

the democratic Commitment

THE BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION NEWSLETTER

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www.bccla.org

RightsCity

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police blog at:
www.rightscity.org

2010 OLYMPICS vancouver

Free speech rights threatened by Olympics

FIVE WAYS your BCCLA has responded to Olympic attacks on free speech

The BCCLA office has been run off its feet responding to the ever growing list of challenges to rights and liberties presented by the 2010 Olympic Games – and we're doing our best to get the word out and be as proactive as we can in turning back the worst of these anti-free speech activities. Your donations make it all possible. Here are just five of the ways we've responded, including one early victory!

1 Shining a light on the anti-democratic activities of the International Olympic Committee (IOC)

We've been doing freedom of information (FOI) requests that have revealed the secret "Host City Contract", signed by former Vancouver mayor Larry Campbell in 2003, that promises the IOC that "propaganda", namely protesters, will be kept from the view of spectators and international media attending Olympic venues. Other FOI documents we've received outline how VANOC patrols will be attempting to seize leaflets, signs and other materials they feel violate the "clean venue" agreements they've been forced to sign with the International Olympic Committee (IOC), both inside and outside Olympic venues.

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OPENING MIND-LOCKED DOORS

“Hard times will forge a magic key,
to open every mind-locked door.”

The lyrical image struck me as apt for the times we are in and the work that the BCCLA does. At least it is apt if we recognize that by demanding that free speech be protected we open doors that otherwise would be mind-locked. That, in my view at least, can only be a good thing for people who understand the value of thoughtful exchanges. And history has shown that progress is often made when necessity, or at least urgency, is met by shared thoughts and open minds.

So, how is it that in spite of recognizing hard times and mind-locked doors, we, as an organization, hold to the confidence that by allowing everyone so inclined to speak and share their thoughts and everyone so inclined to hear those and think, we will all be better off? How is it that we think that we can open up closed-mindedness that otherwise would numb the world and render it unable to think its way through hard times and challenges? I think the answer comes from the realization that repression acts as confinement and liberality as openness. In terms of the human spirit, the latter has proven its rewards time and again; the former has simply shown itself to be a dead end.

The past year has provided more shocks to the world's economy than have been seen in a generation. Yet an undercurrent of confidence exists that we will see this through and do so in a manner that preserves the best of what our society stands for. That requires, of course, that we find the key to open what currently seems shut. There will be distractions. Some would have us focus on mind-locked doors, with modern equivalents to the *panem et circenses* from 2000 years ago. The step-by-step descent from civil libertarian values that the organizers of the Winter



Olympic Games in Vancouver have brought about bears testimony to much of that.

We have had to fight on multiple fronts to resist the mind-locking that VANOC and many in government have fallen prey to. Last fall VANOC made an enormous ad-buy, sucking up billboard and other advertising space in and around Olympic venues and along transit lines. \$40 million was spent to ensure that only approved messages were within view. The BCCLA complained, publicly and loudly. We complained to the Competition Tribunal, a federal agency that is supposed to ensure that anti-competitive behaviour is reined in. That sad excuse for a law enforcement agency opted to say, as bad waiters do in bad restaurants, “Not my table,” in response to our complaint. Apparently, the Competition Tribunal is only there to spend tax dollars inadequately policing unfashionable commercial enterprises not under the protective wings of governments.

When UBC, at VANOC's behest, issued new contracts that sought to impose on students living in residences a ban on putting up signs and posters “visible” from a stadium where Olympic events were to take place, we protested. Fortunately, UBC had the good sense to issue a statement clarifying that students' free speech rights would not be impacted. Mind-locking is obviously not what institutions of higher learning are supposed to be committed to. Yet what does the fact that VANOC stipulated for such a thing tell you?

