



## **SPYING IN CANADA: Civil Liberties Watchdog Sues Surveillance Agency Over Illegal Spying On Canadians**

**Electronic privacy protections and oversight are worse in Canada than in the United States**

VANCOUVER, B.C. (October 22, 2013) - The BC Civil Liberties Association (BCCLA) filed a lawsuit today against the Communications Security Establishment Canada (CSEC) claiming that its broad and unchecked surveillance of Canadians is unconstitutional.

The lawsuit argues that two aspects of CSEC's operations violate the Charter of Rights and Freedoms' protections against unreasonable search and seizure and infringe on free expression:

- 1) The interception of the private communications of Canadians;
- 2) The sweeping collection of metadata information produced by Canadians in their everyday activities online and through phone conversations.

The lawsuit was filed in the B.C. Supreme Court and is the first challenge to the legality of CSEC's spying activities against Canadians.

CSEC is the Canadian counterpart to the U.S. National Security Agency (NSA), and engages in similar surveillance activities, including those recently revealed through investigative reports based on secret documents leaked by NSA whistleblower, Edward Snowden.

At present, CSEC is permitted to read Canadians' emails and text messages, and listen to Canadians' phone calls, when a Canadian communicates with a person outside Canada. When seeking to intercept the content of Canadians' emails, text messages and phone calls, the agency must seek a ministerial authorization from the Minister of

National Defence. The Minister's authorizations permit for broad collection of Canadians' personal communications and are entirely secret.

"Unaccountable and unchecked government surveillance presents a grave threat to democratic freedoms," says Joseph Arvai, Q.C., lawyer for the BCCLA. "We are deeply concerned that CSEC is gaining secret, illegal access to the private communications of ordinary Canadians, and there are no reasonable safeguards in place to monitor its activities. We know from the experiences of other countries that government agencies have a tendency to push and even break the boundaries of spying unless they are checked."

Unlike the United States, there is no court or committee in Canada that monitors CSEC's interception of private communications, and there is no judicial oversight of its sweeping powers. This is a serious departure from the safeguards that protect Canadians from domestic spying or police agencies, such as CSIS and the RCMP, which must seek judicial warrants before intercepting the communications of Canadians.

CSEC also operates under a ministerial directive, issued by the Minister of National Defence in 2011, that allows it to collect and analyze the metadata information that is automatically produced each and every time a Canadian uses a mobile phone or accesses the internet. This private metadata includes the exact geographic location of the mobile phone user, records of phone calls and Internet browsing.

"This kind of wholesale surveillance is fundamentally incompatible with Canadian law," says David J. Martin, lawyer for the BCCLA. "Metadata information can reveal the most intimate details of Canadians' personal lives, including relationships, and political and personal beliefs. The majority of Canadians use the Internet and telecommunications on a daily basis, and we should be able to do so without the government snooping on our personal information and monitoring our behaviour online."

OpenMedia.ca has launched a national public outreach campaign calling on all Canadians to show their support for the BCCLA's case. OpenMedia.ca is Canada's largest civic engagement organization that works to ensure the Internet is open, affordable, and surveillance-free.

"CSEC spying is secretive, expensive, and out of control," says OpenMedia.ca Executive Director Steve Anderson. "We're talking about a secretive agency having the power to spy on the private lives of any resident of Canada, at any time, and we can't even tell when we've been victimized by it. We strongly support the BCCLA's court challenge, and that's why today we're hosting a campaign that calls on all Canadians to stand with

the BCCLA and demand a stop to these reckless programs of arbitrary online spying involving law-abiding Canadians.”

The BCCLA’s lawsuit follows on the heels of startling revelations about the interception of Internet and telephone communications of American and British citizens by their respective governments. Recent disclosures have shown that the U.S. government is regularly tracking the calls of almost every ordinary American, and spying on a vast but unknown number of Americans’ international calls, text messages, and emails.

While CSEC claims to “target” its collection efforts on persons outside of Canada, the spy agency is allowed to capture the communications of Canadians at home and abroad if the collection relates to obtaining “foreign intelligence.” CSEC shares this information with foreign intelligence entities in the United States, the United Kingdom, New Zealand and Australia.

“Canada is not a nation of secret laws,” says Caily DiPuma, Counsel for the BCCLA. “It is fundamental to the proper operation of our democracy that Canadians be able to access and understand the laws that impact their rights and freedoms. It is simply not enough for the government to ask Canadians to “trust” their spy agencies. We are not a society of blind faith – we are a society of accountability, transparency and free and open debate.”

The BCCLA is represented by lawyers Joseph Arvay, Q.C. of Arvay Finlay Barristers, David J. Martin of Martin and Associates and Caily DiPuma of the BCCLA.

Read more about the case at <http://bccla.org/stop-illegal-spying/>

Read the Notice of Claim at <http://bccla.org/wp-content/uploads/2013/10/2013-10-22-Notice-of-Civil-Claim.pdf>

Read the case backgrounder at [http://bccla.org/wp-content/uploads/2013/10/Final-Backgrounder\\_Illegal-Spying.pdf](http://bccla.org/wp-content/uploads/2013/10/Final-Backgrounder_Illegal-Spying.pdf)

Read more about OpenMedia.ca’s public outreach campaign at [https://openmedia.ca/csec?utm\\_source=bccla&utm\\_medium=email&utm\\_campaign=privacy](https://openmedia.ca/csec?utm_source=bccla&utm_medium=email&utm_campaign=privacy)

### **Contact Information:**

For more information about the lawsuit or Canadian surveillance issues:

Grace Pastine

604-630-9751

[grace@bccla.org](mailto:grace@bccla.org)

For more information regarding the public outreach campaign:

David Christopher

Communications Coordinator, [OpenMedia.ca](http://OpenMedia.ca)

(778) 232 1858

[david@openmedia.ca](mailto:david@openmedia.ca)