

# BCCLA

2015 ANNUAL REPORT

WE ARE ALL EQUAL CITIZENS

B.C. CIVIL LIBERTIES ASSOCIATION

## ANNUAL GENERAL MEETING

TUESDAY MAY 3 FROM 7:00 TO 9:00 PM

SFU HARBOUR CENTRE

Joseph and Rosalie Segal Conference Rooms

1400-1410, 515 W. Hastings St, Vancouver, BC

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# LETTER FROM THE PRESIDENT: A NEW MOMENT, AND A PLAN TO REBUILD

BY LINDSAY M. LYSTER



In the last decade, the job of defending rights and freedoms has been especially difficult.

Different levels of government have spent much energy passing laws, or engaging in practices, that have directly threatened the constitutional rights of Canadians. This has meant a lot of work for the BC Civil Liberties Association.

Now, there is a new moment in Canadian public life. The new government says that it will endeavour to respect human rights and freedoms. But how will we make sure of that? We believe the government is sincere in this, but to paraphrase BCCLA supporter Paul St-Pierre, who passed away just over a year ago, while government goals may be benign rather than malevolent, there is much to be concerned about in well-intentioned errors and overreach.

And the last decade has left so many weak spots in the protection of human rights that it is a massive undertaking to rebuild. Ensuring the restoration, and enhancement, of human rights and civil liberties at the national level is one of the most critical aspects of the BCCLA's work over the next few years.

This work has already begun. We are seeing movement on a range of files – like Bill C-6 which aims to end the discriminatory second-class citizenship provisions introduced by the previous government. We have been tirelessly advocating to ensure that no barriers are placed in the way of patients being able to access their constitutional right to a dignified death.

We are pushing for comprehensive changes to Bill C-51 and our national security laws, including demanding greater accountability of the Canada Border Services Agency. In direct response to our advocacy following two tragic deaths in custody, the government has promised to act. We have pushed MPs to re-think the way that the government reviews new laws to ensure *Charter* rights are respected, and succeeded in getting the Justice committee to commit to conducting a study of this issue.

With a new government that, in its early days, is listening, we have to seize the opportunity to push forward on our objectives. And when these fail, litigation remains the sharpest tool in our toolbox to achieve our mission. We are driving forward even more quickly now on our lawsuits against mass, warrantless online surveillance and prolonged solitary confinement, and actively looking at other test case litigation at the provincial and federal levels alike.

Last year, our supporters provided us with the strongest financial support that we have ever received. This year, we need the continued strong commitment of our members. Together we will make this opportunity count. We can rebuild respect for civil liberties, one law at a time.

Sincerely,

A handwritten signature in black ink, reading "Lindsay M. Lyster".

Lindsay M. Lyster

# 2015 BY THE NUMBERS

By all accounts 2015 was the BCCLA's most successful year on record. In our long history we have won many important victories for human rights and civil liberties, but in 2015 our impact was greater than ever. Here's a brief look at what we accomplished:

6

The number of BC communities we worked with to publish "Hungry for Justice" a groundbreaking report on a legal right to food for BC's children

11

The number of languages we published information in on changes to citizenship

31

The number of active court cases we were involved in

84

The number of public education events we took part in

1456

The number of individuals assisted through our casework program

118 178

The number of people who stood with us in calling for an end to second-class citizenship

1 300 000

The number of people who read our '8 Things to Know About C-51'

25 000 000

The reach of our public education strategy on our second-class citizenship work

# 2015

## VICTORIES FOR RIGHTS

2015 gave civil liberties groups lots of work to do. While the year saw BCCLA pushing back against legislation that threatened citizenship equality, and anti-terrorism legislation that undermined our rights and freedoms, 2015 also delivered some important victories that deserve celebration. Here's just a few:

### WINNING THE RIGHT TO SELF-DETERMINATION AT THE END OF LIFE

On February 6, 2015 the Supreme Court of Canada issued a unanimous ruling affirming the right of seriously and incurably ill Canadians to choose medical assistance in dying. As this annual report goes to print, we are just days away from seeing proposed federal legislation governing this medical procedure, and we will continue to push for safe nation-wide access

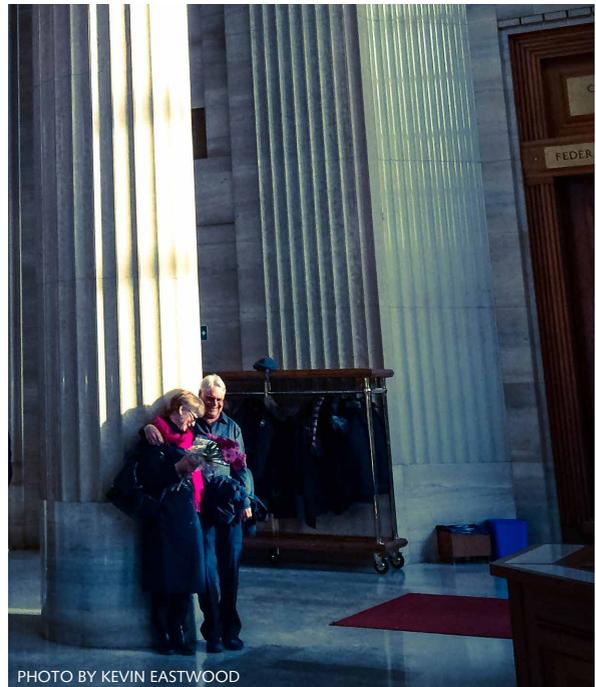


PHOTO BY KEVIN EASTWOOD

for Canadians suffering against their will. As of June 6, 2016 - for the first time in our history - Canadians will have the right to choose from a full range of end-of-life choices, free from criminal punishment.

