutionally protected and fully publically funded, as well as the extreme vulnerability of young persons who are discovering and coming to terms with their sexuality. We will watch for further legal developments in this case with interest.

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not criminally responsible persons are not detained for longer than they could have been incarcerated if convicted. Special thanks go out to UBC law student Jennifer Marston for her invaluable assistance in researching and drafting our submission.

At press, the Committee had just released their Report. While the Committee rejected our submissions with respect to proclaiming the capping provi-

sions, we were very pleased to see that their recommendations relied upon our submissions on a number of issues, particularly with respect to the plight of the permanently unfit accused.

 The Committee's Report is available at www.parl.gc.ca/InfoComDoc/37/1/JUST/Studies/Reports/JUSTRP14-e.htm. Copies of all of the BCCLA's submissions may be found on our web site at www.bccla.org

“Wall of Shame” Shamed

An e-mail to the info@bccla.org mailbox alerted staff to the presence of a “Wall of Shame” at a Cold Beer and Wine store in Vancouver. The Wall of Shame, posted for customer consumption, consisted of Polaroid pictures taken of alleged shoplifters and panhandlers. Across the bottom of each photo, staff had written “Shoplifter” or “Bum”.

The BCCLA wrote the manager of the store, alerting him to the potential legal and ethical issues involved in his display. After receiving the BCCLA’s letter, the manager changed the labels under the pictures to “Banned” and removed the heading “Wall of Shame”.

Miss Kitty

The BCCLA has come to the defence of Miss Kitty, Salmon Arm’s one-woman escort agency. In early May, Salmon Arm District Council voted in a new bylaw that forced Miss Kitty to record the names and phone numbers of all of her employees as well as any potential customers. This list would then be subject to inspection by the police and by the City Inspector.

The Vancouver Sun prominently featured BCCLA Executive Director Murray Mollard’s comments on the inappropriateness of this bylaw’s attempts to legislate morality and eliminate privacy. We have also written Council expressing our objections to this unwarranted intrusion into the privacy of Canadians.

Castration and Sterilization of Mentally Challenged People

In the landmark case *Re: Eve*, the Supreme Court of Canada ruled that mentally challenged people cannot be sterilized without consent unless the procedure is necessary for a compelling therapeutic purpose.

Despite this ruling “Adam”, a 21-year-old mentally challenged man, was castrated by doctors at the request of his mother. BC’s Public Guardian took the mother, the doctors and the hospital to court on the man’s behalf, alleging there was no therapeutic basis for the operation and that they had acted improperly in performing it.

The doctors involved in the suit settled out of court, but discussion continued in the media. In the public debate that followed, BCCLA Policy Director Lindsay Lyster participated in call-in shows on CBC radio and the Dave Rutherford Show, broadcast on CKNW in Vancouver, defending the rights of mentally challenged persons to security of the person.

Charter Challenge to Video Surveillance in Kelowna

The Privacy Commissioner of Canada, George Radwanski, has launched a legal challenge to the RCMP’s video surveillance program on public streets in Kelowna. The BCCLA has been working over the last several years to oppose video surveillance in Kelowna as well the Vancouver Police Department’s proposal to set up 26 cameras in the Downtown Eastside. We believe that video surveillance creates an intolerable level of state surveillance while providing few tangible benefits in reducing crime. We fully support Mr. Radwanski’s challenge to police video surveillance on the streets of Kelowna.

G8 SUMMIT

BCCLA Works to Ensure Access to Summit

The BCCLA worked to protect civil liberties at the G8 Summit in Alberta. Calgary City Council closed its parks to anti-globalization activists looking for a location for their Solidarity Village during the G8 summit in Kananaskis this June, suggesting that parks should not be used for “political rallies.” BCCLA Vice President John Russell wrote to City Council and local newspapers urging Council to provide adequate public space for peaceful demonstrations. In addition, the BCCLA wrote the Minister responsible for Customs and Immigration urging him to make sure that his border officials would not unreasonably refuse access to visitors to Canada who wish to participate in anti-G8 demonstrations. News reports had indicated that these officials would bar individuals suspected of importing “tools of civil disobedience”. The BCCLA reminded the Minister that his officials must have reason to believe that those seeking entry would be likely to commit an offence while in Canada.

The BCCLA is also supporting two local journalists who were arbitrarily denied media accreditation to attend the Summit. We have written to the Solicitor General calling on him to ensure that the RCMP’s process for accreditation is fair, accountable and transparent.

BCCLA summer law student Dave Eby spent the week in Calgary providing legal information to protesters.

Staff Update

We are pleased to welcome Jim Braunagel as our new Office Administrator. Jim comes to us with a depth of experience in administration having worked with the Jack Bell Foundation and currently in a part-time capacity with the Tile and Stone Association of BC. We wish outgoing administrator Ingrid Witvoet all the best in her new endeavours on Gabriola Island.

The Association is also fortunate to have two law students this summer to assist with research and casework. Dave Eby is a second year law student at Dalhousie University and Christine Gibert joins us after completing her first year of law at Harvard University.

Little Sister's vs. Big Brother

A documentary by Aerlyn Weissman. Opening gala for the 14th Queer Film and Video Festival, Thursday August 8, 2002, 7 p.m., Capitol 6 Theatre, Vancouver.

Tickets available at Little Sister's Bookstore on August 1.



Bruce Smith, Jim Deva, and Janine Fuller.
DANIEL COLLINS PHOTO



BCCLA Executive Director Murray Mollard with Chris Sanderson, Q.C. of Lawson Lundell. Sanderson is counsel for the Association in the Surrey School Board book ban case.

Thanks to Lawson Lundell, Sponsors of the BCCLA Annual General Meeting

Our sincere thanks goes out to the law firm of Lawson Lundell for their sponsorship of this year's Annual General Meeting held at the Hotel Vancouver in March. Over 700 BCCLA people turned out to hear noted speaker His Excellency John Ralston Saul. Lawson Lundell's financial assistance helped to cover the costs of staging this year's AGM.



B.C. Civil Liberties Association
425 – 815 West Hastings Street
Vancouver, B.C. V6C 1B4
phone: (604) 687-2919
e-mail: info@bccla.org web: www.bccla.org

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