BC CLA BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION

ANNUAL GENERAL MEETING

Thursday, June 18, 2020, 6:00 PM PT
Virtual Online AGM

ANNUAL REPORT 2019

The Protest Papers

CONFIDENTIAL

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Letter from the President

We understand that governments must respond seriously to the threat of COVID-19. However, we also believe that the protection of civil liberties and human rights is imperative today, tomorrow, and in the future.

Dear BCCLA friends and supporters,

I am writing to you during a critical health crisis in our world and a critical moment for the mission of the BCCLA. Like many of you, I have been reflecting on the changes that we have already experienced due to COVID-19, and the disturbing potential changes yet to come. While so much remains uncertain, one thing is clear to me: we must resist any attempt to make the erosion of civil liberties and human rights the "new normal" in Canada.

Governments are imposing unprecedented limits on our fundamental freedoms of assembly and association. Our mobility rights are being curtailed. Privacy rights are in jeopardy with governments around the world considering invasive data programs to monitor public health.

As civil libertarians, we know that government overreach is not just a potential threat but also a lived reality for vulnerable people before and during this crisis. Our most vulnerable communities are already experiencing the worst of this overreach. Enforcement measures and potential criminal penalties pose unique harms to community members who lack a safe space to self-isolate. At our land border, refugees are being turned away, violating Canada's legal and moral commitments to refugee rights

We understand that governments must respond seriously to the threat of COVID-19. However, we also believe that the protection of civil liberties and human rights is imperative today, tomorrow, and in the future. This pandemic highlights the need to protect and expand civil liberties and human rights at the systemic and structural level. Within this report, you will find critical updates on our work in the past year and the legislative battles we continue to fight to ensure that, even in a state of crisis, everyone's dignity and rights are defended. From fighting for prison reform, to ensuring migrant rights, to combatting state surveillance, we will continue onwards.

Thank you for your unwavering commitment and for believing in civil liberties and human rights for all. Our work is only possible thanks to hundreds of committed members, donors, volunteers and supporters across the country.

Sincerely,

Caily DiPuma,
BCCLA President

2019 Milestones

By **Harsha Walia Walia (she/her/hers)**, Executive Director

Work at the systemic level takes a long time, and this year saw much progress on civil liberties and human rights issues that we have been fighting for a number of years. Systemic work also involves thoughtful work internally to strengthen our organization to continue the hard work ahead. Here are some of the highlights.

Release of Protest Papers

In the summer of 2019, we released thousands of pages of secret documents disclosed from our spying complaint to the Security Intelligence Review Committee. These Protest Papers suggest that the Canadian Security Intelligence Service (CSIS) illegally spied on the peaceful activities of Indigenous groups and environmentalists opposing the Enbridge Northern Gateway pipeline. The documents validated our concerns that this spying activity was illegal and created a chilling effect interfering with *Charter*-protected freedoms of expression and association. You can count on us to continue to oppose unconstitutional spying.

Challenging Indefinite Detention of Migrant Detainees

The Supreme Court of Canada released its judgement in *Canada (Minister of Public Safety and Emergency Preparedness) v. Chhina*. Migrants held in immigration detention for lengthy and uncertain periods of time – sometimes years – are only able to challenge their detention through limited avenues. We intervened in this important case to argue that habeas corpus, a legal provision that allows anyone being held in custody the right to challenge their detention before a judge, should be available for migrant detainees. We welcomed this decision which confirmed that detainees can challenge the lawfulness of their indefinite detention through the writ of habeas corpus.

Our First Strategic Plan

In the past year, we launched our first, five-year strategic plan, which articulates a clear vision for the Association: one that defends and extends the civil liberties and human rights of everyone, while paying particular attention to those who are most oppressed by state power. This means continuing to prioritize our work on issues of policing, criminal justice, privacy, national security, patients' rights, prisoners' rights, fundamental freedoms, and resisting the creep of authoritarianism. You can read our full strategic plan at www.bccla.org/StrategicPlan.

BCCLA by the Numbers

2019

2019 was a significant year for the BCCLA. In our long history, we have won many important victories, and 2019 saw critical developments in all areas of our work.

Here's a brief look at what we accomplished.

