

the democratic Commitment

THE BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION NEWSLETTER

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INSIDE

PAGE **2** ROBERT HOLMES
Secrecy and police prosecutions

PAGE **3** FIVE WINS
BCCLA's impact on rights

PAGE **5** BCCLA IN THE NORTH
New chapter in Prince George

PAGE **6** SOLITARY CONFINEMENT
Torture in Canadian prisons

PAGE **7** PRIVACY
Facial recognition technology

PAGE **9** LEGAL CASES
Preventing torture
Protecting the vulnerable
Free speech and defamation
Police accountability

PAGE **12** BCCLA EDUCATION
Continuing practice development

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Though the BCCLA is not a member agency, you can direct your gift to the United Way towards our efforts. Whether you are raising funds through a workplace campaign, or you are donating independently, when your contribution card asks if you would like your gift to go towards a specific charity, just fill in our name, and the United Way will pass on your gift. Thanks for giving!



BCCLA launches lawsuit to challenge criminal laws against medically-assisted dying



The BCCLA has launched a monumental lawsuit to challenge the laws that make it a criminal offense to assist seriously ill individuals to die with dignity. The legal

challenge will seek to allow mentally competent adults who are suffering from serious illnesses that cannot be remedied the right to receive medical assistance to hasten death under certain specific safeguards.

Gloria Taylor, 63, of Westbank, BC, is terminally ill with ALS, a fatal neurodegenerative disease with no known cure or effective treatment. Ms. Taylor is asking the court for the legal right to choose when and how to die – at home, at peace, surrounded by her family, before succumbing to the indignities and agony wrought by a cruel disease. The BCCLA is representing Ms. Taylor and several other plaintiffs in the lawsuit.

"I'm asking the mercy of the court to allow me the option to work with my doctor to ease my pain and help me end my life peacefully and with dignity. I should be able to make the choice about how much suffering to endure, based on my own beliefs and values," said Ms. Taylor.

"I strongly believe that all Canadians like me should have the choice and comfort of aid in dying. It doesn't make any sense that it's legal for me to commit suicide, but it's illegal for someone to help me to die at peace, without pain, in the comfort of my home, with family and friends surrounding me."

Gloria began to experience the early symptoms of ALS in 2003. A neurologist diagnosed her with the disease in 2009. Eighty percent of people with ALS die within two to five years of diagnosis. Since her diagnosis, Gloria's condition has steadily deteriorated.

"I am dying, piece by piece. And now I am at the mercy of the court to allow me the right to die with dignity," said Ms. Taylor.

It has been nearly 20 years since the Supreme Court of Canada heard and dismissed a challenge to the law in the Sue Rodriguez case. Sue Rodriguez's legal crusade ended when a very divided Supreme Court, in a 5-4 decision, upheld the law that criminalizes assisted dying. The Court held that the state interest in the sanctity of life excluded freedom of choice.

continued on page 11

PUBLIC INTEREST

Secrecy, police prosecutions and justice

Civil libertarians are usually guarded about the state exercising its criminal investigative and prosecutorial authority against ordinary citizens. But is the same true in relation to the police and those in public office? Demanding accountability is the usual first reaction. We have seen that with the recent series of messy spectacles involving the police,



The Frank Paul and Robert Dzikanski commissions have now both completed their final reporting. June's final report by the Frank Paul commission focuses

on prosecutors. Addressing prosecutorial conduct was delayed because Crown counsel challenged whether their work could be reviewed. The courts disagreed, with some hesitation, and noted that the government had appointed the commission to look into prosecutorial involvement in the Frank Paul matter. So Commissioner Davies was able to look behind the veil that shrouds prosecutorial decisions.

The work of prosecutors makes a re-reading of the tale of *The Emperor's New Clothes* worthwhile. The less we know and the more willing our suspension of disbelief about how the process works, the more confident we may well be. But that is the stuff of imperial societies, not democratic ones. Remember that although called Crown counsel, prosecutors

are really the people's counsel. Their work is done on behalf of the public to enforce laws democratically put in place.

It is a benchmark in how thinking on conflicts of interest has developed that Commissioner Davies would raise in his report concern over having prosecutors evaluate criminal charges against officers from a police force with whom they regularly deal. "*Quis custodiet custodiet?*"—who guards the guardians—applies to those whose role as "guardians" is with the prosecutorial service, just as it does to those whose role is with the police.