It tells you much the same as VANOC's missive to municipal authorities urging cities to prohibit political leafleting or signs along the Olympic Torch Relay Route. The BCCLA protested that as well, warning that to buckle under to such anti-democratic suggestions

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Canada's Torture Hearings: Backgrounder

Issue:

Canadian Forces in Afghanistan have been handing over detainees to Afghan authorities despite the risk of torture. The BCCLA and Amnesty International Canada (AIC) want the Canadian military to uphold international treaty and domestic law obligations to not transfer detainees to countries where there is a risk of torture. In international law, this obligation is called the "principle of non-refoulement," or literally, the principle of non-repression.

Facts:

The BCCLA in conjunction with Amnesty International lodged a complaint with the Military Police Complaints Commission which resulted in the "Afghanistan Public Interest Hearing", which starts up again in early October. The BCCLA will be making arguments that there is strong evidence that detainees in Afghan custody are routinely subject to torture, and that the duties of the Canadian Forces soldiers present in Afghanistan under international and domestic law prevent them from exposing Afghan detainees to torture.

Desired outcome:

The BCCLA wants the Commission to find that Canadian Forces, as part of maintaining Canada's commitment to prevent torture, have an obligation to ensure that detainees in their care and custody are not subject to torture and abuse when transferred to a foreign power. The BCCLA seeks to end Canada's involvement and implicit endorsement of torture with a view to stopping torture worldwide.

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RETURN UNDELIVERABLE
CANADIAN ADDRESSES TO:
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2 Holding security forces accountable for their activities

When the Integrated Security Unit refused to reply to BCCLA demands that they make public their road closure plans for the Olympics, we released our FOI documents publicly, showing 30% more road closures than had been revealed previously. The ISU still refuses to disclose the full extent of road closures to families, businesses, and others affected by their activities.

3 Responding to attacks for exposing anti-free speech bylaws

In July, when we came out strong against the bylaw package passed by the City to give effect to their dubious agreement with the IOC, the BCCLA was attacked in the media by a city councilor for being alarmist. He didn't mention the agreements made between the City and the IOC on "clean venues" and no protests in view of venues, and promised that the bylaws would not be enforced as they were written. We promptly responded with an op-ed piece in the Vancouver Sun, outlining each of our concerns about the City's new prohibitions on non-celebratory signs around Olympic venues and the new bylaw offence of creating a disturbance that interferes with someone's enjoyment of Olympic entertainment. What is a celebratory sign? Easy, it's one that "Celebrates the 2010 Winter Games, or creates or enhances a festive environment and atmosphere for the 2010 Winter Games." If we sound alarmed, it's because we are.

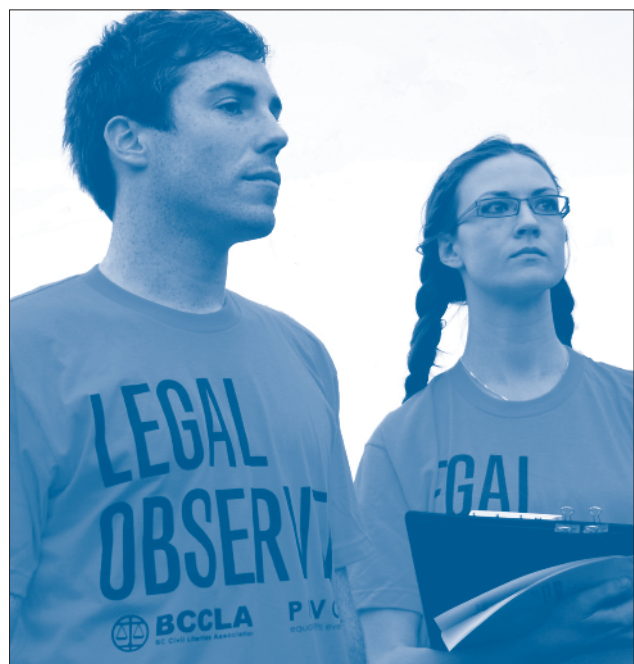
4 Working with UBC to guarantee student free expression rights

After being contacted by concerned students at UBC, we spoke with administration there about a concerning "appendix" to the UBC Student Residence Agreement that could be interpreted as preventing students from hanging political signs in the windows of dorms that are in view of the Olympic venues. After a meeting with a representative from the President's office, UBC guaranteed, in writing, the ability of students to display non-commercial signs in their dorm windows and issued a clarifying memo on their student residence website.

