

VICTORY FOR JULIA

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LETTER FROM THE PRESIDENT

Caily DiPuma, President



This letter was written before the results of Canada's 43rd general election. I cannot predict what party won the most seats in the House of Commons, but I can predict one thing with absolute certainty: **Thanks to your support, the BCCLA is ready to hold whoever forms government to account — as we have done for the last 57 years.** We need a voice standing up for human rights and civil liberties in Canada now more than ever.

People must be free to criticize government and demand a better world if we are to have any hope of a truly just society. Yet today, we are witnessing the continuing erosion of our essential rights of democratic participation.

This summer, the BCCLA released the "Protest Papers," thousands of redacted documents that revealed how Indigenous people, environmentalists, and concerned community members opposed to the Enbridge Northern Gateway Pipeline were tracked and monitored by the Canadian Security Intelligence Service (CSIS). The Security Intelligence Review Committee (SIRC) ruled there was no wrongdoing on the part of CSIS, but the Committee conceded that spying creates a chilling effect that discourages people from

exercising their rights to free expression and assembly.

The BCCLA is challenging the SIRC ruling's findings in court, working to lift the gag order on witnesses, and calling on the RCMP to complete its response to the Civilian Review and Complaints Commissioner's interim report on allegations that the RCMP has also engaged in illegal spying activity, so that the final report can be released to the public.

While the Northern Gateway Pipeline was ultimately scrapped, concerns remain that Canadian security services continue to spy on Indigenous land defenders and environmentalists today. The BCCLA will continue this fight until people are able to exercise their rights without fear of government surveillance and intimidation.

In hope and solidarity,

A handwritten signature in black ink, appearing to be 'CDiPuma'.

Caily DiPuma
President
BC Civil Liberties Association



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A VICTORY FOR JULIA: THE *LAMB V. CANADA* CASE ADJOURNS

Grace Pastine, Litigation Director

In September, the BCCLA and our client Julia Lamb were relieved to announce the adjournment of our medical assistance in dying (MAID) case. This is a huge victory for Julia and for the many people like her who might find themselves suffering unbearably with no end in sight.

We requested the adjournment from the Supreme Court of British Columbia after the government of Canada's own expert witness admitted that Julia would now qualify for an assisted death if she requests it.

The government's uncontested evidence in Julia's case provides new clarity to health care providers. It confirms that people who are seriously ill and face enduring and intolerable suffering have the right to die with dignity, even if they are not at or near the end of life and their deaths are not considered "reasonably foreseeable."

This means that according to the government's expert, the law will not flatly exclude people who suffer terribly with no end in sight, such as people with MS, Parkinson's disease, Huntington's disease, and locked-in syndrome.

There is now a medical consensus that a patient's natural death will become reasonably foreseeable if they refuse care that will lead to death. If Julia requested MAID now, she would be eligible because her condition puts her at risk for developing a chest infection. If Julia states that she will stop using her nighttime ventilator and then refuse treatment for the inevitable chest infection, she would meet the requirement under Canada's law that "her natural death has become reasonably foreseeable."

In other words, the law does not force Julia to actually suffer the consequences of refusing care, nor to ultimately suffer from a protracted, painful dying process.

Our case secured peace of mind for Julia – and will improve care and provide comfort to many suffering people. The government's evidence tells us that medical and nurse practitioners are not required to have a crystal ball to predict the length of time a person has to live.

We are reassured and thankful that Julia is eligible for MAID if she requests it, so there is no reason to go to trial right now. Julia will be empowered to chart her own end-of-life path.



Our case secured peace of mind for Julia – and will improve care and provide comfort to many suffering people.



Julia Lamb speaking at a BCCLA press conference announcing the adjournment of our medical assistance in dying (MAID) case.

But make no mistake—we will continue with this lawsuit if we learn that others like Julia are being denied their fundamental constitutional right to a compassionate and peaceful dying process. ▶

NATIONAL INQUIRY INTO MISSING AND MURDERED INDIGENOUS WOMEN AND GIRLS

Meghan McDermott, Acting Policy Director

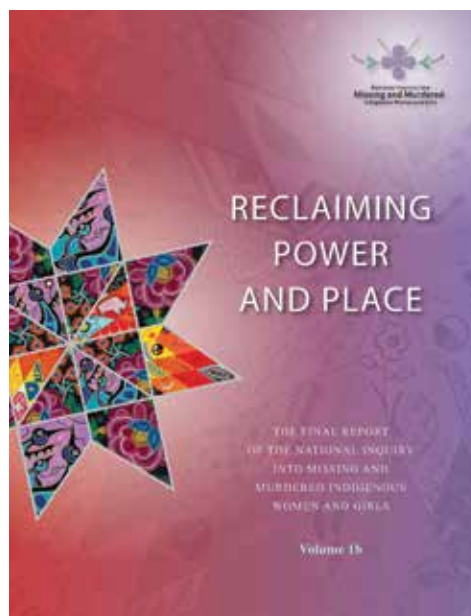
The historic Inquiry, long called for by Indigenous survivors, families, nations, and groups, wrapped up in June with the release of a Final Report. We are digesting the Inquiry's findings and are reviewing the Calls for Justice (recommendations made for institutions and individuals alike) alongside community members and groups who sit with us on BC's Coalition on Murdered and Missing Indigenous Women and Girls.