4,974

appearances in media

participated in

23

active impact litigation cases or interventions across the country

2,905+

event attendees who engaged with and learned about their civil liberties and fundamental rights

55

volunteers who contributed **over 2,100 hours** of their time

40

pro-bono lawyers advocated in **25 active cases** and donated **900 hours** of their time

Street Check Complaint Concludes but the Fight Continues

By **Latoya Farrell (she/her/hers)**, Staff Counsel (Policy)

Due to the inherent power imbalance between a police officer and an individual member of the public, people frequently believe they have no choice but to obey the police—especially when the person stopped is vulnerable, relies on public space to live, is Indigenous, racialized, or has experienced state violence.

The BCCLA spent much of 2019 monitoring developments about how police agencies in British Columbia stop people and/or collect personal information about them. For years, racialized communities in BC have shared their experiences of being over-policed. In 2018, we finally received data to support their lived experiences. After years of denial that this data exists, the Vancouver Police Department (VPD) released nearly a decade of data from 2008 to 2017 that shows the significant over-representation of Indigenous and Black people in the rates of "street checks." According to the data, 15% of all street checks conducted involved Indigenous people, despite representing approximately 2% of the population of Vancouver. Furthermore, over 4% of street checks conducted were of Black people, despite representing less than 1% of the population.

We could not stand for such inequity in the police response. That summer the BCCLA and the Union of BC Indian Chiefs (UBCIC) launched a joint complaint about the inadequacy and inappropriateness of the VPD's training programs, policies, and internal procedures on the practice of street checks. The BCCLA and UBCIC strongly questioned the efficacy and necessity of street checks as a policing practice.

In our complaint, we asked the Vancouver Police Board to launch an independent study that would analyze the VPD street check data, the efficacy of street checks as a policing tool, and the impact of street checks on Indigenous, Black and other racialized people. We called for a community-based research assessment to determine the impact of the practice on affected communities. We also called for policy development for the collection, protection and retention of personal information resulting from police checks.

We spent most of 2019 waiting for this independent review to be completed and for a report to be released. When it was finally released on February 20, 2020, we completely disagreed with the report's adequacy and conclusions. The review assumed that street checks were a valuable tool, despite the lack of evidence to support the claim. Justification for the use of street checks has been anecdotal at best, and studies have shown that in communities that are over-policed and under-protected this harmful police practice has negatively affected community safety and eroded trust in the police.

The independent review also provided clear evidence that the VPD has been arbitrarily stopping people in Vancouver. Some examples of police stopping people

Photo Credit: GRC RCMP

without legal authority included "riding a bike", "walking in the rain", "clean couple in poor hotel", and "walking dog on church lawn." Such street checks are illegal because they involve stopping someone outside of having reasonable suspicion and probable cause that an offence is occurring or is about to occur. Street checks can also break privacy and human rights laws if personal information is arbitrarily gathered or if the check is motivated by or results in discrimination.

As the independent review was in progress, the province was simultaneously developing provincial policing standards on police stops. These new standards apply to police departments across the province, requiring them to develop a street check policy in compliance with the provincial standards. On January 13, 2020, the VPD released their street check policy.

One of BCCLA's main concerns involved the complete lack of understanding that for many, street checks are not a voluntary interaction.Due to the inherent power imbalance between a police officer and an individual member of the public, people frequently believe they have no choice but to obey the police—especially when the person stopped is vulnerable, relies on public space to live, is Indigenous, racialized, or has experienced state violence.

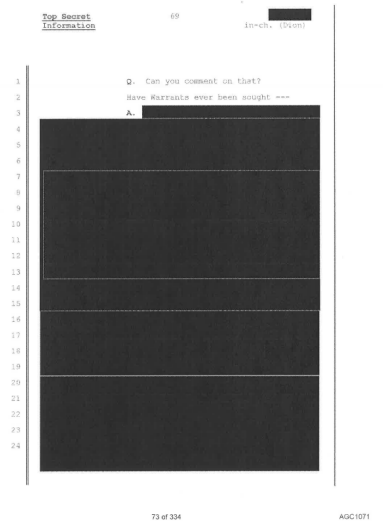
In the end, citing the independent review, the new VPD street check policy, and the completion of officer training, the Vancouver Police Board concluded our street check policy complaint. The Vancouver Police Board will continue its oversight function and conduct an annual audit of VPD street checks. We find this conclusion unsatisfactory and have filed an appeal with the Office of the Police Complaint Commissioner.