## CHALLENGING LONG-TERM SOLITARY CONFINEMENT

Solitary confinement as it is currently practiced in Canada violates core constitutional rights. It has led to preventable death and suffering. It is discriminatory in its use – mentally ill and Indigenous prisoners are placed in solitary confinement at a rate higher than other prisoners. And while lengthy isolation can seriously worsen mental illness, solitary confinement is increasingly being used to warehouse prisoners with mental health issues. In January of 2015 the BCCLA launched the first constitutional law suit seeking to reform the use of long-term solitary confinement in Canadian prisons. We expect to



PHOTO BY HENRY HAGNAS LICENSED UNDER CREATIVE COMMONS

go to trial in September 2016.

## REFORMING NON-CONVICTION DISCLOSURES ON POLICE INFORMATION CHECKS

After years of expressing concern about the disclosure of non-conviction information on police background checks we're thrilled that we can finally report some positive changes.

The most significant change is an end to the disclosure of mental health information on police information checks for both the non-vulnerable and vulnerable sectors. Going forward, they will be disclosing only warrants, outstanding charges and convictions – information subject to some sort of oversight, be it from a Crown prosecutor or a judge. We believe that this strikes an appropriate balance between an individual's privacy and the kind of information that, in some cases, may be legitimately relevant to an employer.

## PASSING THE PROTECTION OF PUBLIC PARTICIPATION ACT

This new law out of Ontario is aimed at stopping strategic lawsuits, commonly referred to as SLAPPs (Strategic Litigation Against Public Participation)--a tactic used by an individual or company to silence critics. The BC Civil Liberties Association believes that SLAPPs represent a real and present danger to the exercise of free expression in the province of British Columbia, and across Canada. This legislation in Ontario should act as a model for other provinces.

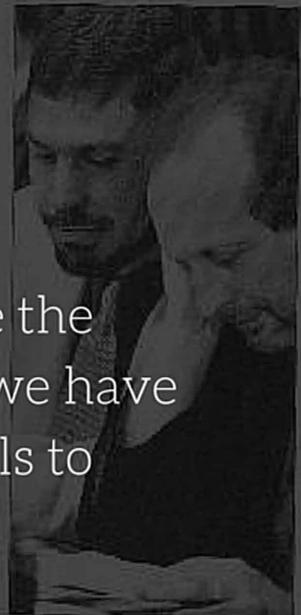
## BIG FOCUS ON BIG DATA

Big data is more than just 'more data'. It is unprecedented amounts of data, linked and analysed in ways never before imagined. This affects us in everything from apps claiming to determine credit ratings based on our Facebook friends to 'risk scoring' for national security purposes. The implications for individuals' rights are vast. Not only is big data a massive threat to privacy, but decision-by-algorithm affects due process rights, and can even threaten equality rights when prejudicial stereotyping is part of analytical processes. Big data surveillance is a leading 21st century civil liberties and human rights arena and we are delighted to be working with universities and civil society partners to conduct the biggest most extensive investigation of this issue ever undertaken in Canada.

# Declassified Arar information shows CSIS foresaw torture

“We have gaping holes in our accountability framework left shamefully unaddressed since the Arar Commission. Now with C-51 in the mix, we have legislation that both violates our rights and fails to make us safer.”

-MICHEAL VONN



Lawyer Lorne Waldman, right, seen here with Mihir Arar at the federal inquiry into the process that led to Arar's deportation to Syria, says the declassified sections are "shocking and disturbing." — Reuters/Canadian Press

## THE BCCLA IS CALLING 2016

# 'THE YEAR OF NATIONAL SECURITY REFORM AND ACCOUNTABILITY'

BY MICHEAL VONN, POLICY DIRECTOR

In 2015, the national security landscape of Canada was radically altered with the passing of Bill C-51, *the Anti-Terrorism Act* 2015.

The BCCLA was the first to speak out against the omnibus national security bill and we were unrelenting in our efforts to educate the public and policy makers on why the bill is both bad law from the perspective of human rights and bad security policy.

The passing of the bill with only minor amendments was a severe blow to civil liberties

**We can't afford to get national security accountability wrong.**

in Canada. Among other items, it ushered in a U.S.-style no-fly scheme, dramatically increased the policing powers of CSIS, and gave unprecedented scope for surveillance and the

dissemination of our personal information throughout federal government agencies.

But the fight is far from over.

In fact, it is arguable that 2016 will be the decisive year for shaping the national security environment in Canada. And here's how come.

The federal government has committed to a consultation on national security, stating that it

is open to bringing in amendments to C-51 and bringing in accountability mechanisms that were so conspicuously missing from the bill. This is a rare opportunity and we intend to seize it.

We began by spearheading a call on behalf of civil society organizations for the government to commit to a robust framework of review for national security accountability. Concerned that the government had focused its discussion of accountability measures on a Parliamentary Committee, we called for a commitment to a more expansive framework of national security review which would bring accountability to agencies that currently exist with no review bodies at all, such as the Canadian Border Services Agency, and allow for overarching review that matches the integration of different agencies' work and is not stymied by being 'siloes'.