5 Gearing up for the Games with our Legal Observer teams

We're getting ready for the first training for our legal observers, writing training plans and finalizing our manual, which is based on materials prepared by the National Lawyers' Guild in the United States for their legal observer program. As far as we can tell, our legal observing program is the first fully independent legal observer team holding an Olympics security force accountable in Olympic history. Not bad!

We're partnering with Pivot Legal on this initiative. They'll be watching security force interactions with the homeless and underhoused in the Downtown Eastside. We'll be at the venues and the protests ensuring security forces respect the democratic and legal rights of Canadians and visitors. Comprehensive real-time documentation through web updates and press conferences, potential legal responses to the most egregious violations, along with comprehensive post-Games analysis, will help inform current decision makers and future Games hosts on mistakes to avoid, or best practices to pursue, in ensuring free speech.



JAY BLACK photo



Vancouver: Condemned to repeat the past? 1971...1997...2010

The birth of the British Columbia Civil Liberties Association in 1962 was a watershed moment in the Canadian human rights movement. From the very beginning, the BCCLA has worked diligently to protect free speech and freedom of assembly and the BCCLA is the leading civil liberties organization in Canada today.

In August 1971, when police on horseback caused a riot in the Gastown area of Vancouver by storming a crowd of 1,000 youth who were protesting drug laws and police harassment of hippies, the BCCLA defended the rights of the protestors against police abuse. A later judicial inquiry criticized the crackdown, characterizing it as a “police riot.”

Twenty-six years later, during the APEC summit at the University of British Columbia in November 1997, not only did some peaceful protesters have their paper and cloth signs forcibly removed, others were arrested or threatened with arrest simply for refusing to take their signs down. Still others were intimidated by police officers into signing guarantees that they would give up their free speech rights for the duration of the summit. After the pepper spray settled, the BCCLA defended the student demonstrators while once again calling for civilian oversight of police.

Fast forward another 12 years and the BCCLA is actively petitioning officials to ensure that rights

and freedoms will be protected during the 2010 Olympic and Paralympic Winter Games taking place in Vancouver. We are hopeful that this city won't repeat the same human rights violations as in past demonstrations, but recent actions have not left us very optimistic.

We can't always foresee what issues from the past will revisit us or where the next threat to Canadian rights and freedoms will come from, but with your support we can be sure that the BCCLA will be there to defend them. The BCCLA has relied on contributions from private citizens since 1962 and we continue to need your help.

You can help by volunteering, keeping your annual membership up to date, making a generous donation today and also considering a legacy gift to the BCCLA for the future. A legacy gift is usually given as a bequest in a will and it is a personal statement about the values you have embraced throughout your life. Designating the BCCLA as a beneficiary gives you the opportunity to make a real difference in protecting civil liberties and human rights in Canada that will have ripple effects for generations of citizens to follow.

Please contact Sarah Sandusky, Director of Development at sarah@bccla.org or 604-630-9750 for more information on giving options. Thank you!
BN: 888466844RR0001



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would, in a legal sense, violate constitutional guarantees, and in a political and social sense, violate the dignity to which each person in Canada is entitled to.

The Integrated Security Unit has refused to provide assurances that it will not have law enforcement officers act as *agents provocateurs* attempting to stir up violence at demonstrations as was witnessed with other international events. Neither would they provide assurances that their surveillance would not spill over into infiltrating protest groups and taking on leadership roles so as to commit and induce wrongdoing. Sad, sad, sad displays of mind-locked doors.