The *Charter of Rights and Freedoms* ensures that people have the right to move freely without unjustified police intervention. The BCCLA will continue to advocate for a moratorium on the arbitrary and illegal practice of street checks ■

The Protest Papers

By **Jessica Magonet (she/her/hers)**, Staff Counsel (Litigation)

In July 2019, the BCCLA released the Protest Papers – thousands of pages of previously secret, highly redacted documents from the Canadian Security Intelligence Service (CSIS) chronicling how they monitored environmentalists and Indigenous groups that opposed the Enbridge Northern Gateway pipeline project. This was a watershed moment and a culmination of years of work in our fight against illegal spying on peaceful pipeline protestors. Here's the story of how we got there.



In 2014, the BCCLA filed complaints against CSIS and the Royal Canadian Mounted Police (RCMP), alleging they illegally spied on Northern Gateway pipeline opponents and shared the information they gathered with the National Energy Board and oil companies. The groups monitored included Leadnow, Stand.earth, the Council of Canadians, the Dogwood Initiative, EcoSociety, the Sierra Club of British Columbia, and Idle No More. We argued that these spying activities violated the *CSIS Act*. The *CSIS Act* prohibits CSIS from gathering information about individuals unless there are reasonable grounds to suspect they constitute a threat to the security of Canada, and it places strict limits on who CSIS can share information with. We also argued that the spying activities violated the rights to freedom of expression, freedom of peaceful assembly, freedom of association, and privacy under the *Canadian Charter of Rights and Freedoms*.

The Security Intelligence Review Committee (SIRC), the body previously responsible for CSIS oversight, heard our complaint in 2015. The hearings were held in secret and SIRC ordered the BCCLA not to publically disclose anything that happened during the hearings – including our own evidence and submissions. This meant that our witnesses, including volunteers and staff at several organizations, were prohibited from speaking to anyone about their testimony, forever.

> **This case is about so much more than the right to speak out and protest. It's also about the right to question those in power and to hold our government to account.**

In a decision received in September 2017, SIRC dismissed the BCCLA's complaint. However, SIRC acknowledged that CSIS was investigating "targets" that opposed pipelines and that "ancillary information" about groups engaged in legitimate protest may have been incidentally collected. SIRC also heard evidence from CSIS that it was gathering information for "domain awareness", which is used to "ascertain potential triggers and flashpoints" and to be "aware of what is happening should a threat arise." Further, SIRC accepted that it was reasonable for the groups to be concerned that they were being

spied on, based on the publically available information. However, SIRC ultimately held that these concerns were not justified in light of the confidential evidence and that there was no direct link between CSIS's conduct and any chilling effect on the exercise of *Charter* rights.

In October 2017, the BCCLA went to Federal Court to challenge the SIRC decision and the gag order. We argued that the gag order violated the right to free expression under the *Charter* and was not required by the *CSIS Act*.

The Attorney General of Canada brought a motion to make the Federal Court proceedings secret. The BCCLA fought this motion and won. In October 2018, Justice Barnes dismissed the motion, ruling that the Attorney General was seeking "protection for the sake of protection", and that the open court principle was paramount in this case. This judgment was a major victory in our fight to lift the veil of secrecy that has shrouded this litigation. As a result of Justice Barnes's ruling, we were finally able to publish the Protest Papers.

The sheer volume of the Protest Papers suggests that CSIS was heavily monitoring pipeline opponents. If CSIS wasn't spying on these peaceful organizations, why would it collect thousands of pages of files about these activities?

This case is about so much more than the right to speak out and protest. It's also about the right to question those in power and to hold our government to account. But we can't have accountability without transparency. That's why we fought for the Federal Court proceedings to be public. We wanted to ensure that people in Canada would know what is happening in this significant litigation about the limits of the state's surveillance powers

Securing the right to release the Protest Papers was a major win for the BCCLA, but this fight isn't over. Our counsel are now hard at work fighting the redactions in the Protest Papers and preparing to challenge the SIRC decision on the merits.