Commissioner Davies recommends that in instances of charges against the police or other public officials, a special prosecutor should be appointed. That works to resolve the issue of conflict of interest, as far as it goes. But the BCCLA has suggested a refinement that will, in our view at least, enhance public confidence in such cases.

The suggestion we have made is that the standard for charges against the police or other public officials ought to be different from that which is employed with ordinary citizens. Instead of a "substantial likelihood of conviction" standard, prosecutors should use the test employed by the court at a preliminary inquiry when deciding whether to commit someone for trial on an indictable offence: "is there

any admissible evidence that a reasonable jury properly instructed could use to convict the accused." That approach would place the role of judging guilt or innocence at trial with judges and jurors, instead of having it made in secret by prosecutors. The standard of proof once at a public trial would be the same for all – "proof beyond a reasonable doubt." But while prosecutorial discretion for members of the public properly allows for the justice system not to spend time and resources on prosecutions that are not strong enough to get a conviction, in the case of the police and public officials, I am not persuaded that the public interest is served with an identical, behind the scenes discretion.

Learning from mistakes is a hallmark of a mature, democratic society. It avoids the foolish consistency of repeating things just because that's how they've been done in the past. Making decisions in secret not to prosecute sound cases just because of an unsound police report doesn't make sense, particularly if the prospective accused is a police officer. Further, if the police charge approval report is filled in, Crown counsel can get stymied by their own refusal to be "investigators" and by police failing or refusing to say whether they regard the use of force or the police conduct in a given case as being "reasonable." If the Crown and

continued on page 4

FIVE

WAYS YOUR BCCLA PROTECTED RIGHTS AND FREEDOMS

Just because it was the summer doesn't mean the BCCLA has taken a vacation from protecting rights and freedoms in Canada. Thanks to your support, here are five of our favourite victories from the past few months.

1 Ensured the Province was including Aboriginal people in jury pools

It was our independent research, after a tip from Aboriginal Legal Services in Ontario, that led to the Province of B.C. reforming its policy in compiling jury lists to ensure adequate aboriginal representation on juries. Sheriffs are now required to contact Aboriginal bands for band lists in order to compile jury lists, and not just rely on Elections BC enumeration of reserves that is no longer taking place.

2 Reformed RCMP policy on police dog training

The BCCLA's support of residents in Lantzville on Vancouver Island resulted in the RCMP reforming their dog training policy across Canada to ensure that private property owners are notified and give permission before police dogs are trained on private property.

3 Formed a volunteer chapter of the BCCLA in Prince George

50 people came together in Prince George to establish the BCCLA's first volunteer chapter in two decades. The group has selected an executive and will be taking on issues of importance to the north starting in September. The success of this first group means that the BCCLA is in a great position to establish a volunteer chapter in another B.C. city soon!

4 Moved one step closer to independent prosecutor review of police-involved death criminal charges

The BCCLA's submissions, that the Criminal Justice Branch prosecutors who work with police every day should not be reviewing charges recommended against those same police, were supported by Frank Paul Inquiry Commissioner Davies in his final report. Commissioner Davies also repeated his call for a civilian-run sobering centre in Vancouver, a priority for the BCCLA as well. The ball is now in the Province's court to reform these key policies.

5 Launched groundbreaking litigation on the right to die with dignity

Our partnership with Lou Gherig's disease sufferer and advocate Gloria Taylor arguing for her right to die with dignity was granted an expedited hearing date by the B.C. Supreme Court and will be heard in November, 2011, thanks to the hard work of our counsel, Joe Arvay, Q.C. The government had been arguing for the case to be on the regular trial list, which would have meant a year and a half wait, minimum, before it could go to trial.

Medical Marihuana — still no justice for patients after all these years

The good news is that Health Canada is proposing changes to the Medical Marihuana Access Program (MMAP). That's good news because the MMAP has consistently been struck down by the courts for

unconstitutionally failing to provide genuine access to patients in need. The bad news is that Health Canada is going in the wrong direction in many of its proposals.

Here's a summary of the recommendations from our submission to Health Canada on how they might change course and get it right this time.

continued on page 11

the police both refuse to decide that, the public ends up with no charge being laid, even if one ought to be. Commissioner Davies does not really get to the root of that problem. Perhaps some of these difficulties will be resolved with the new civilian investigative agency. But perhaps that is only part of the solution.