We intend to keep helping to unite the civil society call to ensure that the promised national security consultation is thorough and meaningful. And those advocacy efforts will be augmented by our Parliamentary Committee and Senate Committee submissions on the proposed amendments to C-51 and, finally, our recourse to litigation should the amended C-51 persist in violating *Charter* rights.

In 2016, we are dedicating a massive amount of work to national security reform and accountability because we may not see another window to address this for a very long time to come and it has already been many years that the recommendations of the Arar Inquiry have been dangerously ignored. In a 2012 review, the UN Committee against Torture noted with concern that the Arar Inquiry proposal for a "model of comprehensive review and oversight of law

enforcement and security agencies involved in national security activities" had not been implemented. It remains unimplemented to this day.

**National security oversight [...] is unique in the seriousness of the human rights violations that flow from failures to mitigate the risk of abuses which have disproportionately impacted Canada's Muslim, Arab, and South Asian communities...**

We can't afford to get national security and national security accountability wrong.

While every aspect of government requires accountability, national security accountability faces a combination of challenges that are entirely unique. It is unique in the secrecy that is often necessary in its operations and even in its reporting. It is unique in the

seriousness of the consequences that flow from failure to adequately monitor performance and efficacy. And it is unique in the seriousness of the human rights violations that flow from failures to mitigate the risk of abuses which have disproportionately impacted Canada's Muslim, Arab, and South Asian communities who have faced heightened suspicion by the security establishment and negative stereotyping in society.

And, finally, we continue to work with all our academic and civil society partners in an international, multi-year research project on Big Data Surveillance. We use that work to help educate the public and policy makers about how data analytics are shaping the surveillance mandate of national security agencies and how that impacts individuals' rights.

It's a critical time for national security reform and accountability and we are extremely pleased to be working, individually and in coalition, on so many fronts to make the most of this year's opportunities.

# EQUAL CITIZENSHIP RESTORED!

BY LAURA TRACK, STAFF COUNSEL

Bill C-24 was discriminatory, anti-immigrant, and un-Canadian. Bill C-6, tabled in the House of Commons in late February, would undo those changes and restore equal citizenship in Canada.



BY YOHAN DECELLES

The government has finally tabled its highly anticipated bill repealing changes made to the Citizenship Act by the former government. Those changes, known as Bill C-24, created two tiers of Canadians: those who could have their citizenship revoked, and those whose citizenship was secure. The law was discriminatory, anti-immigrant, and un-Canadian. Bill C-6, tabled in the House of Commons in late February, would undo those changes and restore equal citizenship in Canada.

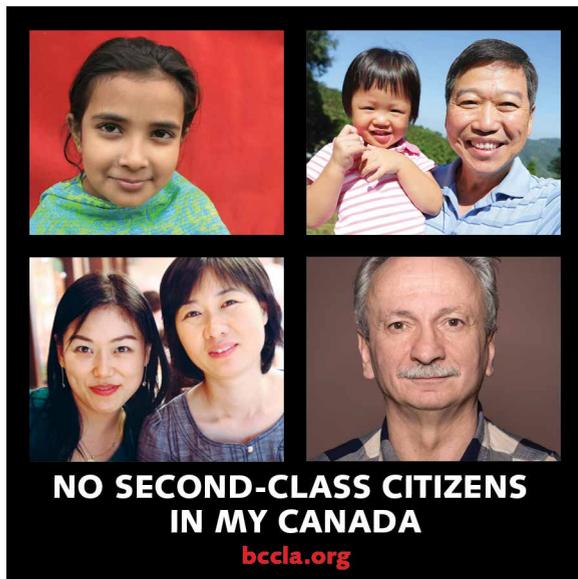
The changes made by Bill C-24 allow a government Minister to revoke the Canadian citizenship of anyone who is a dual citizen of another country (or anyone the government thinks is even *eligible* for dual citizenship) whether they were born in Canada or abroad, if they commit certain serious crimes.

It also makes new Canadians vulnerable to having their citizenship revoked if they move abroad to take a job, study internationally, or take care of a sick relative in another country. New Canadians have to promise they intend to reside in Canada, an obligation not imposed on other Canadians, who may live and work outside the country for as long as they like. The right to move freely in and out of Canada is a key right guaranteed to all Canadians. Bill C-24 makes that right contingent on where you were born.

The BCCLA denounced this law as undemocratic and un-Canadian from the moment it was first proposed. Working with the Canadian Association of Refugee Lawyers (CARL), we advocated against the bill's passage, making submissions to the House of Commons and meeting with MPs and Senators. We launched a massive public

education campaign and a petition calling for the bill's repeal, which gathered 118,000 signatures from across Canada.

However, the government ignored these calls and the bill came into force last summer. We responded by launching a constitutional chal-



lenge to the discriminatory and anti-immigrant elements of the new law. Together with our partners at CARL, we challenged Bill C-24 for violating *Charter*-protected rights to equality, mobility, and security of the person. We also took aim at the lack of procedural protections for people facing revocation proceedings.

The idea of separate classes of Canadians, with some having fewer rights than others, really struck a chord with Canadians. A blog post about the new law this past summer garnered so many hits it literally crashed our server. We also launched a crowdfunding campaign, and within 24 hours of filing our lawsuit, we had raised \$25,000 to help support the case. By the time we closed the fundraising campaign a few weeks later, the total had grown to over \$60,000. Clearly, Canadians were behind us.