(L-R) Alexandra Woodsworth (Dogwood BC), Meghan McDermott (BCCLA), and Sven Biggs (Stand.Earth) at a press conference to announce the release of the Protest Papers.

The issues in this case are more important than ever. While the Northern Gateway pipeline is dead, government spying on pipeline protestors and Indigenous land defenders is not. Last fall, it was revealed that Trans Mountain Corporation, a Crown corporation, was spying on activists that opposed the Trans Mountain Expansion Project, including the Tiny House Warriors, a group of Secwepemc land and water defenders. In early 2020, the RCMP admitted that it was using air assets to monitor members of the Wet'suwet'en Nation opposing the Coastal Gaslink pipeline. We hope our litigation against CSIS and the RCMP will help end the unjustified surveillance of people who are speaking out and standing up for what they believe in.

The BCCLA is extremely grateful to our pro bono counsel Paul Champ and Bijon Roy (Champ and Associates, Ottawa) for their tireless work on this case ■

"Silence is no Longer an Option": The Policing Indigenous Communities Initiative

By **Carly Teillet**, Community Lawyer

> **Nobody is listening. Nobody seems to care. There's no wrongdoing of the police in this country.**
>
> **— Cheryl M, Final Report of the National Inquiry into Murdered and Missing Indigenous Women and Girls**

Violence against Indigenous youth, women, men, gender diverse, two spirited, and LGBTQQIA people is rooted in racism, sexism, colonization, and perpetuated by institutions such as the police and justice system. For generations, Indigenous people have experienced police indifference to the violence they experience. Police have ignored, silenced, blamed, and under-protected Indigenous victims of crimes.

Simultaneously, Indigenous people are over-policed, racially and sexually profiled, street checked, criminalized, and over incarcerated.

> As [Kohkom] explained: "I've been in survival mode since I was a little girl, watching my back, watching goings on. Because I've seen my aunties, my cousins, my female cousins brutalized by police. And, growing up as a First Nation woman in this city, in this province, in this country – we're walking with targets on our backs."
>
> **— Final Report of the National Inquiry into Murdered and Missing Indigenous Women and Girls**

With the Policing Indigenous Communities Initiative, the BCCLA is working in solidarity and partnership with Indigenous communities and organizations to address over-policing, criminalization, and over-incarceration of Indigenous people. In 2019, we worked in partnership with an Indigenous community to bring forward the Indigenous nations' laws and concepts of justice and accountability into conversations with the RCMP and Canadian laws. Together we discussed paths to create a new mechanism for police accountability grounded in their law. The laws of the Indigenous community guided all of our work on this part of the Initiative. We look forward to continuing this work in 2020.

Truth Telling

A fundamental component of the Policing Indigenous Communities Initiative is truth telling. Truth telling involves recognizing that we do not know the complete story and that we need to bring forward experiences and truths of people who are marginalized and excluded. The truths of Indigenous people, women, two spirited, gender diverse, and LGBTQQIA individuals are essential to completing the story of access to justice and policing in this country. To transform systems, achieve structural change, and ensure access to justice we commit to understanding and respecting Indigenous truths.

We are guided by the words of the internationally recognized human, child and Indigenous rights advocate Dr. Cindy Blackstock:

> Silence is no longer an option […] Politicians and government departments remain silent because they want the Canadian public to look away. They don't want us to see the government's discrimination, and for the most part, their strategy has worked.

Through this initiative, the BCCLA is engaging in discussions that shine lights on lived experiences, the failures of police forces to protect and serve, the role of bias, criminalization and rights infringements. We are dedicated to upholding the dignity, humanity, and distinct and intersecting identities of the Indigenous people and communities in the stories shared. This manifests, for example, in the BCCLA's decision to prioritize going directly to the truths shared by Indigenous individuals, communities and organizations over a media outlet retelling of a story. By engaging in the discussion in these ways, the BCCLA is committed to working to dismantle widely held stereotypes that perpetuate violence against Indigenous people. Furthermore, the BCCLA is dedicated to showcasing and supporting whenever possible the expertise of Indigenous communities in leading the advocacy for their nations.

Indigenous people have the right to live free from violence, to be heard, to be treated with dignity and respect, and to have equal protection and benefit of the law without discrimination.