Because of our expertise in police accountability and civilian oversight, we participated in the Inquiry through cross-examination of witnesses at the police hearing and a subsequent written submission. In our written submission, we made a series of recommendations that are vital to improving police investigations into missing and murdered Indigenous women, girls, and 2SLGBTQQIA¹ people. A number of our recommendations, such as a call to re-evaluate limited duration police posts in remote communities, are echoed in the National Inquiry's Final Report and their Calls for Justice for police services.

While our involvement in the formal process pertained only to policing, we are committed to understanding and supporting the National Inquiry's findings, including that "human rights and Indigenous rights abuses and violations committed and condoned by the Canadian state represent genocide against Indigenous women, girls, and 2SLGBTQQIA people."²

The BCCLA's acknowledgement of the National Inquiry's findings is essential to our organizational responsibility to respect the human rights and civil liberties of Indigenous peoples, including understanding and working to counteract colonization and dispossession that continue today.

It was only six years ago that the BCCLA President issued a Statement of Reconciliation at Canada's Truth and Reconciliation Commission. In that statement, we named "the reality...that civil society in Canada, including the BCCLA, for years and years, failed to see or to understand what was happening and what was being done in our names. As civil libertarians, we should have seen, and we should



Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls.

have spoken out, sooner than we did."³ We acknowledged that the BCCLA has been part of the colonial structures that were silent about the most shocking, tragic, and sustained example of state coercion in Canadian history – the residential school system.

With the Final Report of the National Inquiry, we are working to deepen our understanding of the root causes of the epidemic of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people. We take up the call to hold governments accountable, and encourage all Canadians and their institutions to act to stop this violence.

To learn more about how you can give life to the findings of the National Inquiry, we encourage you to start with a review of the Final Report's Call for Justice for All Canadians (available at <https://www.mmiwg-ffada.ca/final-report/>). ➤

1 2SLGBTQQIA Stands for "Two-Spirit, lesbian, gay, bisexual, transgender, queer, questioning, intersex and asexual"

2 Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls, Volume 1B, Page 167.

3 The Journey of Reconciliation: Issuing our Statement of Reconciliation at Canada's TRC, September 21 2013, available online: <https://bccla.org/2013/09/the-journey-of-reconciliation-issuing-our-statement-of-reconciliation-at-canadas-trc/>

BAD NEWS BYLAWS

Latoya Farrell, Staff Counsel (Policy)



A government's actions to deprive people of their means to secure financial assistance not only impedes their freedom of expression but it also greatly restricts their access to public space.

Municipal bylaws impact the day to day lives of the vulnerable and marginalized, and they are increasing in numbers – making it difficult to stay current.

Salmon Arm's new Street Solicitation Bylaw (the "bylaw") is one such bylaw, modeled after the provincial Safe Streets Act ("SSA"), but more stringently applied. The BCCLA opposes the SSA because it criminalizes behaviour, like panhandling, that is the result of poverty, homelessness, and mental health issues, rather than addressing the underlying causes. The SSA is bound to be enforced in ways that discriminate against and target society's most marginalized.

The bylaw established a series of large "no-go" zones, restricting most of

the downtown commercial core and imposing a de facto community-wide ban on non-aggressive panhandling. It also bans people from soliciting while sitting or lying on sidewalks, sitting on a public bench, within a public plaza, or any time from sunset to sunrise.

A government's actions to deprive people of their means to secure financial assistance not only impedes their freedom of expression but it also greatly restricts their access to public space.

Extreme poverty can interfere with civil liberties including the right to vote, the right to secure government benefits or essential services, and the right to meaningfully participate in a democratic society. It can also have detrimental effects on an individual's

health and ability to sustainably care for themselves.

Solicitation is a form of expression necessary for financial support for a multitude of people who have fallen between the cracks of social assistance programs.