Bill C-24 came into force just a few weeks before the 2015 election campaign kicked off. As we

moved into the fall, the BCCLA began the largest multi-lingual public education campaign we have ever engaged in, producing op-eds in eleven languages for placement in multi-ethnic media, and doing interviews with diverse multi-language radio and television stations nationwide. We knew this was a critical issue that millions of Canadians cared about, and we were well-placed to contribute to the public dialogue and continue our work to provide credible, non-partisan information and analysis. We even saw the new Prime Minister adopt our messaging around the issue with the now-famous line "A Canadian is a Canadian is a Canadian."

The repeal of Bill C-24 is of course a welcome and highly anticipated step towards restoring equal citizenship in Canada. The reforms aren't perfect, and still leave too much power in the hands of government bureaucrats to revoke citizenship in cases of fraud or misrepresentation, without the involvement of a judge (we will keep fighting on this issue). But it's a step in the right direction – the direction of equal rights for all Canadians.



PHOTO BY JAG PHOTOGRAPHY

# DEATH WITH DIGNITY – A CONTINUING STRUGGLE

BY GRACE PASTINE, LITIGATION DIRECTOR

In 2011, Gloria Taylor phoned me at the BCCLA and I had the sense, almost immediately, of wanting to work with her. I was part of the BCCLA’s legal team working on the issue of physician-assisted dying. Over the phone, Gloria’s voice was strong and clear, but I also understood that she was very sick.

I met Gloria in person at her home in West Kelowna, British Columbia. She greeted me with a warm hug and asked me to join her family for dinner – her two sons, her 11 year-old granddaughter, Gabby, and her three sisters and their husbands. It was a boisterous crowd. There was roast turkey and perogies Gloria had made from a family recipe.

Before dinner, Gloria showed me pictures of her beloved Harley-Davidson Super Glide motorcycle, painted in her favourite color, purple, and detailed with stars and unicorns. In her younger days, she had travelled thousands of miles on that bike. Gloria knew her days of riding motorcycles were over. Sadly, Gloria did not know how many more family dinners she would have.

Two years earlier, at age 61, she was diagnosed with amyotrophic lateral sclerosis, known as ALS, or Lou Gehrig’s disease – a progressive condition with no cure. ALS weakens muscles until paralysis sets in. Her doctor told her that ALS often paralyzes the muscles that control

breathing. Gloria became filled with dread by the idea that, as her breathing deteriorated, she would suffocate, struggling for air like a fish out of water. Despite all this, Gloria worked to found a support group for people living with ALS; she learned to use a respiratory ventilator; and she lived independently at home with the help of caregivers.

Gloria was a woman of faith, and she believed that God did not want her to suffer, especially at the end. If her suffering became unbearable, she wanted a choice. She did not want to die in

a struggle with pain, gasping for breath. She wanted a peaceful and dignified death at home, embraced by family and friends.

Was this too much for Gloria to ask? Yes, in 2011 it was. A doctor that helped her could go to jail; it was against the law. Gloria joined the Carter family and many

more Canadians in fighting to change that law.

Unfortunately, Gloria did not live to see her legal victory. She died of an infection quickly and without pain, surrounded by people she loved.

In 2015, after a four-year legal struggle, the BCCLA finally won the historic court case on behalf of Gloria and all Canadians who need a choice at the end of life. On that day, the Supreme Court of Canada unanimously ruled that Canadians suffering unbearably with a serious, incurable



PHOTO BY THE NATIONAL POST

medical condition have the right to seek a compassionate death with the assistance of a doctor.

The Supreme Court gave Parliament and the provincial legislatures 12 months to enact legislative guidelines upholding the right of patients to die with dignity. Earlier this year, the Court granted the government an additional four months – they have until June 6, 2016.

Now, with federal legislation on the horizon, the same groups who opposed Gloria's court case are lobbying hard for restrictive laws that will create so many barriers that accessing physician

assisted dying could be effectively impossible for many seriously and incurably ill Canadians.

We are fighting hard to ensure that governments do not place obstacles in the way of suffering Canadians who seek their right to a medically-assisted death. We hope that the federal and provincial governments act with leadership in protecting this right - all of us have a role to play in ensuring that.

Gloria believed that all Canadians should have the right to a compassionate dying process. More work remains to be done but today we are closer than ever to making Gloria's dream a reality.