Three Supreme Court of Canada decisions help in thinking about these issues. *R. v. Nixon*, 2011 SCC 34, upheld an exercise of discretion by senior Crown counsel to overrule a plea bargain made with an ordinary citizen in a drunk driving case. The court noted that different prosecutors often take different views of the strength of cases they handle and revisiting whether to proceed with more serious charges was not necessarily an abuse of process. *R. v. Beaudry*, 2007 SCC 5, upheld the conviction of a police officer who chose not to administer a breathalyzer

test to another officer caught drunk driving as he had “acted out of favouritism and had the specific intent to obstruct, pervert or defeat the course of justice by not taking the breath samples.” Whatever discretion the police and Crown have must be exercised in good faith and in the public interest. *Toronto Star Newspapers Ltd. v. Ontario*, 2005 SCC 41, which upheld public access to information once it was filed with the court, provides a principle to ensure that: “the administration of justice thrives on exposure to light — and withers under a cloud of secrecy.” When transposed to questions of charge approvals and prosecutions of the police, a standard that brings into the open the adjudication of guilt or innocence is more likely to ensure public confidence than one that leaves us wondering whether the Emperor’s clothes are beautiful or have simply never been put on.

Taser in memoriam Robert Dziekanski

You lie uncomprehending. The display screen of flights arriving and departing shows *New York* delayed, *Toronto* cancelled, and as each city perishes,

new cities come to take their place:
Tokyo, Paris, London, Guadalajara—
while you settle on the airport floor.

You could not understand,
you will not grow old in Canada,
smelling the resinous pine on the mountain.
We will look at the barrier glass and remember
you in the mirror of the darkened sun:

all your words of English left unclaimed.

Barbara Colebrook Peace

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BCCLA chapter set up in Prince George

Executive Director of the BCCLA, David Eby, had no idea what to expect when the BCCLA sent out a call to Prince George that they wanted to set up a

volunteer chapter in the city. “It’s been twenty years since we’ve had an active volunteer chapter of the BCCLA,” said Eby, “And lots has changed since then at a societal level in terms of people’s participation in community organizations.”

Prince George was on the BCCLA’s radar for the first site to try to organize a chapter because of a series of high-profile incidents involving the RCMP. The death of Clayton Alvin Willey, the sexual assault investigation of its own members that the RCMP failed to complete as part of the Judge Ramsay prosecution, the Tasing of an 11-year-old child, repeated allegations of brutality including one allegation where a Provincial Court Judge found the RCMP had destroyed or intentionally “lost” the video of the incident, are just a few examples.

Whether it was the RCMP issues, or just a general commitment of northerners to liberty and basic human rights, fifty people turned up for the

inaugural meeting of the Association at the Prince George library. “We were overwhelmed,” said Eby. “I was preparing for ten or fifteen people showing up to learn more about the Association. What we got was fifty people who were ready to hit the streets that night!” The chapter held elections in August for a steering committee, and is selecting a couple of key campaign issues focusing on RCMP accountability and municipal governance transparency to work on in September.

As for the RCMP, they’ve told a Prince George radio station that they’re looking forward to hearing the concerns of the Prince George community: “We are always willing to listen, learn, and adjust and I anticipate that (the BCCLA) will have a considerable interaction with the police and help us in our interactions with our communities and providing, you know, information that we can perhaps learn from,” said RCMP Superintendant Rod Booth.

The Association will not have a physical office in Prince George at first, but will be meeting every other Wednesday in the Prince George library from 6 pm – 7:30 pm. For details e-mail david@bccla.org.

BCCLA SPEAKERS’ SERIES

In partnership with the **Canadian Bar Association** and **ProBono Students Canada**, the BCCLA is proud to present:

The Rule of Law in an Age of Terror

with Dennis Edney

In 2004, Mr. Dennis Edney was appointed as Foreign Attorney Consultant by the U.S. Department of Defense to participate in the defense of Omar Khadr, a young Canadian detained in Guantanamo Bay, Cuba. He is listed as counsel in numerous reported cases, including appearances before the Supreme Court of Canada, most notably *Canada v. Khadr*. In recognition of his contributions in promoting and furthering human rights, Mr. Edney has been the recipient of numerous awards.

