

the democratic *Commitment*

JOURNAL OF THE BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION

JUNE 2007 / VOLUME 41 NUMBER 2

INSIDE

- 2 To the Converted**
BCCLA President
criticizes No-Fly List

- 4 The Iacobucci Inquiry**
“Internal inquiry” on
wrong course

- 5 Private Security**
New legislation
missing teeth

- 6 BCCLA Events**
Racial Profiling conference

- 8 Federal Law Reform**
Citizenship,
Age of Consent

- 9 Access and Privacy**
Working for open
government,
Students’ privacy

- 10 Litigation Update**
Ian Bush case, Voter ID,
Political ads on transit

- 11 Board Profile**
Laura Huey



The BCCLA acknowledges
the generous support of the
Law Foundation of BC

Torture in Afghanistan

BCCLA and Amnesty International Challenge Canada’s Complicity



Not all courtroom drama is on television. Just minutes before our counsel was to appear before a Federal Court judge to ask for an order to temporarily prevent Canadian Forces in Afghanistan from transferring prisoners to Afghan authorities, there was a sudden revelation. The transfer agreement had changed overnight from the worst transfer agreement in NATO to the arguably the best. As the hearing was being adjourned to allow for a review of the document, Mr. Justice Kelen commented on the genesis of the new agreement: “This wouldn’t have happened if this court case hadn’t been happening.”

The BCCLA joined Amnesty International to bring the question of Canada’s complicity in torture in Afghanistan before the courts. Both of our groups had previously written to the government asking for changes to

the agreement that allowed Canadian troops in Afghanistan to hand over prisoners to the Afghan authorities where they faced a significant risk of torture. The agreement failed to provide for meaningful monitoring of prisoners or a veto on transfers to third countries that may torture or kill the prisoners. The government was adamant that the agreement did not need changing.

The launching of our court case in February 2007 shone a spotlight on the issue of the transfers, generating reams of questions in the House of Commons and acute media attention. Bombarded with questions, the government staunchly defended the adequacy of the agreement, attacked statements about widespread torture in Afghanistan as “baseless allegations” and went so far as to deride concerns of torture as undermining the military. While unsurprising, this was nevertheless shocking.

Shocking because not only is there overwhelming evidence that torture and other human rights violations are widespread in Afghan custody, but the Canadian government has said so in its own Department of Foreign Affairs documents.

As well, there are publicly available reports on Afghan torture and human

continued on page 3

I am sorry to report that on June 17, 2007, the bureaucrats smuggled another civil liberties disaster past the people in the form of a No-Fly List, notwithstanding four years of concerted BCCLA efforts to make the government abandon the idea.

The No-Fly List supposedly works like this: CSIS or the RCMP (we're not told which) provides information to an Advisory Committee (we're not told who's on it) which creates and reviews a list (we're not told how large) of individuals who are deemed (on the basis of secret criteria) to be an immediate and emergency threat to aviation security and are not permitted to fly in an airplane. The list of names is distributed to all airlines (including the national carriers of countries that are known to practice torture) and, when airlines match the names and birthdates of passengers to the names on the list, they are required to contact the Ministry of Transport, which forbids the airline from allowing the person to board the plane. The RCMP attend the scene. After a person is prevented from boarding a plane, a person can apply to be removed from the list – likely without access to the information used to put them on it.

The core concept driving the program is dangerously incoherent. The program targets individuals who are a 'threat to aviation security' but have done nothing to warrant arrest. But the law broadly allows for arrest if there are reasonable grounds to believe that an offence is being or will be committed, including such offences as planning with one other person to commit an offence (a conspiracy) or, if acting alone, taking any steps beyond planning for an offence (an attempt).

In the absence of evidence of a plan to commit an offence on the plane, or any steps taken to commit an offence on the plane, how can someone be considered too dangerous to fly on that plane? And how can such a person be an ongoing danger to each and every plane they board?

In meetings with CSIS and Transport Canada, we asked for and were denied access to the criteria that will be used for inclusion on the list. We were told

that the criteria for inclusion are a state secret.

I can only conclude that the program will be used to restrict the travel of persons who strongly hold dissenting political opinions or minority religious beliefs, or those who have otherwise lawful associations with persons who are considered dangerous to our security. This is patently offensive to free expression, religion and association.