The City of Vancouver has opted to pass bylaws that purport to ban demonstrations that constitute disturbances and nuisances, while expressly protecting “celebratory” demonstrations.

Yet we protested those measures as well. Before council meetings, we appeared and challenged what was being done. In editorials, interviews, and letters, we raised our concerns and explained our position. We put out news releases and encouraged a free people to wake up and open the mind-locked doors that some in authority thought they could keep closed.

It is ironic that in the midst of this, we have the display of the CBC broadcasting ads from Olympic sponsors crowing about the event,

yet refusing ads from others they regard as “political.” Mind-locked.

There is more: the Vancouver Police approaching protest groups attending council meetings, police seeking to have protestors register in order to protest, protest pens as “safe assembly zones”, hundreds of cameras placed in public spaces to monitor and record the movements of private citizens, and the City announcing plans to legislate



authorization for limits on rights and demonstrations. More and more authorities tend to regard Charter violations

as simply the “ordinary course of doing business” and section 1 of the Charter’s saving provision for “reasonable limits” as meaning anything that those holding office in any of the three branches of government think helps their exercise of power. Each of those represents an effort to keep mind-locked doors closed.

The tendency of some to be economical with the truth cannot be too long maintained if free expression and debate is allowed to flourish. Others may repeat mind-locked phrases over and again. But under the scrutiny of criticism, dissent and debate, they will be shown for what they are and the “magic key” to unlock mind-locked doors – the key of free expression and thought – will do its work.

“Hard times...” from *The Plague and the Moonflower*, R. Harvey composer, R. Steadman libretto.

EVENTS

Oct 31 Social Justice Law Conference

The conference is aimed at building a community of lawyers committed to social justice principles.

For more info, visit: <http://justiceconference.wordpress.com/about-justice-conference-2009/>

Nov 2 Civil Liberties and the Olympics

David Eby will present the anti-free speech agenda behind the 2010 Olympics at Green College, UBC at 6 pm.

Nov 20, 21 Surveillance Games

Micheal Vonn will be presenting at **The Surveillance Games: A Research Workshop** at SFU Harbour Centre.

Nov 25 Freedom in Action

The 5th annual BCCLA forum for high school students will be held at SFU Harbour Centre. For more event info visit www.bccla.org.

the plan to
ARREST THE HOMELESS

The inside story of how we broke the news

By David Eby

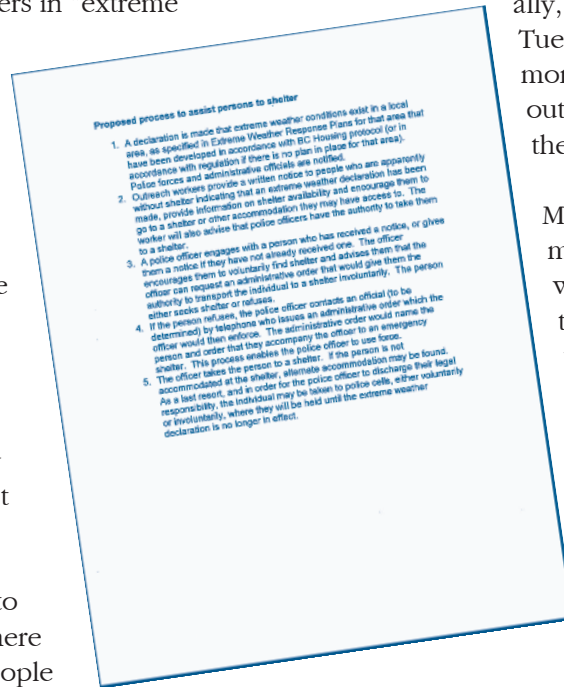
I got a call during the week from a very reliable source to set up a meeting. At the meeting with my source, I was given four documents, two emails with the headers removed, and two memos that set out the provincial government’s new proposal to force the homeless into shelters in “extreme weather” using force if necessary, and jailing those who didn’t comply. The emails and memos were, I was told, internal Ministry of Housing documents.