September 15th, 2011

Breakfast Address — 7:00 – 9:00 am – 800 Smithe St, Law Courts Inn, Vancouver

Lunch Address — 12:30 – 2:00 pm – 1822 East Mall, University of B.C., Vancouver

Seats are limited, please register to reserve a seat. Suggested donation: \$20.

Email Stefanie@bccla.org or call 604.630.9750 to register.



Solitary Confinement

Torture in Canadian Prisons

In March, the BCCLA launched a constitutional challenge against the use of long-term, indefinite solitary confinement in Canadian prisons on behalf of a young Aboriginal woman named BobbyLee Worm.



BobbyLee is 25 years old and a first-time offender. She suffered extreme physical, emotional and sexual abuse

throughout her childhood and adolescence. At the time of her arrest, she was severely addicted to drugs and suffering from post-traumatic stress disorder. She was 19 years old.

BobbyLee has served the majority of her six and a half year sentence in solitary confinement. While in solitary confinement, she was locked in a cell measuring 10 by 8 feet for up to 23 hours a day, for months at a time. She was largely deprived of meaningful human contact. She told us that every day, she counted the bricks on her cell wall to keep from going mad.

BobbyLee is only one of too many Canadian prisoners subjected to solitary confinement, a practice that Canadian prison expert Michael Jackson has described as “the most individually destructive, psychologically crippling and socially alienating experience that could conceivably exist within the borders of the country.” A recent article by

Howard Sapers, the Correctional Investigator of Canada, reported that during fiscal year 2008–09, there were, on average, approximately 904 individuals in solitary confinement in Canadian prisons on any given day. A snapshot on April 12, 2009, shows that almost 37 percent of those in solitary confinement had spent over 60 days there. These numbers are alarming, given that the

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

total number of prisoners living in institutions with solitary confinement units is less than 10,000.

International human rights bodies have repeatedly found the practice of solitary confinement to constitute torture or cruel, inhuman and degrading treatment, in violation of the universal prohibition against torture. The Inter-American Court of Human Rights found that prolonged isolation and coercive solitary confinement necessarily constitute cruel and inhuman

treatment. The United Nations Committee Against Torture – the body of experts responsible for ensuring that states comply with the Convention Against Torture – recommends that the practice of solitary confinement be abolished.

Prolonged solitary confinement can have devastating psychological, social and physical effects upon the individuals who are forced to endure it. The highly authoritative 1996 report issued by the Commission of Inquiry conducted by Madam Justice Louise Arbour recognized the potentially devastating mental and physical effects of prolonged isolation. A key recommendation of her report was that periods of segregation be limited in duration and in frequency of application. Yet 14 years after her report was first published, neither Correctional Services nor Parliament has yet to adopt her recommendations.

The goal of BobbyLee’s case is to ensure that solitary confinement in Canada is applied only as a last resort, for limited periods, and with robust judicial oversight. In bringing this case on her behalf, the BCCLA is working to make sure that torture doesn’t happen in Canadian prisons and on Canadian soil.

Robert Janes of Janes, Freedman Kyle and **Carmen Cheung** and **Grace Pastine** of the BCCLA represent Ms. Worm.

ICBC's Facial Recognition Technology



This is a Mug Shot



And this is a Mug Shot, too (apparently)

The role of social media in the Stanley Cup riot will be generating dissertations for years to come. In the dazed aftermath of the riots, we learned that we had perhaps set the world's record for Most Lavishly Documented Riot of All Time. We also learned that our provincial automobile insurer had secretly concocted an unprecedented surveillance scheme to match people in such photos with photos on the ICBC database. And we learned that ICBC is just itching to put its now de facto giant mug shot database in the service of the police.

The way ICBC tells the story, it adopted a facial recognition-enabled system in 2009 in order to catch fraud and identity theft and, as a public body, it is empowered under privacy legislation to share such information with the police either voluntarily or under court order. This is not quite the whole story.

The initial ICBC facial recognition system analyzed various aspects of a person's face, including the unchanging spatial relationship between features. The assessment of one photo in the database was compared with another photo in the database as a way to find fraud and identity theft (i.e. same person with licenses under two different names). What's

ICBC's FACIAL RECOGNITION TECHNOLOGY and an offer to the police: people and surveillance BOTH RUN RIOT

important to note is that this system of comparing photos within the database for fraud detection is NOT what's at issue with the post-riot surveillance offer to the police. It would appear that very quietly ICBC recently added a new component to its facial recognition-enabled system: the ability to compare the database against external images.