PHOTO BY KEVIN EASTWOOD

# CASEWORK

AND COMPLAINT ASSISTANCE / **HELPING PEOPLE**

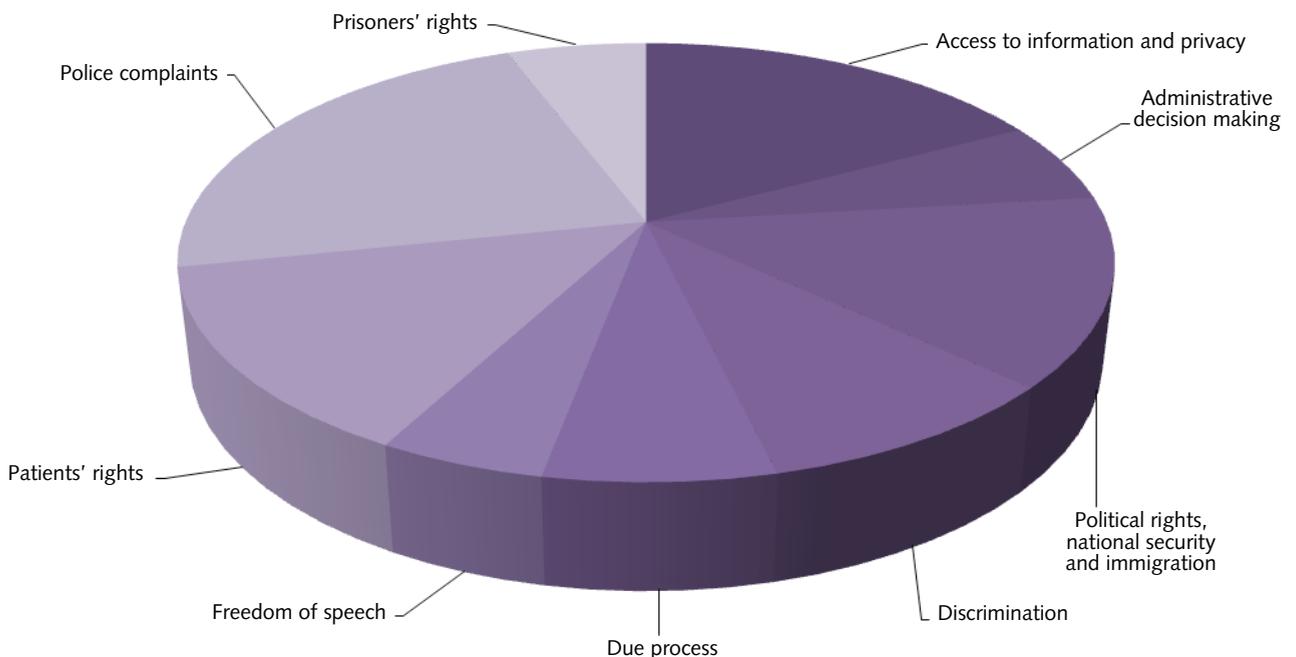
BY ALYSSA STRYKER, CASEWORKER

In 2015, the BCCLA was a resource for roughly 1500 individuals seeking assistance or direction with their civil liberties concerns. The cases that we dealt with in 2015 spanned every conceivable area of our civil liberties mandate, from police issues and prisoners' rights to free speech and access to information.

We were there to assist in any way we could, providing guidance with police complaints and access to information requests, writing letters of support for individuals to make use of while advocating on their own behalf, or helping with referrals to other organizations when we did not have the ability to assist directly.

While we try our best to assist all the individuals who contact us, a significant number of the requests we receive continue to be from individuals desperate for low-cost legal advice, something that we are not able to provide. The frequency of these requests is a sobering daily reminder that the chronic underfunding of legal aid continues to adversely affect many of BC's most vulnerable, and that access to justice is currently a luxury from which many are excluded.

CASEWORK ASSISTANCE BY ISSUE AREA



## CASEWORK HIGHLIGHTS

## NELSON PANHANDLING BYLAW

We heard from three different concerned citizens in Nelson, BC, about a proposed panhandling bylaw and the threat it posed to the civil liberties of low-income citizens. The proposed bylaw would have made it an offence to panhandle throughout vast swaths of the city, including within five metres of an entrance to a bank, credit union, liquor store, movie theatre, sidewalk café, ATM, bus stop or bus shelter, pay phone, public washroom or place of worship. The proposed bylaw also tried to ban panhandling after sunset, and restricted the amount of time a person could occupy a particular place to panhandle to one hour out of every four. The BC Supreme Court has declared panhandling to be a form of expression protected by the Charter of Rights and Freedoms, and in our view this proposed bylaw is a significant threat to Nelsonites' civil liberties. Thanks to the advocacy of concerned citizens and civil society groups, Nelson City Council decided to delay voting on the bill until Spring 2016, to allow more time for consultation, and we'll be ready to oppose it again once it is back on the table.

## FETAL ALCOHOL SPECTRUM DISORDER

At the urging of community members and in keeping with our commitment to work toward operationalizing the recommendations of the Truth and Reconciliation Commission, we highlighted the issue of Fetal Alcohol Spectrum Disorder (FASD) in the criminal justice system on our blog. This condition – caused by permanent brain damage resulting from alcohol exposure in the womb – often causes behaviour that makes it disproportionately likely that a person living with FASD will come into contact with the law. And when they do, we think it is necessary for sentencing judges to take their FASD status into account when deciding what a sentence should look like in a given case. The importance of individualized sentences is one of the main reasons for our staunch opposition to mandatory minimum sentencing. Thanks to our casework connections, we were able to highlight the issue of FASD in a way that was responsive to community concerns.



# IN THE COURTS

## OUR THANKS TO THE LEGAL COMMUNITY

As part of our commitment to upholding civil liberties and human rights, the BCCLA uses targeted litigation to achieve broad and lasting changes. The BCCLA benefits from the significant pro bono assistance of some of Canada's finest legal counsel and a growing staff of lawyers. In 2015, we litigated 25 cases. Here are some of the highlights from our 2015 legal docket.