The content of the memos came as a shock. In Vancouver, we have more than 1500 homeless people, but only 1300 shelter beds in cold and wet weather. 2,000 people were turned away from those shelter beds this past winter alone.

Why would the province want to “force” people into shelters if there weren’t enough beds for the people who actually wanted to be inside? Weren’t they concerned the homeless would hide from police, outreach workers and members of the public who often intervene when the homeless are in medical distress, putting the homeless at greater physical risk? How, if at all, was this connected to the Olympics and homeless people who may be very visible to tourists in downtown areas during the Games? Was this part of the pattern of anti-homeless legislation introduced in other Olympic cities?

I called esteemed Vancouver journalist Frances Bula at the Globe and Mail and gave her the lowdown. I had some documents that were credible, I said, but they needed to be verified before anyone could run

with them. She said she’d look into the issue. She called late on Sunday saying she’d gotten the Housing Minister to confirm the documents and the proposed law, and she was running with it. The story ran page A1 in the Globe and Mail on Monday morning nationally, and again on A1 nationally on Tuesday morning. The BCCLA did more than 20 interviews with news outlets in almost every province on the topic.



Most interesting to the media and most concerning to the BCCLA was the paragraph in the memos that read: “As a last resort . . . the individual may be taken to police cells, either voluntarily or involuntarily, where they will be held until the extreme weather declaration is no longer in effect.” Last year there were 37 extreme wet weather days declared in the winter in Vancouver, suggesting that some detentions could last for

extended periods. The memo did not disclose how much force police could use if a person resisted.

By the end of Tuesday, after intense public pressure from the BCCLA, homeless advocates and surely his own government lawyers, the Minister had changed his plan, assuring CBC that, contrary to the suggestions in the memos, nobody would be taken to jail if they refused to cooperate and report immediately to the nearest homeless shelter: “There is no movement to say we’re going to take them to jail, no movement to say we’re going to put them in a secure facility.” We continue to wait for the proposed legislation to be introduced at the provincial legislature.

LAWFUL ACCESS?

New Laws Proposed for Internet and Telecommunications Surveillance: Worse Than Ever!

Canadian law enforcement has for years had a wish list that includes Way More Powers for Surveillance of the Internet and Telecommunications. These new search and surveillance powers are euphemistically referred to as “lawful access” and the police say they are necessary to “modernize” police investigation and catch increasingly tech-savvy, bad guys. The police, of course, have many, many tools to catch “bad guys”, both Ludite and tech-savvy, and when called upon to produce evidence of the “need” for the sweeping new powers sought, never seem to have any. But that has not deterred the federal government from tabling two pieces of legislation that give the police sweeping new powers by lowering the standards for police access to certain types of information and vastly increasing the scope of surveillance available to the police.

Bills C-46 and C-47 allow authorities to order telecommunications service providers to preserve and turn over details of their subscribers’ communications and to hand over to police certain types of information about subscribers and their mobile devices, even without a warrant. The bills would change the current law that allows the police to get a court order allowing them to use a tracking device to trace a suspect’s movements by allowing such orders to turn everyday electronics already used by most people into “tracking devices” that will monitor location for the police.

Basically, the two bills go a long way toward turning our everyday electronic environment into surveillance tools for the police. Under the proposed new laws, all telecommunications companies will have to build surveillance tools into their systems to allow authori-

ties to intercept communications on their networks. We have been battling these kinds of proposals for years and we’ve said the same thing over and over again about how the current police powers are entirely adequate to conduct investigations into crimes, including “cyber-crimes”. For a quick snapshot of the arguments we’ve made on these issues in the past, see www.bccla.org/othercontent/07CNA.pdf



WARRANTLESS INTERNET SURVEILLANCE?