Why would ICBC need such a surveillance tool? It's not about fraud detection, like the original system. We in fact don't know how ICBC attempts to justify its newly acquired ability to turn our faces into license plates that can identify us wherever we go. We only know that the offer to data match the riot photos effectively turns ICBC into an arm of the police.

This is not a matter of the police accessing ICBC's database with a warrant. This is not police requiring the disclosure of already existing records. ICBC is volunteering to run photos against its database and is conducting a search of the entire driving population of British Columbia in order to generate new data (i.e. the person in this photo has a license under the name John Doe) entirely for policing purposes. We can't pretend this is just business as usual. The embedding of sophisticated surveillance technologies within our

Breaking News

The BCCLA is pleased to report that the Office of the Information and Privacy Commissioner has just announced an investigation and full public report on this matter.

continued on page 8

FACIAL RECOGNITION TECHNOLOGY *continued from page 7*

government data systems makes this a game changer. The police aren't accessing administrative data; the administration is creating data for the police.

While the B.C. Privacy Commissioner appears to have taken a worryingly conciliatory stand ("we'll audit the process"), ordinary British Columbians have been quicker off the mark to see these developments as crossing the line and just plain wrong. While there is nothing wrong in general with assisting the police, we cannot mandate that ordinary citizens surrender themselves to police surveillance as the cost of acquiring a drivers' license, in the same way that we can't let the police turn all

the tissue samples held in medical facilities into a giant population DNA database. There is more than one good: law enforcement is one good, privacy is another. Maintaining the correct balance will likely get harder and harder as the government is working quickly to centralize databases and undermine long established privacy norms. The Association and its members and supporters have our work cut out for us. The good news is that privacy is no longer for the merely policy wonky: more and more people are speaking out against surveillance in both the mainstream media and social media. Thank you. You are making a difference.



BCCLA interns Rachel Nelems, Rebecca Coad, Esther Oh and Martin Twigg

SUPPORT THE BCCLA / BECOME A MONTHLY CONTRIBUTOR

As a monthly supporter, you will help make sure that challenges to our rights and freedoms do not go unanswered. For a monthly contribution of \$25, \$20 or even as little as \$15, you can make sure that the BCCLA can rely on the resources it needs to continue to fight for all our freedoms.

Your monthly pledge also means you are giving more to support vital BCCLA programs throughout the year, and less on administrative costs. It means your membership will automatically renew, and that you will receive your annual charitable tax receipt in the mail in February. This way, your contribution to defending human rights and freedoms in your community and across Canada is convenient, automatic, affordable, and effective.

To join, you simply fill out the form in this newsletter, along with a voided cheque or your credit card information.

The program is easy for you and efficient for us—with more of your contributions going right to work on our most urgent programs.

For more information, please call Stefanie at 604.630.9750 or email stefanie@bccla.org

Your Rights on Trial

We work daily in all levels of court to defend and preserve rights and freedoms. Here are some of our high-profile cases.

PREVENTING TORTURE

Kazemi v. Iran, et al. / Quebec Court of Appeal

In early May, the BCCLA filed its application to intervene at the Quebec Court of Appeal in this case. The case concerns whether a Canadian court has jurisdiction over a civil suit for damages arising from the torture of a Canadian citizen by a foreign state, in a foreign state. At play are the limits of sovereign immunity and the availability of meaningful remedies for gross human rights violations.

Ms. Kazemi was a dual Iranian and Canadian citizen. She was

a renowned photojournalist, filmmaker and artist. During a 2003 visit to Iran, Ms. Kazemi obtained a foreign press pass permitting her to take photographs of the daily life of Iranians. Ms. Kazemi was arrested and detained at the order of the Chief Public Prosecutor of Tehran. She died in custody. A physician who examined her body shortly after her death testified that her extensive injuries were clear indications of severe physical and sexual assault and torture. Her son, Stephan Hashemi,

launched proceedings against the state of Iran, seeking \$17 million for his mother's wrongful arrest, detention, sexual assault, torture and death while in Iranian custody.

Ward Branch and **Susan Precious** of Branch MacMaster, and **Norman Painchaud** of Sylvestre, Fafard, Painchaud are counsel on this file.