To learn more about the Policing Indigenous Communities Initiative visit www.bccla.org/pici ■

In the Courts

By **Emily Lapper (she/her/hers)**, Senior Counsel (Litigation)
and **Megan Tweedie (she/her/hers)**, Staff Counsel (Litigation)

In 2019, we litigated over 25 cases across the country, using strategic litigation to achieve broad and lasting change and to protect the civil liberties and human rights of all. Here are some highlights from the legal battles we fought in the past year.

Expanding the Right to Vote

In January 2019, the Supreme Court of Canada struck down portions of the *Canada Elections Act* that denied Canadian citizens the right to vote in federal elections if they have lived outside of Canada for more than five years. It is estimated that over a million non-resident Canadians were previously ineligible to vote because of these restrictions.

The BCCLA intervened in the *Frank v. Canada (Attorney General)* case to protect the democratic rights of all Canadian citizens. We argued that government interference with citizens' voting rights should be strictly limited. We asserted that the government had failed to identify any specific, concrete harm caused by expat citizens voting in Canadian federal elections. The government had also failed to provide any rational connection between its decision to limit the fundamental democratic freedoms of Canadian citizens living abroad and the objectives of its voter laws.

The Supreme Court of Canada found that the restriction on voting rights for expat citizens unjustifiably violated the right of every Canadian citizen to vote under section 3 of the *Charter*. The Court confirmed that s. 3 of the *Charter* should be given a broad interpretation to ensure the right of every citizen to participate meaningfully in the electoral process, which lies at the heart of Canadian democracy. A majority of the Court found that the right to vote is a fundamental democratic right, not a mere privilege, and that it cannot be denied to Canadians who have decided to live abroad. The Court's decision highlighted the global nature of our society and the fact that many Canadians overseas have maintained very strong ties to the country.

The BCCLA was represented by Brendan van Niejenhuis, Stephen Aylward, and Justin Safayeni of Stockwoods LLP in Toronto.

Advocating for Criminal Justice Reform

In December 2019, the BCCLA argued at the Supreme Court of Canada to limit the scope of liability for breach of bail offences in the case of *Chaycen Michael Zora v. Her Majesty the Queen*. After being charged with several drug offences, Zora was granted bail on the

Photo Credit: Mathew Ansley

condition that he abide by a curfew and present himself at his front door within five minutes of a police officer arriving at his home to ensure his compliance with the curfew. On two separate occasions, Zora did not present himself at his front door when an officer arrived to check up on him. At trial, Zora testified that he was at his residence both times the officer attended but was asleep and unable to hear the doorbell or knocking. He was convicted for breaching his bail conditions.

The offence of breach of bail conditions is one of the most commonly charged criminal offences. A charge or conviction for such a breach means that it will be more difficult for an accused person to be released in the future, and if the person is released, it will be on more stringent conditions. This potentially creates a perpetual cycle of re-offending and re-incarceration. We stand firmly against maintaining this revolving door in the criminal justice system.

The issue in this case was whether an objective or subjective intention (or *mens rea*) was required to commit the offence of breaching a bail condition. The Crown argued that an objective *mens rea* standard should apply, meaning the Crown would not need to prove that the accused intentionally committed the prohibited act in order to convict them. Zora argued a subjective *mens rea* should apply, requiring the Crown to show that the accused person actually intended to engage in prohibited conduct. A subjective *mens rea* is the default standard in Canada's criminal law.

The BCCLA intervened in this important case to argue that the lower threshold of a subjective *mens rea* should apply, and the Crown must show that Zora actually *intended* to breach his bail conditions. For those caught up in Canada's bail system, imposing an objective standard on breach of bail offences would lead to increased convictions and severe consequences. Furthermore, to apply an objective *mens rea* in circumstances where an accused person has yet to be tried and convicted conflicts with the fundamental principle of presumption of innocence.

The Supreme Court of Canada has reserved its decision. The BCCLA was represented in this case by Roy Millen, Alexandra Luchenko and Danny Urquhart of Blake, Cassels & Graydon LLP, Vancouver ■

BCCLA Celebrates Appeal Victory Affirming End to Indefinite, Prolonged Solitary Confinement

By **Grace Pastine (she/her/hers)**, Litigation Director

The Court of Appeal for British Columbia sent a powerful message last year when it barred the federal government from isolating prisoners in prolonged solitary confinement and ordered sweeping changes to the laws that govern how solitary confinement is used throughout federal prisons.