So, is there anything left to say about “lawful access”? Yes, there is. It doesn’t appear that the police have acquired much evidence to support their claim that they need new powers. But we have certainly amassed a lot of evidence that shows when police get these types of powers, they are almost immediately abused. For example, for a number of years, police in the UK have had the kinds of powers that the federal government is proposing to give to our law enforcement. And the result? Is cyber-crime eradicated? Are more crimes being solved? No. But more and more ordinary citizens are under the gaze of the police for no readily apparent reason.

Astunning 1,500 surveillance requests are made in Britain every day. This means that annually, one in every 78 people in Britain are under police surveillance, some for investigations into such ludicrously trivial infractions as not picking up after their dogs. UK special powers surveillance has gone up over 40% in the last two years, mostly because, as they old adage goes: if you build it, they will come. They will come to snoop because they can.

As with every “lawful access” proposal to date, with your support the BCCLA will be opposing Bills C-46 and 47.

Your Rights on Trial

The BCCLA has been busy at all levels of court defending your rights and freedoms. Here's just a selection of our favourites since the last update.

Free Expression

Please complete a form A-27- e if you would like to express an opinion during the election.

BCTF et al v. AG of BC (BC Supreme Court)

The BCCLA intervened in this case which concerns restrictions on third party advertising that are imposed by the BC Election Act R.S.B.C. 1996, c.106 ("Bill 42"). Third party ads are advertisements by groups like unions, public interest groups and lobby groups. Bill 42 limits the extent that individuals and organizations can engage in political expression through election

advertising in the 60 day period leading to the calling of an election and 88 days prior to election day.

The BCCLA celebrated a victory when the Court held that the election restrictions were contrary to the protection provided by section 2(b) of the Charter of Rights and Freedoms that protects freedom of expression, and were unconstitutional and invalid; however, the Court refrained from ending the provincial government's requirement that all third party "advertisers" register with the provincial government.

Robert Holmes, of Holmes and King and President of the BCCLA was counsel for the BCCLA on this case.

Looks like a SLAPP suit, smells like a SLAPP suit, walks like a SLAPP suit...

CanWest MediaWorks
Publications Inc. v. Horizon
Publications (BC Supreme Court)

This case involves what the BCCLA argues is an attempt by Canwest MediaWorks (publisher of the Vancouver Sun, Province and Courier) to silence fair comment and satire. Canwest launched the civil suit alleging trademark infringement based on a mock edition of the Vancouver Sun, which parodied the layout and look of the newspaper in making arguments about perceived editorial bias in favour of Israel in the Israel-Palestine conflict. The BCCLA will be arguing in favour of free expression rights and against what it sees as a Strategic Lawsuit Against Public Participation (SLAPP) suit. A trial date has not yet been set.

The BCCLA is represented by **Monique Pongracic-Speier** of Schroeder Speier.

We won't tell you what we're doing, but you're free to say what you want about what we're doing.

Criminal Lawyers' Association v. Ontario
(Supreme Court of Canada)

In this case, where the BCCLA appeared at the Supreme Court of Canada, we argued that the right to access government information is part of the free expression right guaranteed to all Canadians. How can you express yourself on government policy if the government refuses to tell you what they're doing?

This case has important implications for journalists, advocates, academics and others who seek government documents. Citizens cannot make informed democratic choices unless information about public institutions is accessible and the activities of government are open and transparent. The BCCLA is waiting for a decision from the Court.

The BCCLA was represented by **Cathy Beagan Flood and Iris Fischer** of Blake, Cassels & Graydon LLP.

*September 28 to October 2 is B.C.'s
"Right to Know Week."*

BC Civil Liberties Association v. Ministry of Public Security and Solicitor General (Inquiry under the Freedom of Information and Protection of Privacy Act)



KARIN EMOND

The BCCLA continues its fight for the disclosure of all files reviewed by the provincial auditor who examined the police complaints process in 2007, and all notes generated in the preparation of the audit report, amounting to approximately 800 pages. The request has been ongoing for two years. We are patiently awaiting a decision while we celebrate the Provincial Government's "Right to Know" week.