PROTECTING THE VULNERABLE

PHS Community Services v. Canada and VANDU v. Canada / Supreme Court of Canada

The BCCLA appeared as an intervener before the Supreme Court of Canada in these cases in May 2011. The cases are essential to the continued operation of Insite, Vancouver's supervised injection site.

Insite is operated by the Vancouver Coastal Health Authority and the Portland Hotel Society. Insite provides supervised and sanitary conditions for the use of intravenous drugs. Insite

has reduced the health risks associated with addiction to such drugs. Research has found that the operation of Insite has prevented overdose deaths and lessened the spread of HIV/AIDS and Hepatitis C, along with reducing the suffering of addicts.

The BCCLA argued that Insite is an essential health service, and that preventing Insite from operating legally would be a violation of Insite's patients'

Charter rights. Insite provides an important health service that limits the harm associated with drug addiction in the Downtown Eastside.

Ryan Dalziel and **Daniel Webster, Q.C.** of the firm Bull, Housser & Tupper LLP are counsel for the BCCLA.

Bedford v. Canada / Ontario Court of Appeal

The BCCLA appeared as an intervener before the Ontario Court of Appeal in June 2011. The case was brought by a group of sex workers who challenged the criminal prohibitions concerning prostitution. The BCCLA has long-advocated for sensible and compassionate legal response to issues surrounding sexuality and sexual identity. Sex workers are

comprised of a cross section of some of the most disadvantaged members of society (women, racial minorities, sexual minorities, the poor). The BCCLA argued that while there are ways of conducting prostitution that could significantly reduce the risk of violence towards prostitutes, the challenged provisions make many of these safety-enhancing

methods illegal. Thus, the criminal prohibitions violate s. 7 of the *Charter of Rights and Freedoms*, depriving sex workers of liberty and security of the person.

The BCCLA is represented by **Brent Olthuis** of Hunter Litigation Chambers and **Megan Vis-Dunbar**, Barrister and Solicitor.

FREE SPEECH AND DEFAMATION**Les éditions ecosociete v. Deneault et al; Breeden v. Black** / Supreme Court of Canada

The BCCLA appeared before the Supreme Court of Canada in March, 2011 in these cases which concern the proper application of the “real and substantial connection” test for the assumption of jurisdiction in trans-border defamation cases.

In *Breeden v. Black*, the court will determine if Mr. Black’s six libel cases against individuals associated with Hollinger International, the publishing empire he once presided over,

can proceed. The allegedly defamatory statements were made in the U.S. but were accessed over the Internet in Canada and republished by Canadian news outlets. In *Les éditions Écosociété Inc., et al. v. Banro Corporation*, the court will determine if Banro Corporation, a global mining corporation, can sue the publishers and authors of an allegedly defamatory book in Ontario.

The BCCLA’s position in the cases is that procedural matters of jurisdiction, forum and choice of law for adjudicating disputes among private litigants, necessarily have substantive and practical consequences for the public law.

The BCCLA is represented by **Robert Holmes, Q.C.** of Holmes and King and **Jason Gratl** of Gratl and Company, both BCCLA board directors.

POLICE ACCOUNTABILITY**Frank Paul Inquiry** / Provincial Commission of Inquiry

The final phase of the Frank Paul Inquiry’s massive probe into the freezing death of Frank Paul, a 47-year-old Mi’kmaq man, has now concluded. The BCCLA participated in the public inquiry. The final report deals with the response of the Criminal Justice Branch to Mr. Paul’s death. Crown prosecutors made five charge-approval

assessments in the Frank Paul matter and decided that no charges should be laid against the police officers that were involved in Frank Paul’s death.

The BCCLA celebrated another victory in the case when Inquiry Commissioner William Davies recommended that B.C.’s Criminal Justice Branch

no longer review criminal investigations of police in the province.

The BCCLA was represented at the second phase of the Paul Inquiry by **Michael Tammen** of Harper Grey LLP, and **Grace Pastine** and **Carmen Cheung** of the BCCLA.

PUBLIC INTEREST *continued from page 3***Executive Summary of the BCCLA's Recommendations**

Patients should not have to get secondary authorization from Health Canada once they have authorization from a health care provider. Just like any other prescription, patients should be directly authorized by a health care provider to use medical marihuana.

Given the documented widespread non-participation of physicians in the MMAP, authorization authority cannot

be limited to physicians and must include other health care providers.