### CHALLENGING ILLEGAL SPYING

Edward Snowden provided the world with a series of astonishing revelations about global surveillance activities. Those leaks confirmed the existence of the massive scale of governmental surveillance. The activities of Canada's spy agency, the Communications Security Establishment Canada (CSEC), are largely cloaked in secrecy. The BCCLA filed a lawsuit against CSEC calling on the government to state clearly who they are watching, what is being collected, and how they are handing Canadians' private communications and information. Our lawsuit claims that the secret and unchecked surveillance of Canadians is unconstitutional and presents a grave threat to democratic freedoms. Our lawsuit is the first challenge to the legality of CSEC's spying programs.

By law, CSEC is permitted to read Canadians' emails and text messages, and listen to Canadians' phone calls, whenever a Canadian is communicating with a person outside Canada. CSEC also operates under a secret ministerial directive that allows it to collect and analyze the metadata information that is automatically produced each time a Canadian uses a mobile phone or accesses the internet. There is no court or committee that monitors the CSEC's interception of these private communications and metadata information, and there is no judicial oversight of its sweeping powers. CSEC's operations are shrouded in secrecy. The BCCLA is represented by Joseph J. Arvey, Q.C. of Farris, Vaughan, Wills

& Murphy LLP and David J. Martin of Martin and Associates.

### PROTECTING THE RIGHTS OF THE HOMELESS

Telling homeless people who have nowhere else to go that they can sleep outside but they cannot protect themselves from the elements places the homeless in an impossible situation. At issue in *BC/Yukon Association of Drug War Survivors v. City of Abbotsford*, a case heard by the BC Supreme Court, was the constitutionality of the City of Abbotsford's bylaws that prohibit being present in a park overnight, erecting any form of shelter in parks or public places, and sleeping in vehicles located on public property. The BCCLA intervened in the case to argue the potentially catastrophic effects of homelessness on civil liberties, including the right to vote, the right to secure government benefits, and the right to participate in the democratic life of the community. In a victory for civil liberties, the Court ruled that the bylaws prohibiting homeless people from sheltering themselves in public space are unconstitutional. The lawsuit was sponsored and litigated by pivot Legal Society and we were proud to be able to help support their pioneering legal work. The BCCLA was represented by Alison Latimer of Farris, Vaughan, Wills & Murphy LLP.

## OPPOSING MANDATORY MINIMUM SENTENCES

The BCCLA has been a longstanding opponent of mandatory minimum sentencing. Mandatory minimum sentencing in Canada is at an alltime high even as crime rates have been dropping steadily and are at their lowest point since the early 1970s. In 2014, the BCCLA released a comprehensive report analyzing the financial, social, and legal implications of mandatory minimum sentencing in Canada. The evidence is clear: mandatory minimum sentencing fails to reduce crime, yet comes at a staggering personal, social, and financial cost.

In 2015, the BCCLA challenged the constitutionality of mandatory minimum sentencing for certain firearms offences in the cases of *R. v. Nur* and *R. v. Charles*. In those cases, the Supreme Court of Canada struck down the mandatory minimum sentencing scheme. The Court highlighted how mandatory minimum sentences have the potential to frustrate proportionality in sentencing, and set out the harms that can flow from mandatory minimum sentencing schemes. The BCCLA was represented by Nader Hasan and Gerald Chan, previously of Ruby Shiller Chan Hasan Barristers, currently of Stockwoods LLP.

In *R. v. Lloyd*, the BCCLA intervened at both the BC Court of Appeal and the Supreme Court of Canada to oppose mandatory minimum sentences for drug offences, arguing that the perils of the law would be visited upon the most marginalized and vulnerable offenders: lowincome drug users and the drugaddicted. The BC Court of Appeal declined to rule on the constitutionality of the provision. The Supreme Court of Canada has reserved judgment. The BCCLA is represented by Matthew Nathanson of MN Law in that case.

## ADVOCATING FOR PATIENTS' RIGHTS

In *R. v. Smith*, the Supreme Court of Canada unanimously held that the prohibition on possession of nondried forms of marijuana

infringed patients' rights and was unconstitutional. Previously, under federal regulations, patients were only legally permitted to access "dried marihuana" for treatment purposes. That meant that ingestion was limited to smoking or vapourizing the marijuana. The BCCLA intervened to argue that forcing people to smoke to take their medication was an obvious violation of patient's rights. We argued that there is no connection between the prohibition on nondried forms of medical marijuana and the government's objective of protecting health and safety of medical marijuana users. The BCCLA was represented by Jason Gratl of Gratl & Company.

## PROTECTING FREE EXPRESSION AND ASSOCIATION

In 2008, the Province of Saskatchewan enacted two pieces of labour legislation: the Public Service Essential Services Act (PSESA) and the Trade Union Amendment Act. The effect of these laws was, respectively, to place limits on which public sector workers can go on strike and to make certification of a union more difficult. Labour organizations challenged the legislation as violating free expression and association under the *Charter*.

The BCCLA intervened in the case at the Supreme Court of Canada. We argued that the "right to strike" is guaranteed by both free expression and free association, and that both of these fundamental freedoms must be considered together to define the nature of the conduct protected by the *Charter*. The BCCLA argued that workers' collective withdrawal of labour to advance common goals is both an act of association and of expression.