YONG-JAE KIM

The BCCLA is represented by **Yong-Jae Kim** and **Karin Emond** of Lawson Lundell LLP.

*Our department of censorship is now closed.
Leave a non-political message after the tone.*

B.C. Transit v. Canadian Federation of Students
(Supreme Court of Canada)



CHELSEA WILSON

In a significant win for free expression, the Canadian Federation of Students, with the BCCLA as intervenor, brought a case that challenged Translink's ban on political advertising on buses and bus shelters. In a decision with major implications for many quasi-government institutions like the Vancouver Olympic Organizing Committee (VANOC), the CBC and others, the Court held that Translink was subject to the Charter and that their anti-political ad ban violated free expression rights. The CFS has already run its first advertisements on the transit service since the ruling.

Chris Sanderson, Q.C. of Lawson Lundell LLP and **Chelsea Wilson** represented the BCCLA.

Sure, the press is free. Free to give police all the information they have.

R. v. National Post (Supreme Court of Canada)

In another important case for journalists, at the Supreme Court of Canada, the BCCLA argued that the National Post, and by extension all journalists, should be able to promise their sources confidentiality as part of the constitution's guarantee of freedom of the press in all but very limited situations. Anonymous sources have been part of such critical political accountability exposés as the Watergate scandal in the United States, and the sponsorship scandal here in Canada, and the BCCLA argues that anonymous sources will be reluctant to bring forward information to journalists if the press cannot promise them anonymity. The BCCLA is waiting for a decision from the Court.

The BCCLA was represented by **George Macintosh Q.C.** and **Tim Dickson** of Farris, Vaughan, Wills and Murphy LLP.

Police Accountability

*"You have a right to counsel, just as soon as
we finish asking you a few questions"*

R v. Willier; R v. Sinclair; R v. McCrimmon
(Supreme Court of Canada)

The right of the accused to talk to a lawyer and have legal advice before and while being interrogated by police is at issue in this trio of cases at the Supreme Court of Canada.

In R v. Sinclair, the accused spoke with his lawyer for a total of six minutes. The police then interviewed him for several hours. He stated many times that he didn't want to speak to the police. The BCCLA is waiting for a decision from the Court.

The BCCLA was represented by **Warren Milman** and **Mike Feder** of McCarthy Tétrault.

Homelessness

Seems like only yesterday Victoria was trying to save the homeless from the elements. . .

Victoria v. Doe (B.C. Court of Appeal)



RON SKOLROOD

The BCCLA is waiting for judgment in this homeless rights case at the B.C. Court of Appeal. The key issue is if shelters are full, can people sleep outside and create shelters for themselves without facing municipal bylaw fines or harassment. The BCCLA argued that sleeping outdoors without shelter has serious adverse consequences for

a person’s health and safety and that Victoria’s by-laws interfere with the ability of individuals to access adequate shelter, a fundamental necessity of life. The Government has continued to argue that the homeless have the right to be rained on if shelters are full.

Ron Skolrood and **Elizabeth Clarke**, articulated student, of Lawson Lundell LLP represented the BCCLA.

Of course the homeless can vote! Can we please have photo ID that shows your address?

Henry et al v. AG Canada and Chief Electoral Officer Canada (B.C. Supreme Court)

This case involves a challenge to requirements in the Canada Elections Act that would have the effect of disenfranchising voters by implementing onerous ID requirements that even former Elections Canada officials say aren’t required. The voters most likely to suffer under this requirement would be the homeless and new Canadians, especially seniors, who may not have a driver’s license or other identification with an address. The case was heard in June 2009 and we’re waiting on the decision.

Dan Burnett of Owen Bird Law Corporation represents the BCCLA.

Drug Prohibition

Overdosing in a gutter sounds worse than it is, argues Government of Canada.