Health Canada should undertake and support medical marihuana research.

The MMAP must provide appropriate patient identification so that patients can disclose their status as medical marihuana users to officials when needed to

prevent wrongful arrest and medication seizures.

Patient and designate production licenses should be retained and an appropriate non-profit or price-regulated production and distribution system should be developed which builds on the proven model of community-based dispensaries (i.e. compassion clubs).

MEDICALLY ASSISTED DYING *continued from page 1*

According to Grace Pastine, the Litigation Director for the BCCLA, the time has come to bring this issue back before the Court. "We're asking the court to recognize that where deeply personal and private choices regarding end of life care are involved, the law should entrust those decisions to the individuals whose lives are at stake, not the government," says Ms. Pastine.

Lee Carter and her husband Hollis Johnson are two other individuals represented by the BCCLA in the lawsuit. Ms. Carter and Mr. Johnson accompanied Lee's 89-year-old mother, Kathleen ("Kay") Carter to Switzerland in January 2010 to end her life. Kay suffered from spinal stenosis, a degenerative condition, which confined her to a wheelchair, unable to feed herself, and suffering from chronic pain. Her doctor told her that the condition would quickly leave her reduced to lying flat in bed,

completely unable to move. Kay feared she would become trapped in own body and stripped of her independence.

"I believe that the choice to die with dignity should be available to all Canadians," said Ms. Carter. "My mother, Kay, was a lifelong supporter of the dying with dignity movement. She lived her life with passion, independence and resolve, and her independence extended to insisting that she would have choice and control over how she would leave this world. My mother was a great lady, and I feel that I'm honouring her memory by participating in this legal challenge."

According to Joseph Arvay, Q.C., senior lawyer for the plaintiffs, there has been a profound shift in recent years in social thinking on the issue of dying with dignity. "A number of countries around the world as well as a number of states in the U.S. now allow for medically-

assisted aid in dying. The experience in these countries reveals that fears about allowing physician-assisted dying are unfounded. All Canadians deserve compassionate care at the end of life, including the option of a medically-assisted death."

The plaintiffs are represented by **Joseph Arvay, Q.C.** and **Alison Latimer** of Arvay Finlay, **Sheila Tucker** of Davis LLP and **Grace Pastine** of the BCCLA.

The BCCLA is currently seeking medical doctors and individuals who are seriously and incurably ill to participate as witnesses in the lawsuit. Please contact Grace Pastine, BCCLA Litigation Director, at grace@bccla.org, for more information.

C ONTINUING P RACTICE D EVELOPMENT

Constitutional Issues in the Criminal Law: 2011 Round-up

Chaired by **Michael Tammen** and **Brock Martland**

December 3, 2011 / 9 am to 5 pm
SFU Harbour Centre, Vancouver

From national security privilege in the *Canada Evidence Act* to the polygamy reference in the B.C. Supreme Court, constitutional issues in the criminal law are constantly evolving.

The BC Civil Liberties Association is pleased to host Michael Tammen and Brock Martland for a reprise of their end-of-year round-up of constitutional issues in the criminal law. This year, we are expanding our round-up to a full-day conference, presenting expert faculty in the areas of constitutional and criminal law, which last year included the Honourable Justice Austin Cullen, the Honourable Judge Gregory M. Rideout, Gregory Fitch, Q.C., Richard Peck, Q.C., Joseph Arvay, Q.C., Gil McKinnon, Q.C., Mary T. Ainslie, Michael Klein, W. Paul Riley, Jennifer Duncan, and Nikos Harris.

7 hours of CPD credits,
including 2 hours of ethics
Register by September 1, 2011
for early bird rates.

Civil Forfeiture in British Columbia

Chaired by **Bryant Mackey**
Crown Counsel, Legal Services Branch,
Ministry of Attorney General for British Columbia

September 23, 2011 / 9 am to 2:30 pm
SFU Harbour Centre, Vancouver

The civil law of asset forfeiture in British Columbia is dynamic. This half-day session is a comprehensive review of the most current topics and developments in civil forfeiture, and includes updates on recent changes in the jurisprudence, discussion of proposed amendments to British Columbia's civil forfeiture legislation, and practice pointers from experts in the field. This course features faculty from both the Crown and private practice.

4.5 hours of CPD credits,
including 1 hour of ethics

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