The Court agreed, and rendered its judgement in January 2015. The Court held that the prohibition against strikes in the PSESA substantially interferes with meaningful collective bargaining and violates section 2(d) of the *Charter*. The Court found that the infringement on freedom of association was not justified under section 1. The BCCLA was represented by Lindsay M. Lyster of Moore Edgar Lyster Lawyers.

# CHALLENGING SOLITARY CONFINEMENT IN CANADIAN PRISONS



**G**o into your bathroom and close the door. Now try to imagine the passing of hours...days...years.

Solitary confinement has been described by many names – “administrative segregation”, “the hole”, “isolation”. It has been called a prison within a prison.

It is the practice of confining a prisoner to a cell and depriving him or her of meaningful human contact for up to 23 hours a day, sometimes for months and years at a time.

Canadian prison expert Michael Jackson has described solitary confinement as “the most individually destructive, psychologically crippling and socially alienating experience that could conceivably exist within the borders of the country.”

In Canada, one out of every four prisoners in the federal prison system has spent some time in solitary confinement. At any given time, there are as many as 1800 people in solitary confinement in federal or provincial prisons.

The research is clear that the practice of solitary confinement, particularly where it is imposed for extended periods of time, has deeply harmful psychological and social impacts on individuals.

In 2015, the BCCLA and the John Howard Society of Canada launched a constitutional challenge to the use of solitary confinement in Canadian federal prisons.

Our lawsuit claims that the provisions of the Corrections and Conditional Release Act setting out the “administrative segregation” regime violates section 7 (protection of life, liberty and security of the person), sections 9 and 10 (protections against arbitrary detention), section 12 (prohibition against cruel and unusual treatment) and section 15 (protection of equality) of the *Charter*.

The Canadian government has ignored repeated calls to reform its use of solitary confinement for decades – but change is possible. Our lawsuit is scheduled to go to trial in the fall of 2016.

The BCCLA is represented by BCCLA Counsel Laura Track, and Joseph J. Arvay, Q.C. and Alison Latimer of Farris, Vaughan, Wills & Murphy LLP. The legal team is assisted by Lisa Kerr, Assistant Professor of Law at Queen’s University.

**Physical and mental health impacts of solitary confinement:**

- Suicidal behaviour
- Paranoia
- Rage
- Insomnia
- Aggression
- Depression
- Self-harm
- Hallucinations
- Anxiety
- Memory loss
- Heart palpitations
- Loss of appetite
- Severe headaches

**JUSTICE, NOT TORTURE**

BCCLA BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION | John Howard THE JOHN HOWARD SOCIETY OF CANADA | Challenging solitary confinement in Canadian prisons. [bccla.org/solitary-confinement](http://bccla.org/solitary-confinement)

**Canada has no ban on solitary confinement for children or for people with mental disabilities.**

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The BCCLA is a small organization with just ten staff, but through the incredible support of pro bono counsel and volunteers across the country, we are changing the landscape of civil liberties in Canada. We'd like to extend a huge thank you to everyone who donated their time and talent to us in 2015.

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## BCCLA VOLUNTEERS

Event planning. Legal research. Fundraising. Community outreach. Online communications. Our stellar volunteers do it all! Virtually all of the BCCLA's daily activities depend on the talent, dedication, and energy of individuals who donate their time to advance our work for human rights. With deep gratitude, we would like to recognize the following volunteers who worked in our office in 2015:

Miriam Taveira	Sean Jigolyk	Bonny Ho	Sumra Mahmood
Lauren Mills	Victor Krefting	Kristen Miller-Tait	Lenee Son
Jadine Lannon	Judith Ince	Samia Khan	Victoria Tortora
Micah Goldberg	Sangeeta Subramanian	Ming Lin	Iman Baobeid
Sydney Gustafson	Richard Sim	Rachelle De Jager	Jennifer McDermid
Margaret Birrell	Kevin Masse	Aden Dur-e-aden	



# IT'S TIME TO PUT ON YOUR DANCING SHOES!

**Join us** for an evening of inspiration and celebration at the 2016 Liberty Awards Gala as we honour exceptional contributions to human rights and civil liberties in Canada.

**Join our extraordinary award winners**, and Vancouver's premier **funk band Queer as Funk**, for a fun evening in support of the BCCLA's critical work.



**BC  
CLA** BRITISH COLUMBIA  
CIVIL LIBERTIES  
ASSOCIATION

*The 2016*  
**Liberty Awards**  
*Gala Dinner*

*Celebrating exceptional contributions  
to human rights and civil liberties in Canada*

**Save  
the Date**

**THURSDAY May 26<sup>th</sup>, 2016**  
[www.bccla.org/gala](http://www.bccla.org/gala)

THE ROUNDHOUSE  
181 Roundhouse Mews  
**VANCOUVER**

Get your ticket today. Early-bird tickets are only on sale until April 30th, and they are going fast!

- Early-bird tickets - \$150 (Before April 30)
- Full priced tickets - \$175 (After April 30)
- Table Patrons- make a BIG impact to the BCCLA, purchase a full 10 seat table for \$2000

For more info visit [www.bccla.org/gala](http://www.bccla.org/gala)



# FINANCIAL REPORT



2015 could have been a very difficult financial year for the BCCLA. As we mentioned in our 2014 report, after several years of low interest rates, the Law Foundation of BC was forced to cut core operating grants to

many organizations, including the BCCLA. Last year delivered a \$140,000 cut in our core operating funding; representing a 40% reduction. This lost revenue required the BCCLA to reduce our staff complement, and we worked throughout the year with one less lawyer—reducing our staff team to fewer than ten people for the first time in several years.