The secrecy of the criteria for inclusion invites the abuses that attend unfettered discretion, including racial and religious profiling. These dangers are exacerbated when responsibility for the program is divided between Transport, CSIS and the RCMP. Committees stocked with career bureaucrats and national security types can be trusted to prioritize any risk to security, however minute and speculative, over the liberty of an individual.

The process for inclusion on the list is also offensive to basic principles of administrative law. The government need make no application to an impartial and neutral adjudicator. Advance notice is not given to Canadian citizens and residents of the government's intention to add them to the list. There are no provisions for open hearings to determine whether a person is a danger to security.

Parliament has neither debated nor provided a legislative mandate for the No-Fly List. While the *Aeronautics Act* allows Ministerial directions in case of emergencies, it says nothing about the creation of a list of ongoing emergencies. Nor do the Regulations under the Act. Lacking authorization, it cannot constitutionally justify detentions or interference with human dignity or mobility. Put another way, the Minister and security agencies are attempting to unconstitutionally arrogate to themselves the discretion to detain and humiliate airline passengers and significantly interfere with their mobility.

In the long term, the effect of the program is more invidious than its intentions. The program provides

the government with a wedge to create a second class of citizens or residents on the basis of untested information applied to secret criteria without timely

and effective oversight. Stratifying society in this way has a long and ugly history, especially in times of peace. I shudder to think how the notion of second class citizen status can readily be extended during times of crisis.

The most irresponsible and reprehensible aspect of the No-Fly program is the international distribution of a list of Canadian citizens and residents who are represented to be a threat to national security. The list will be given to the air carriers of countries known to practice torture and will surely be passed to their secret police forces. Our government is quite simply serving up a number of our citizens and residents to the most brutal and merciless regimes known to the world.

We can remember our succession of elected Ministers of Transport, Justice, and Solicitors General for their cowardice in refusing to stand up to their bureaucrats – and to the United States of America.

So now, after Arar, after Nureddin, after Al-Malki, after Abou El-Maati, after Commissioner Zaccardelli's forced resignation for lying about Arar's torture to the House of Commons Committee on National Security, after the gut-wrenchingly slow unveiling of RCMP and CSIS responsibility for the Air India disaster, after the dissolution of the Security Certificate apparatus, after the invalidation of the more egregious aspects of the Security of Information Act in the wake of Ottawa Citizen reporter Juliette O'Niell's ordeal, and after the torture of Afghans detained by Canadian soldiers – now we are met with another challenge. And meet that challenge we will.



rights abuses from credible sources such as the United Nations Office of the High Commissioner for Human Rights, the US State Department and the Afghan Independent Human Rights Commission.

The government's defense was also shocking in conflating a concern with torture with sympathy for the enemy. For over a decade, our co-applicants Amnesty International have documented the Taliban's horrendous human rights abuses and called for perpetrators to be brought to justice. Torture violates the most fundamental human rights and cannot be tolerated by anyone, anywhere. That's our position.

Our court case will likely resume hearing in the fall. From extradition cases, we know that the *Charter* prevents the Canadian government from surrendering people to other countries to face the death penalty (*USA v. Burns*) and that the *Charter* applies to Canadian authorities acting in other countries (*R. v. Cook*). From this case law, we argue that the *Charter* does not allow the Canadian military to surrender prisoners to a significant risk of torture or death.

While it is very significant, the *Charter* argument is obviously not the only law that prohibits torture and complicity in torture. International law is absolutely clear on the point and Canada has numerous international commitments that oblige us to protect individuals from torture. Those commitments include the *Geneva Convention*, the *Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment* and the *International Covenant on Civil and Political Rights*.

In addition to our court case, we have also lodged a complaint with the Canadian Military Police Complaints Commission (MPCC) on the transfer of Afghan detainees. We were very pleased when the MPCC agreed to do an independent investigation of our complaint. The Department of Defense threatened to tie us up for years challenging the jurisdiction of the MPCC to do the investigation. Undoubtedly pressured by the intense media coverage, the Department of Defense dropped its attempts to block the Commission's investigation.