While the BCCLA is working hard to oppose these bylaws with letters to council, we urge our readers, members, donors, and all civil libertarians to pay close attention to their city council proceedings, to hold your local government accountable, and mobilize against the operation of these bylaws. ▼

YOUR RIGHTS ON TRIAL: STROM V. SASKATCHEWAN REGISTERED NURSES' ASSOCIATION (SKCA)

Megan Tweedie, Staff Counsel (Litigation)



In 2015, Ms. Carolyn Strom, a nurse in Saskatchewan, was found guilty of professional misconduct by the Saskatchewan Registered Nurse's Association (SRNA) for social media comments criticizing the quality of her grandfather's end-of-life care. Following a complaint and investigation, the SRNA Discipline Committee issued its guilty decision and imposed a \$26,000 fine and cost award on Ms. Strom.

Ms. Strom appealed her case to the highest court in the province after the Saskatchewan Court of Queen's Bench declined to quash the disciplinary decision and overturn the fine.

The BCCLA intervened to draw attention to the potential chilling effect

and improper encroachment on private life that happens when a professional regulator disciplines off-duty expressive activities of its members.

On September 27, 2019, we emphasized to the Saskatchewan Court of Appeal that when professionals are communicating in their personal capacity, their freedom of expression should not be limited by professional discipline. We argued that professional standards limiting freedom of expression should not be imposed on a personal social media account—unless there is a direct connection to professional roles or duties, or evidence of reprehensible conduct.

This landmark case raises important questions about the limits on freedom

of expression a professional regulatory body can place on its members. The ruling of the Saskatchewan Court of Appeal will have significant implications for those in professionally regulated industries and their right to publicly express their opinions.

We are hopeful that the Saskatchewan Court of Appeal's decision will recognize the importance of freedom of expression, especially when speaking about public institutions in a professional context.

The BCCLA is represented in this case by Greg Fingas of Gerrand Rath Johnson LLP of Regina, Saskatchewan. ▶

MEET OUR NEW STAFF!

Maggie Knight,
Acting Executive Director



(L-R) Megan Tweedie, Carly Teillet, Jessica Magonet, Jennifer MacNeil, Ryan Carter, and Veronica Martisius.

Times of transition are always an opportunity for reflection and renewal. We'll certainly remember 2019 as a year of significant change in our staff team.

Staff move on for a variety of reasons, including Vancouver's challenging cost of living, a desire for a career change, and as in the case of our former Executive Director, Josh Paterson, and former Policy Director, Micheal Vonn, being recruited to lead another organization (the Law Foundation of BC and the Portland Hotel Society, respectively).

Just as we miss the contributions of Jay Aubrey, Catherine Hart, Dylan Mazur, Kate Oja, Josh Paterson, and Micheal Vonn, we are also delighted to welcome the new energy, skills, and perspectives of our new colleagues.

Carly Teillet brings a wealth of experience from her work representing Indigenous clients, serving as the

inaugural Gladue Lawyer for Legal Services Society of BC, and teaching at the Peter A. Allard School of Law at UBC. Carly's expert leadership will guide our Policing Indigenous Communities Initiative, along with the rest of the Community Lawyer portfolio.

Megan Tweedie and **Jessica Magonet** are our new Staff Counsel (Litigation). Megan, a former BCCLA summer student, brings with her eight years of experience in private practice, focusing on labour and employment law, human rights, and privacy matters. Jessica comes to us from Arvay Finlay LLP, and adds bilingualism and civil law experience to our litigation team. Before moving to Vancouver, she spent two years clerking for the Honourable Madam Justice Karakatsanis at the Supreme Court of Canada.

Jennifer MacNeil, who first joined our team as a contractor in 2018, is our new Operations and Donor Relations

Associate. **Ryan Carter** is our new Litigation Administrative Assistant, bringing a background in legal research at a small criminal law practice, and providing critical backfill support while **Jessi Halliday** serves as Acting Operations Manager and Litigation Coordinator.

Latoya Farrell recently completed her articles at the BCCLA and now becomes Staff Counsel (Policy) while **Meghan McDermott** serves as Acting Policy Director. **Veronica Martisius** has joined the team as our next articling student, having recently graduated from UVic Law.

I hope BCCLA supporters will join me in giving our new staff a warm welcome. I look forward to sharing the results of their work with you in the coming months.

You can read our full staff bios at www.bccla.org/staff ➤

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Did you know that donating securities or mutual fund shares is one of the most effective ways to give to the BCCLA?

By donating securities, the BCCLA receives a larger donation and the donor receives a larger tax benefit. When you directly donate shares to charity you no longer need to pay capital gains tax, which means the BCCLA receives the maximum amount of your contribution and you receive a tax receipt for the full amount.

Here is a breakdown of why it benefits both the donor and the BCCLA.

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