PHS Community Services Society v. Canada (Attorney General) and Vancouver Area Network of Drug Users v. Canada (Attorney General) (B.C. Court of Appeal)

The Government continues to pursue a reversal of the Insite decision that gave Vancouver’s safer injection site legal immunity from government closure. The arguments in the case have concluded at the B.C. Court of Appeal, and the BCCLA is waiting on a decision from the Court about whether or not Insite can continue saving lives.

Ryan Dalziel and **Daniel Webster, Q.C.** of Bull, Housser & Tupper LLP represent the BCCLA.

File under: Innovative police ideas that just might not survive the Charter.

Arkininstall v. City of Surrey (B.C. Court of Appeal)

Next year, the BCCLA will be at the Court of Appeal arguing that the police still need to get search warrants when looking for grow ops, and shouldn’t be tagging along on municipal or hydro inspections of houses without sign-off by a judge.

The BCCLA is represented by **Brent Olthuis** and **Micah Rankin** of Hunter Litigation Chambers.

Privacy

Wild Coyote tamed by BCCLA and Privacy Commissioner.

Wild Coyote Club Inquiry
(Inquiry under the Freedom of Information and Protection of Privacy Act)

In this case, the BCCLA declared victory when the Commissioner agreed with our submissions that the Wild Coyote Club did not comply with B.C.’s privacy law when scanning and storing driver’s license infor-

mation of its patrons. The Club later negotiated a private settlement with the Commissioner with increased privacy protections and safeguards for patrons. We continue to monitor the situation.

Brian Samuels of Samuels & Co. and **Kieran Bridge** of Harper Grey LLP represented the BCCLA.

Torture

Prime Minister of Canada et al v. Khadr
(Federal Court of Appeal)

The BCCLA continues to take great interest in the effort to repatriate Canadian citizen Omar Khadr who is being held in Guantanamo Bay, where reports of tactics like sleep deprivation and isolation continue to draw criticism. When the case was in the Federal Court, the BCCLA's request to intervene was turned down by the Federal Court of Appeal, but we will apply again to intervene as the case is now being appealed to the Supreme Court of Canada.

Joe Arvay and **Elin Sigurdson** of Arvay Findlay Barristers and **Professor Sujit Choudhry** of the University of Toronto School of Law represent the BCCLA.

Frank Paul Inquiry
Provincial Inquiry/Criminal Justice Branch v. Davies
(BC Court of Appeal)

The BCCLA participated in the provincial public inquiry into the death of Frank Paul, a 47-year-old Mi'kmaq man left by Vancouver police in a downtown eastside alley where he died of exposure. The inquiry released a preliminary report, but the conclusion of hearings has been totally stalled by the Provincial Criminal Justice Branch (CJB), which is arguing that crown prosecutors should not have to testify about why they didn't criminally charge the involved officers. They're arguing this even though the terms of reference, set by

the Attorney General who is the nominal head of the CJB, clearly say the prosecutors need to testify.

The CJB says that prosecutors have special "immunity" and that forcing them to testify will inappropriately interfere with their independence. So far no court has agreed with them, and we're waiting on the latest decision of the Supreme Court of Canada about whether or not they want to hear about the issue.

The BCCLA is represented by **Michael Tammen** of Harper Grey LLP and **Grace Pastine**, BCCLA Litigation Director.

Afghanistan Public Interest Hearing
(Military Police Complaints Commission)

Canada's torture hearings will start again in October concerning the military's failure to investigate why and how Canadian military officers with command responsibility decided to transfer detainees to Afghan authorities, knowing the risk of torture. The investigation was launched after a joint complaint was made by the BCCLA and Amnesty International Canada. The BCCLA and Amnesty argue that the Canadian Military ignored strong evidence of a significant risk of torture.

The BCCLA and Amnesty International are represented by **Paul Champ** of Champ and Associates and **Grace Pastine**, BCCLA Litigation Director.

Visit www.bccla.org for more info.



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