On the face of it, we now have a prisoner transfer agreement that is considerably improved. There are, however, serious questions about how the agreement will translate in practice. As well, even more revelations and allegations of brutal torture have surfaced since a better agreement was first called for. When the risk of torture is so pervasive, can monitoring possibly be a sufficient safeguard? Terrible torture can be inflicted in a matter of minutes. Because we are committed to a real and not just nominal solution, we continue to call for a better approach, suggesting a NATO-wide venture of jointly run detention facilities operating co-operatively with Afghan officials.

We thank our members for overwhelmingly supporting our anti-torture work. We also thank our partners at Amnesty International and our magnificent counsel, Paul Champ of Raven, Cameron, Ballantyne & Yazbeck in Ottawa.

i For more information on our anti-torture work, see: www.bccla.org/antiterrorissue/antiterrorissue.htm



British Columbia Civil Liberties Association

550 – 1188 West Georgia Street
Vancouver, British Columbia
Canada V6E 4A2
Tel: 604.687.2919
E-mail: info@bccla.org
Web: www.bccla.org

Board of Directors

Jason Gratl, President
Robert Holmes, Vice President
Alan Rowan, Treasurer
John Dixon, Secretary

Warren Bourgeois, Alister Browne,
Michael Byers, Jamie Cameron,
Bing Chan, Tim Christie, Larry Cohen,
Ann Curry, Greg Delbigio, Dave Eby,
Avigail Eisenberg, Michael Feld,
Hamar Foster, Tom Gore,
Conrad Hadland, Shirley Heafey,
Laura Huey, Stephen Katz,
John Kibblewhite, Ross Lambertson,
Ed Levy, Mary McDonald,
John J. McIntyre, Grace Pastine,
Stan Persky, Ann Pollak
Richard Rosenberg, John Russell,
Tom Sandborn, Steven Savitt,
Kirk Tousaw, Eric Wyness

Staff

Murray Mollard, Executive Director
Micheal Vonn, Policy Director
Jim Braunagel, Office Manager
Sarah Frew, Director of Development
Christina Godlewska, Articled Student
Jesse Lobdell, Caseworker

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 across Canada through public education, complainant assistance, law reform and litigations.

Publications mail agreement
40045354

BCCLA partners with International Civil Liberties Monitoring Group

As a result of recommendations from the Arar Inquiry, the government of Canada appointed former Supreme Court of Canada judge Frank Iacobucci to examine the experiences of three men, Abdullah Almalki, Ahmad Abou-Elmaati and Muayyed Nureddin, who allege they were tortured in Syria and Egypt.

The BCCLA, along with other intervenors at the Arar Inquiry, had made submissions to Arar Commissioner Dennis O'Connor noting that these three men had allegations of serious torture experiences which may implicate Canadian officials. We urged that their stories must be thoroughly and openly examined.

The mandate of the Iacobucci Inquiry is to determine whether the detention of these men was the result of Canadian officials sharing information with foreign countries, whether there were deficiencies in the provision of consular services to these men while detained and whether any mistreatment resulted from the actions of Canadian officials.

A major issue for the Iacobucci Inquiry is the “internal” nature of the inquiry. The BCCLA and the International Civil Liberties Monitoring Group (ICLMG) have been granted joint intervenor status at the Iacobucci Inquiry. We recently made submissions that “internal”

should be as narrowly interpreted as possible and that emphasis should be placed on the need to ensure a process that “inspires public confidence in the outcome”. One of the problems that plagued the Arar Inquiry was the continual claim of national security confidentiality over testimony of Canadian officials and documentation such that the public was not able to have access to this information. Commissioner O'Connor has gone to the Federal Court of Canada to force the government to release this information to the public.