Grace Pastine, Litigation Director, and Alison Latimer, Pro Bono Counsel, at a press conference announcing the BC Court of Appeal's historic ruling of the unconstitutionality of Canada's solitary confinement laws.

In its decision released in June 2019, the Court of Appeal held that Canada's laws governing solitary confinement, also known as administrative segregation, are unconstitutional because they permit prolonged, indefinite solitary confinement and fail to provide an independent and external review of segregation placements. The laws violate the rights of prisoners to life, liberty, and security of the person under s. 7 of the *Charter*.

Writing for a unanimous court, Mr. Justice Fitch held:

> "…the draconian impact of the law on segregated inmates, as reflected in Canada's historical experience with administrative segregation and in the judge's detailed factual findings, is so grossly disproportionate to the objectives of the provision that it offends the fundamental norms of a free and democratic society."

The Court also held that prisoners have a constitutional right to counsel at segregation review hearings.

The BCCLA brought the lawsuit together with the John Howard Society, which advocates for effective and humane reform in the criminal justice system. The federal government appealed the decision to the Supreme Court of Canada, which has scheduled to hear the appeal and our cross-appeal case in the fall of 2020.

The case was supported by the first-hand evidence of current and former prisoners who bravely stepped forward to describe the cruel reality of solitary confinement. They described spending up to 22 hours a day locked in a cell about the size of a parking spot, their only human contact through the meal slot in the door.

They described feeling depressed, hopeless, panicked, and suicidal. They explained how difficult it was to readjust to life after release from prison. They couldn't

leave their room or join their family for a meal. For some, the trauma impacted all aspects of their lives.

> **It is psychologically devastating, even to healthy people, and increases the likelihood of suicide among the mentally ill and those with a history of trauma and abuse.**

Prolonged solitary confinement, which is often used arbitrarily and as punishment for minor rule violations, is widespread in Canadian prisons. For decades, the world has recognized it as cruel and dehumanizing treatment. An international chorus of human rights and mental health experts has called for a total ban on prolonged solitary confinement, arguing that more than 15 days of isolation amounts to torture. It is psychologically devastating, even to healthy people, and increases the likelihood of suicide among the mentally ill and those with a history of trauma and abuse. It is discriminatory in its use, with Indigenous people and people with mental health issues placed in solitary confinement at a rate higher than other populations in prisons.

Canadians should be outraged that the Correctional Service of Canada has continued to use this cruel practice as a routine form of prison management–and that new legislation, passed by Parliament in June 2019, continues to permit prolonged solitary confinement.

Prison officials claim the practice is necessary for combating gang activity and other threats to prison safety. However, research demonstrates that there are safer, more humane alternatives to solitary confinement, such as rehabilitative units with access to group programming, classes, mental health supports, and out-of-cell time. These alternatives are less costly and reduce prison violence and rearrests.

It is time to end this broken and dangerous system, which leaves many imprisoned people traumatized and struggling to reintegrate back into their community.

The BCCLA and the John Howard Society are represented by Joseph J. Arvay, OC, OBC, QC of Arvay Finlay LLP and Alison M. Latimer of Alison Latimer LLP ■

Law and Social Change: Interview with Pro Bono Lawyer Alison Latimer

By **Grace Pastine (she/her/hers)**, Litigation Director and **Alison Latimer (she/her/hers)**

Alison Latimer is a trial and appellate lawyer whose practice includes constitutional, civil, administrative and criminal law. I recently had the opportunity to interview her about her experiences doing pro bono work for the BCCLA.

Alison Latimer

GRACE PASTINE: You have donated an enormous amount of pro bono time to the B.C. Civil Liberties Association. I think it's in the order of 4,000 hours of pro bono time in the last eight years, which would easily be the equivalent of over two years of full-time work. It's an extraordinary commitment that you've made. Could you please tell us about that pro bono work?

ALISON LATIMER: I've been so fortunate to work on some great cases for the BCCLA. The first case I worked on for the Association was the assisted dying litigation, *Carter v. Canada,* which ultimately resulted in striking down the criminal laws that absolutely prohibited physician assistance in dying. It was amazing work, because that litigation, as you know, spanned many years, spanned many levels of court, went through many sorts of iterations.