That said, as a result of the generous support of members and donors like you, 2015 turned out much better than expected. The response from our community to our urgent appeal for increased support yielded our highest ever level of revenue from memberships and donations, representing more than 50% of the Association's total revenue for the year. A direct appeal to fund our efforts to end second-class citizenship brought in more than \$60,000 in less than two weeks, and was enough to finance that important and successful work. This extraordinary level of support allowed the Association to weather the loss of 40% of our core operating funding while continuing to be the most active civil liberties association in the country. In 2015, despite these drastic cuts to our funding, we were able to achieve some of the most important policy and law reform victories in the Association's history. In short, the support of our members and donors made all the difference.

Thanks to this increased support the Association has been able to plan to restore our staff complement in 2016, allowing us to continue our critical work of litigation, education, policy and law reform, and individual assistance to

complainants. We cannot thank you enough for all that you have done to make this possible.

The 2015 financials also signal a shift in the Association's overall revenue strategy. Going forward, we will need to maintain the generous level of giving we witnessed in 2015, as we move to a model that relies on individual donations more than ever. This will require the Association to bring on new members and donors, and to grow our circle of support. That's why we need you (those supporters dedicated enough to give a close read to the Treasurer's report) to consider how you might help build support for the BC Civil Liberties Association among the network of people you know, who share our common cause.

I invite you to join us at the 2016 Liberty Awards Gala on Thursday May 26th, and to bring a friend (or ten) for a truly fun evening of inspiration and celebration. I also invite you to consider leaving a legacy gift to the BCCLA in your will. Leaving a legacy gift is a great way for people of all financial means to make a lasting contribution to the future of the organization, and to civil and human rights in Canada. For more information on this option, please give Charlotte Kingston, our Director of Community Engagement, a call at 604-630-9745, or drop her an email at [charlotte@bccla.org](mailto:charlotte@bccla.org)

Truly, 2015 could have been a very difficult year for the Association if not for the generous financial support of members and donors like you. Instead, it was a year of important victories that helped advance equality, freedom, and justice across the country. Thank you so much.

A handwritten signature in black ink, appearing to read 'Alan Rowan', written over a white background.

Alan Rowan  
Treasurer

# FINANCIAL STATEMENTS

## STATEMENT OF OPERATIONS AND CHANGES IN FUND BALANCES

Year ended December 31, 2015

	2015				2014
	GENERAL FUND	STABILIZATION FUND	TRUST FUND	TOTAL 2015	TOTAL 2014
<b>REVENUE</b>					
Membership & donations	544,176	—	—	544,176	401,238
Law Foundation of B.C. – operating grant	175,000	—	—	175,000	313,600
Litigation recovery	163,114	—	—	163,114	—
Investment income	119	4,748	96,903	101,770	36,577
Miscellaneous and special events	57,413	—	—	57,413	50,952
Gaming revenue earned <i>[note 7]</i>	52,743	—	—	52,743	52,577
Specified grants earned <i>[note 7]</i>	28,936	—	—	28,936	112,594
Realized gains on sale of investments (net)	—	(4,960)	16,207	11,247	29,850
Adjustment of investments to market value	—	7,677	(62,237)	(54,560)	62,038
Endowment distributions <i>[note 9]</i>	5,023	—	—	5,023	4,516
Bequests	—	—	—	—	51,796
CLE registrations	—	—	—	—	7,700
Amortization - deferred capital contributions <i>[note 8]</i>	—	—	—	—	441
	1,026,524	7,465	50,873	1,084,862	1,123,879
<b>EXPENSES</b>					
Salaries and benefits	641,213	—	—	641,213	692,270
Office operating	63,292	—	—	63,292	56,492
Litigation costs	57,400	—	—	57,400	17,653
Rent and utilities	55,869	—	—	55,869	58,489
Professional fees	37,571	—	—	37,571	28,915
Travel and accommodation	30,234	—	—	30,234	48,882
Contracting	28,309	—	—	28,309	39,462
Strategic planning	27,683	—	—	27,683	6,508
Fundraising	19,675	—	—	19,675	60,585
Bank charges	14,076	—	—	14,076	9,009
Newsletter	13,365	—	—	13,365	11,134
Conference	7,096	—	—	7,096	331
Meetings, publications, events	5,053	—	—	5,053	21,112
Insurance	4,058	—	—	4,058	2,135
Amortization	2,543	—	—	2,543	14,416
	1,007,437	—	—	1,007,437	1,067,393
<b>Excess of revenue for the year</b>	19,087	7,465	50,873	77,425	56,486
Interfund transfers <i>[note 12]</i>	15,000	(2,500)	(12,500)	—	—
	34,087	4,965	38,373	77,425	56,486
Fund balances, beginning of the year	97,631	130,596	917,052	1,145,279	1,088,793
<b>Fund balances, end of year</b>	131,718	135,561	955,425	1,222,704	1,145,279

The complete 2015 BCCLA audited financial statements are available at [www.bccla.org](http://www.bccla.org).

This statement is subject to final audit approval and adoption by our members at the 2016 Annual General Meeting.

We acknowledge the financial support of the Province of British Columbia and the Law Foundation of BC.



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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