In a recent ruling, Mr. Iacobucci has ruled that his Inquiry, unlike the Arar Inquiry which had

considerable public hearings, will be conducted primarily in private. This will mean that evidence from the government will be gathered without the presence of the public or the legal counsel for the three men. In response, the BCCLA has joined with the three men and other intervenors including the Canadian Arab Federation, the Canadian Council on American Islamic Relations, The Canadian Muslim Civil Liberties Association and ICLMG to seek a judicial review of Mr. Iacobucci's decision to force him to open up his “public inquiry”

The BCCLA and ICLMG are fortunate to have two outstanding legal counsel to represent us: Warren Allmand, former Solicitor General of Canada and noted human rights lawyer and Shirley Heafey, BCCLA Board member and former Chair of the Commission for Public Complaints Against the RCMP.



i To view the BCCLA's submission, visit: www.bccla.org/othercontent/07Iacobuccisubmission.pdf

To view the decision of Mr. Iacobucci, visit: www.iacobucciinquiry.ca/en/rulings/index.htm

Project Civil City

Project Civil City (PCC) is an ambitious initiative to reduce homelessness, tackle crime, reduce open drug sales and otherwise deal with “public disorder” to get the city presentable for 2010.

PCC was launched by Vancouver mayor Sam Sullivan, and its wish list of possible actions include “no sit no lie” bylaws, surveillance cameras and using City staff as the “eyes and ears” of the police for pro-active reporting of “street disorder issues”.

Any student of the Olympics would expect to see just this sort of proposed “clean up” program

and we are not the first to raise concerns about the civil liberties implications of such programs. Our friends at the American Civil Liberties Union have stories to share of fending off various Olympics-inspired city ordinances in Atlanta and Salt Lake City.

With Project Civil City, part of the trick is sorting out the good proposals from the bad. The latest report runs to some 70-odd possible initiatives and some are excellent (i.e. who thinks combating homelessness isn’t a great idea?). But its important not to lose

sight of the fact that while some of the proposals aim at housing the homeless, other proposals are ripe for simply street-sweeping the poor.

We have been actively involved in bringing PCC to greater public debate, speaking at the Vancouver Public Space Network’s public forum and the Civil City Slam.

i For more information on PCC and the video of the VPSN’s public forum see: www.civilcity.ca

BCCLA Advocates for Private Security Reform

Some estimates indicate that for every police officer on the street, there are 10 private security guards. Private security personnel engage in the same kind of activities as police, activities that can threaten our civil liberties, including: detentions, arrests, search and seizures and they use force—often violent—in carrying out their property protection services.

For many years, the B.C. Civil Liberties Association has been urging the provincial government to overhaul its private security legislation and implement better accountability mechanisms for security guards. In the fall of 2006, the BCCLA joined other groups to advise the B.C. Human Rights Coalition on a private security project that focuses on training and accountability for the industry. Throughout the fall, the BCCLA met with these groups and government to examine specific areas that required reform. We recommended that revamped legislation include manda-

tory training for security personnel, a code of conduct, a thorough and fair complaints process, reporting obligations for security businesses and robust investigations and audits.

i To view the press release of the BCCLA, visit: www.bccla.org/pressreleases/07securityact.pdf

To view the BCCLA’s letter of concern, visit www.bccla.org/positions/police/97privatesecurity.html



In the spring of 2007, the government introduced the *Security Services Act*. Though the *Act* has some positive aspects (including bringing all employees who provide security services under the regulatory framework), it is ultimately disappointing for the lack of substantive provisions. There is no code of conduct, a very weak complaint regime and no obligations to report use of force, arrests or any critical incident.

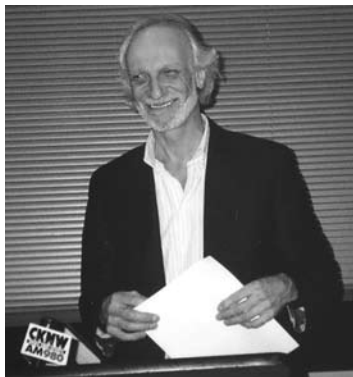
The BCCLA, along with the Human Rights Coalition and Pivot Legal Society, held a press conference in April to publicly announce our concerns about the proposed law. We also met with Mike Farnworth, the NDP Critic on private security who voiced similar concerns during debates in the legislature. Regrettably, the law was passed without amendments.

We will be meeting with Solicitor General John Les before summer to discuss how the legislation could be improved.

Annual General Meeting

The BC Civil Liberties Association held its 45th Annual General Meeting on Wednesday, March 28, 2007 at the Vancouver YWCA. John Lowman of the Department of Criminology at Simon Fraser University gave a powerful talk on the devastating impact of prostitution laws in Canada and how they contribute to the tragedy of missing women in Vancouver and elsewhere.