The other really big piece of work I've done for the Association is the solitary confinement case which resulted in striking down laws that permit prolonged, indefinite solitary confinement for prisoners–which we argued was a form of torture. In addition to those big cases, I've had the privilege to act for the Association on interventions, at all levels of court.

GRACE PASTINE: How have you managed to balance doing pro bono work with the demands of what I know is a very busy practice?

ALISON LATIMER: Honestly, it's difficult. I guess what I would say is that pro bono work is no different than any other kind of work in the sense that once you agree to act on a case it requires your absolute focus and dedication. So some of these big cases, once they get going, that can mean that they take up months of your time. So, the trick is to keep a balance of different kinds of work in your practice.

GRACE PASTINE: What experiences have you gained through your pro bono work that have impacted you personally?

ALISON LATIMER: I would say the main thing about these two big cases is that they were eye-opening in terms of the power of the law to impact people in fundamental ways. Our job as lawyers is to translate people's experiences for the courts and hopefully affect positive social change that can really benefit people. Sometimes you have the sort of wonderful bookend to those sad stories you hear at the beginning of the case–you have people contacting you and telling you how the work has positively affected them once the law has been altered.

GRACE PASTINE: It's remarkable what you've been able to achieve for people through that inspiring work. What encourages you to continue doing pro bono work for the BCCLA?

ALISON LATIMER: Well, I think I've always had a strong hope to affect positive social change through strategic public interest litigation. I think that one of the most dramatic ways you can do that is when you offer pro bono legal services and you succeed in having a bad law struck down. Doing that kind of litigation, which is complex and systemic, really requires a partner organization like the BCCLA that can fund the costs of the litigation, bring all those people together and commit to a case over many years.

GRACE PASTINE: Is there any advice you would give someone who is thinking of undertaking pro bono work for the Association?

ALISON LATIMER: Well, I would say you should absolutely do it. I've spent some time teaching students and one of the things I noticed when I talked to students about why it is they chose to go to law school is that they often have hopes of affecting positive social change with the law. I think that that the happiest lawyers I know are the ones who didn't forget about that when they went to practice. I think that the BCCLA does a wonderful job of identifying issues to litigate where that is a real possibility ■

Interested in supporting the BCCLA with pro-bono work? Contact us at info@bccla.org.

Thank You Volunteers and Pro Bono Counsel

With the incredible support of pro bono counsel and volunteers across the country, we are changing the landscape of civil liberties in Canada. Thank you to everyone who dedicated thousands of hours to protect and extend civil liberties and human rights in 2019.

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Jennifer Lo
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Christine Wadsworth
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Nathan Whitling

Protecting our Community by Fighting the Community Safety Act

By **Meghan McDermott (she/her/hers)**, Senior Staff Counsel (Policy)

In early 2019, we were alarmed to see amendments to the *Community Safety Act* introduced in the BC legislature. The *Act* allows for occupants of a property, including homeowners, to be forced to vacate it if a court finds that certain activities which adversely affect the neighbourhood have been occurring there. This process can be initiated by an anonymous complaint filed by anyone in the neighbourhood.

Although the government keeps referring to "crack shacks" when defending the law, it can affect individuals and families whose activities are as benign as underage drinking or growing a publically visible cannabis plant. The habitual consumption of an "intoxicating substance" by a person of any age—even if they do not live on the property—can also be grounds for a complaint.

Yet, this law has never been enforced. The government that created the law in 2013 told the public that the costs of implementing it were too high and that existing tools to deal with properties threatening community safety were sufficient.

We agreed then and we hold the same position now—properties associated with illegal activities should be dealt with using the *Criminal Code* or residential tenancy law. These laws have much better procedural safeguards for the rights of people living in a home, while also enabling property forfeiture by the state or for a tenancy agreement to be ended if needed.

The *Community Safety Act* will circumvent these much better laws, and make the most vulnerable in our society even less safe.

In the spring, we led a coalition of individuals and groups to draw the government's attention to this risk, highlighting that Indigenous women and girls remain particularly vulnerable to the negative effects of state action, and to urge them to abandon it.