The Association also made a special presentation to Lil Woywitka for her 30+ years working for the BCCLA as our valued Membership Secretary. The BCCLA wishes to recognize and express our gratitude for her many years of dedication and hard work in the name of civil liberties.



PROFESSOR JOHN LOWMAN
SIMON FRASER UNIVERSITY



BOARD MEMBER JOHN DIXON, MEMBERSHIP SECRETARY
LIL WOYWITKA AND EXECUTIVE DIRECTOR MURRAY MOLLARD

Maher Arar at the Chan Centre



MAHER ARAR AND JASON GRATL

The BCCLA and Michael Byers, Professor of Political Science at UBC hosted a talk by Maher Arar in February at the Chan Centre at UBC. Mr. Arar and his wife Monia Mazigh are this year's recipients of the BCCLA Reg Robson Civil Liberties Award.

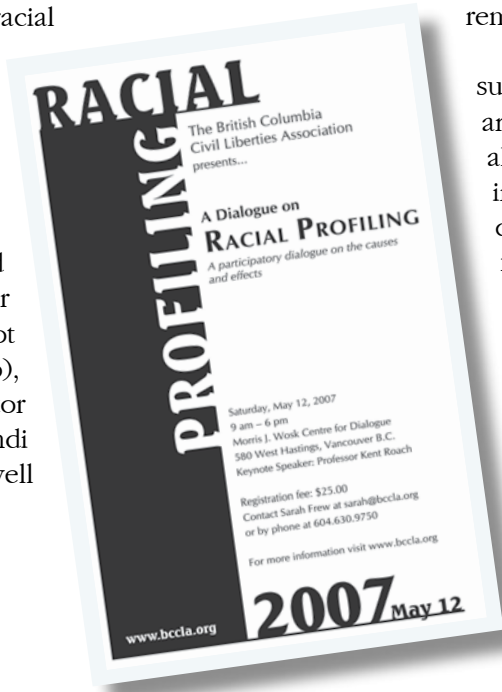
Racial Profiling National Security in a Multicultural Era

On Saturday, May 12th the BCCLA, with the generous support of the Law Foundation of British Columbia, presented *Racial Profiling, National Security in a Multicultural Era*. This participatory dialogue on the causes and effects of racial profiling brought together leading experts from across the country. Our keynote speaker was Professor Kent Roach of the University of Toronto.

Professor Roach was joined by Professors Reg Whitaker (University of Victoria), Scot Wortley (University of Toronto), Frances Henry and Carol Tator (York University), Reem Bahdi (University of Windsor) as well

as Barbara Jackman, Q.C. (Immigration and Refugee Lawyer), Jameel Jaffer of the American Civil Liberties Union and Chief Superintendent Richard Bent of the RCMP. The Honourable Wally Oppal gave the opening remarks.

The event was a huge success for the Association and we would like to thank all those who participated in this landmark event. The collected papers for this conference will be published by an academic press following the conference. We will also be posting online a list of the publications and some of the presentations discussed at the conference.



Kent Roach



B.C. Attorney General
Wally Oppal



Reem Bahdi



BCCLA President
Jason Grat



Richard Bent



Barbara Jackman

The ‘Lost Canadians’

Extensive media coverage has been given to the individuals, loosely termed ‘Lost Canadians’, who had reasons to assume they were Canadian citizens, but are now discovering they are in fact not Canadian citizens by operation of arcane and, in some cases, long-repealed laws. The legal terrain and the factual scenarios are highly variable and complex. But the roots of almost all of the problems can be traced back to two main sources: 1) discriminatory criteria involving the gender or marital status of their Canadian parent(s); or 2) lack of notice and other procedural safeguards to protect those who are granted citizenship but who face losing it by obscure operations of domestic and international law.

On March 26th, 2007, the BCCLA was invited to make submissions to the Parliamentary Committee on Citizenship and Immigration, which has convened a special study on this issue. Our submissions focussed on three main points. First, we emphasized that Canadian citizenship is a fundamental political right for those who do, or should, have it. Second, we argued that citizenship cannot be denied or taken away by modern-day ap-



plications of discriminatory provisions of old statutes, because this is a new or repeated act of discrimination to which the *Charter* applies.

Finally, we pointed out that the government is appealing the Federal Court decision in *Taylor v Canada* (Minister of Citizenship and Immigration), 2006 FC 1053, which is the latest case seeking to rectify the injustices being inflicted on one of the largest groups of ‘Lost Canadians.’ This, coupled with the evidence heard by the Committee in previous sessions, strongly suggests that the Ministry is taking a guilty-until-proven-innocent approach to ‘Lost Canadians.’ We submitted that, because citizenship is a fundamental right, this approach is simply not called for in this context. Our submissions to the Committee called for fundamental shift in attitude towards people with an apparent claim to Canadian citizenship. In a nutshell, if someone is born in Canada and/or has a Canadian parent, citizenship officials have a duty to assist these (apparent) Canadian citizens in cementing their citizenship status by whatever means reasonably necessary.

i Our full written submissions to the Committee can be found on our website under political rights: www.bccla.org/05political.htm

Age of Consent Being Raised to 16

Bill C-22 proposes to amend the Criminal Code to make it impossible for a person aged 14-16 to consent to any sexualized contact with a person more than five years their senior. This adds a redundant layer of criminality to exploitative relationships and sexual contact in relationships of trust (such as teacher-student relationships) already prohibited under the Code. It also criminalizes a 21-year old who kisses someone’s 15-year old younger sibling at a house party without asking for identification and taking all other ‘reasonably necessary’ steps to ascertain their exact age.

The BCCLA opposed this manifestly gratuitous provision before the Committee on Justice and Human Rights, arguing that there is no demonstrated harm not already covered by the Criminal Code. However, there is a significant harm to those saddled with a criminal record for sexual assault as a result of an act that does not deserve this name. Unfortunately, the political agenda of the Conservatives won the day. The Committee sent the Bill back to the House with only one amendment, allowing for sex with 14 and 15 year olds within marriages that fall outside the five-year age gap.

The Campaign for Open Government

“Street disorder”, policing and protest are the obvious civil liberties concerns connected to the Olympics, but there are others. For advocates of government accountability and transparency, there is also the question of why the Vancouver Organizing Committee of the Olympics is exempted from freedom of information (FOI) legislation. More recently, the Premier amended the FOI law through an order-in-council, without debate, to also put the newly created Climate Change Committee beyond the reach of FOI. Carving out wholesale exemptions and watering down information access has been the trend for some time. And the Campaign for Open Government is looking to turn that around.



The BCCLA is part of the Coalition for Open Government which recently challenged the BC Government’s claims of improving FOI with a set of new amendments (Bill 25). The Coalition wasn’t impressed and said so publicly, noting that this is the sixth time that the Freedom of Information and Protection of Privacy Act has been amended since 2001 without making much-needed improvements in public access to information.

In one of those dry, ironic coincidences, at the same time that the Campaign for Open Government was speaking out on the inadequacy of Bill 25, the Information and Privacy Commissioner ruled on a fee quoted to an environmental group seeking pollution data that used to be posted online by the government. The Commissioner determined that the quoted \$173,000 in fees was not on. Good to know. But hardly a solution to the bigger problem. Our shared Campaign to improve access to government information and reign in outrageous fee quotes continues.

i To become a Friend of FOI and learn more about the campaign:
www.opengovernment.ca/

Student Privacy Protections Improved

A concerned parent alerted the BCCLA to a survey being administered by the BC Institute for Safe Schools to 80 000 students across BC. The survey is designed to guide school policy regarding issues such as bullying and drug use. Students are asked whether they commit assaults, carry weapons, engage in drug use, and many other questions that amount to an admission of criminal activity. A “privacy code” was used to track individual participants while maintaining anonymity. However, the privacy code contained enough information, in conjunction with a school record, to potentially identify individual participants.

Historically, surveys have prov-

en to be very attractive to criminal justice authorities, and it is up to researchers to challenge a subpoena for research data. Researchers are ethically obliged to protect participants within the bounds of the law, and universities are obliged to support their researchers. Nevertheless, researchers can choose to hand over research data if they regard a subpoena to be within the bounds of the law, and university support has not always been forthcoming. Researchers, like journalists and priests, have spent time in jail protecting their research subjects. Should an issue of school violence result in a subpoena, public and personal pressure to comply would be considerable.