We fear that this law will open an avenue for targeted harassment driven by racism and other forms of prejudice. Many who are targeted in other provinces with similar draconian laws are the more marginalized members of society, and are not willing to get involved with the justice system due to previous bad experiences; they simply accept an eviction rather than returning to a courtroom.

Although we met with multiple Cabinet Ministers and government staff alone and in a coalition with other groups, the bill to amend the *Act* unfortunately passed in the fall, supporting the government's stated intention to bring the entire statute to life.

The *Community Safety Act* has yet to be put into operation, so we will continue to fight against its enforcement. We are still trying to find out the public resources needed to implement this law, especially given that the costs were high enough to deter a previous government from bringing it to life. Government officials were unwilling to provide estimates on the cost of enforcing this law when we inquired, leading us to file a Freedom of Information Request. By the end of 2019, we were still waiting for this information to be released. We cannot fathom why the government would invest in an unnecessary, harmful, and expensive program that other jurisdictions have started to de-fund. The harms that the *Community Safety Act* will cause to vulnerable and already over-policed communities cannot be overstated. We will continue to fight this draconian law ■

Financial Statement

Statement of operations and changes in fund balances

Year ended December 31

	2019				2018
	General Fund	Stabilization Fund	Trust Fund	Total	Total
	$	$	$	$	$
REVENUE					
Membership and donations	**1,137,723**	—	—	**1,137,723**	663,987
Law Foundation of BC – operating grant	**380,000**	—	—	**380,000**	190,000
Grants earned **[note 7]**	**237,542**	—	—	**237,542**	106,000
Net investment income (loss) **[note 10]**	**334**	**42,534**	**137,398**	**180,266**	(89,564)
Litigation recovery	**49,068**	—	—	**49,068**	—
Amortization of deferred contributions **[note 8]**	**10,200**	—	—	**10,200**	6,836
Endowment distributions **[note 9a]**	**6,070**	—	—	**6,070**	5,817
Miscellaneous and special events	**25**	—	—	**25**	108,232
Distributions from BCCLA Legacy Trust Fund **[note 9b]**	—	—	—	—	310,000
	1,820,962	**42,534**	**137,398**	**2,000,894**	1,301,443
EXPENSES					
Salaries and benefits **[note 14]**	**1,047,621**	—	—	**1,047,621**	913,150
Office operating	**204,021**	—	—	**204,021**	101,363
Contract fees	**102,309**	—	—	**102,309**	82,561
Rent and utilities	**67,177**	—	—	**67,177**	71,306
Litigation costs	**48,939**	—	—	**48,939**	49,737
Amortization	**33,748**	—	—	**33,748**	32,488
Travel and accommodation	**27,209**	—	—	**27,209**	42,935
Fundraising	**17,170**	—	—	**17,170**	89,370
Bank and donation processing charges	**13,223**	—	—	**13,223**	17,065
Meetings, publications, events	**8,357**	—	—	**8,357**	4,834
Nesletter	**5,121**	—	—	**5,121**	9,892
Insurance	**4,202**	—	—	**4,202**	2,816
	1,579,097	—	—	**1,579,097**	1,417,517
Excess of revenue (expenses) for the year	**241,865**	**42,534**	**137,398**	**421,797**	(116,074)
Interfund transfers **[note 13]**	**(253,688)**	**(23,042)**	**276,730**	—	—
	(11,823)	**19,492**	**414,128**	**421,797**	(116,074)
Fund balances, beginning of year	**524,370**	**54,780**	**670,611**	**1,249,761**	1,365,835
Fund balances, end of year	**512,547**	**74,272**	**1,084,739**	**1,671,558**	1,249,761

Treasurer's note: The complete 2019 BCCLA audited financial statements are available at www.bccla.org. The statements will be presented to our members at the 2020 Annual General Meeting on June 18th.

The Democratic Commitment is a publication of the British Columbia Civil Liberties Association. Established in 1962, the BCCLA 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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THE LAW FOUNDATION OF BRITISH COLUMBIA

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The BCCLA's main office is located on the unceded and ancestral territories of the xʷməθkʷəy̓əm (Musqueam), Sḵwx̱wú7mesh (Squamish) and səl̓ilwətaʔɬ (Tsleil-Waututh) Nations.

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