The BCCLA contacted the BC Institute for Safe Schools, and they voluntarily halted administration of the survey until our concerns could be heard by the University College of the Fraser Valley Research Ethics Board, the body that ensures research complies with ethical guidelines. The researchers offered to remove the privacy code to ensure student participation is anonymous, and thereafter worked with the BCCLA to improve the language used to obtain student and parental consent. The BC Institute for Safe Schools and the Research Ethics Board have shown a firm commitment to the privacy of research participants.

BCCLA Preserves Right to Political Advertising on Public Transit

The BCCLA was back in the B.C. Court of Appeal this spring to argue that B.C. Transit and Trans-Link should not receive a stay (a delay) in the implementation of the Court's recent decision to strike down the transit authorities' policies that prohibit political advertising on sides of buses and Skytrain.

In their previous decision, the Court of Appeal had found that the Charter of Rights and Freedoms applies to the Transit and Trans-Link and that the policies violated the freedom of expression rights of

Canadians. Furthermore, the Court found that the violation could not be justified by the government as being a reasonable limit in a free and democratic society. The BCCLA had intervened at both the Court of Appeal and B.C. Supreme Court on the side of free speech.

The BCCLA argued that when a court strikes down legislation that infringes fundamental freedoms, the balance of convenience and public interest weighs heavily on the side of upholding those freedoms until an appeal court decides

otherwise. The Court of Appeal agreed.

The transit authorities have now received leave to appeal to the Supreme Court of Canada. The BCCLA will be applying for leave to intervene in the case. The Association is represented by Chris Sanderson, Q.C. and Chelsea Wilson of Lawson Lundell.

i The Court of Appeal's decision on the stay application can be viewed at: www.courts.gov.bc.ca/jdb-txt/ca/07/02/2007bccca0221.htm

Judicial Review of Ian Bush Complaint

Ian Bush died in an RCMP cell in October 2005 in Houston, B.C. The BCCLA lodged a complaint to ensure police accountability. The RCMP terminated the complaint on the basis that there were other procedures to review the case including a criminal investigation and coroner's inquest. Unsatisfied because neither process deals with professional misconduct, the BCCLA asked Paul Kennedy, the Chair of the Commission for Complaints Against the RCMP, to review the decision to terminate. Mr. Kennedy upheld the RCMP decision and lodged his own complaint.

The BCCLA launched a judicial review of Mr. Kennedy's decision in Federal Court of Canada. We believe that public confidence in the police demands timely and independent review of the conduct of

officers involved in a death-in-custody. We could not let the decision of Mr. Kennedy go unchallenged.

The BCCLA was in the Federal Court in March to fend off a preliminary challenge by the Attorney General of Canada to strike our claim as moot. We argued that the case raises an important issue that is not being considered elsewhere and that we wish to retain our right as a complainant. We await the decision of the court. David Harris, Q.C., Michael Stevens and Jasmine MacAdam from Hunter Litigation Chambers represent the BCCLA.

Voter Identification

Amendments to the Canada Elections Act will require everyone who wishes to vote to produce

approved identification to establish their identity and place of residence. The BCCLA believes that the new identification requirement will disenfranchise a range of people who do not possess current ID including homeless people, students, seniors, those with drug addiction and mental health issues, and people with disabilities. Moreover, there is no evidence that there is a problem with election fraud.

The BCCLA and other groups were not able to persuade the Conservative government and Liberals that the changes would have a devastating impact on voting rights. The BCCLA is now preparing to go to court as an intervenor in a planned challenge to the identification requirement in the legislation. We will be represented by Dan Burnett of Owen Bird.

Dr. Laura Huey

Assistant Professor of Sociology
Concordia University, Montreal

Laura teaches courses in the areas of policing, criminal justice, and qualitative research methods. She is also the author of several publications in the field of crime and criminal justice. She has conducted extensive research in the areas of policing and social exclusion. Laura's most recent book on these subjects, *Negotiating Demands: The Policing of Skid Rows in Edinburgh, San Francisco and Vancouver* was published in 2007 by the University of Toronto Press.

More recently, Dr. Huey's research interests have taken her in the direction of cultural criminology and the social meanings of 'crime artifacts'. She is presently engaged in fieldwork on this topic in preparation for a book on the commodification of crime and punishment for tourism and other leisure markets. To this end, she has been on the Jack the Ripper Tour, visited the Rothenburg Kriminalmuseum and will be spending part of May visiting police museums and other fun (and/or ghoulish) sites.

Because Laura is not busy enough, in the summer of 2007 she will begin a new study that explores whether the "CSI Effect" is impacting relations between criminal investigators and victims/witnesses.

In 1999, the Association was fortunate to hire Laura as a caseworker. She subsequently worked as the principal researcher for the Association's *Rights Talk* publication for BC students (with Pam Murray), and on the *Citizenship Teaching Module* for Grade 11 and 12 students.

In previous years Laura has drafted position papers and submissions to various House of Commons committees, given public talks, and gave a memorable speech on sex offenders' privacy rights at a conference on community notification hosted by the B.C. Chiefs of Police Association and Correctional Services Canada. She was also dragooned into doing a TV interview on public surveillance, which she is not keen to repeat!

Currently Laura sits on the Policing and Privacy and Access Committees. She is the principal investigator on a research proposal currently being reviewed for funding by the Law Foundation of B.C. This project would explore the police use of breach of the peace primarily within urban Aboriginal communities.

In her spare time, which you have probably gathered by now is minimal, Laura enjoys traveling, handbag shopping and spoiling her three cats. The Association is proud to have Dr. Laura Huey as part of the BCCLA board.



Learn how giving to the BCCLA helps you eliminate capital gains tax!

New Faces at the BCCLA

The BCCLA welcomes Jesse Lobdell as our new Caseworker. Jesse has a dual degree in Criminology and Political Science from Simon Fraser University and a keen interest in advocacy work. His most recent experience is with St. Paul's Advocacy Office, where he represented clients in all forms of advocacy including tenancy, welfare and disability benefits. A civil libertarian at heart, Jesse considers the "Millian harm principle" as one which will guide his advocacy work: where individuals do not interfere with the liberty of others, the state and society have no claim in limiting their freedom.



JESSE LOBDELL

The BCCLA will also be hiring a new litigator to focus on our court advocacy work in early summer. Details to follow.

As another tax year comes to a close, it's time to start planning for 2007. Have you considered making a gift to the BC Civil Liberties Association and reducing your capital gains taxes by donating stocks, bonds or mutual funds?

Since May 2006 the Federal Government has eliminated capital gains tax on donations of appreciated shares of publicly listed securities to public charities. Donating this way offers an even greater return for you. This way of giving is of particular interest to the many who have enjoyed significant capital gains in their investment portfolios.

The Association has been fortunate to be the recipient of several large donations of securities over the past couple of years. We also have access to financial and legal experts who are willing to help guide you through the process at no cost.

How it works...

Suppose that two years ago, 1,000 shares of Suncor Energy Inc. were purchased at \$50 per share for a cost of \$50,000 and that today these same shares are valued at \$90,000 or \$90 per share. Prior to May 2006, if the

owner of the shares wanted to donate these shares they faced paying taxes on half of the \$40,000 capital gains. Paying the tax of \$8,740 (43.7% on \$20,000) was not something anyone was eager to do, especially since they were trying to make a difference with their donation.

Happily since May 2006, our investor can now donate the \$90,000 worth of shares and get an additional tax benefit. Not only do they get a tax receipt for the entire \$90,000 but they completely eliminate having to pay any capital gains tax, saving \$8,740!

These gifts help the BCCLA tremendously and are directly responsible for the success we are having in areas such as the Afghan Detainee Agreement and the *Prevention of Torture Act*. It allows us the freedom to go to work.

If you are considering a gift to the BCCLA and have shares you wish to donate, we recommend obtaining legal advice before making the donation. If interested please contact Sarah Frew at sarah@bccla.org or by phone at 604-687-2919 and she will be happy to arrange a free legal consultation for you.

UNITED WAY DONATIONS



Don't forget that you can designate the BCCLA as a specific recipient of your United Way donation!

The B.C. Civil Liberties Association wishes to thank the Law Foundation of B.C. and our other funders for their financial support.

