



## NEWS RELEASE

British Columbia Civil Liberties Association  
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### **BCCLA condemns unlawful Canada Day searches**

The BC Civil Liberties Association condemns BC Transit and the Victoria Police Department for implementing a policy of unlawful mandatory searches during Canada Day celebrations. In 2008, the BC Civil Liberties Association filed a complaint against the Victoria Police Department and four other police departments in the capital region for implementing a program of mandatory searches for alcohol on Canada Day. The Commission for Public Complaints Against the RCMP (CPC) agreed to do a public interest investigation based on the complaint, ultimately finding that the practice was unlawful. The report went so far as to say that even search checkpoints based on consent are “potentially irreconcilable with ensuring that the citizen is aware of the right not to be searched.”

Rob Holmes, BCCLA President said, “The spectacle of Transit employees patting down bus riders and pawing through their purses, bags, and satchels is disturbing. People are entitled to respect for their persons and effects. The police and BC Transit are showing scorn for the law and for the civil liberties of all persons, most particularly those who choose public transit on a public holiday. Instead of providing for enough police to walk the beat and do their job if unlawful disturbances arise, the authorities are wasting time and energy on unlawful searches.”

This year BC Transit has announced a policy not to allow alcohol on transit vehicles on Canada Day, stating that service will be “monitored” and customers will be asked to demonstrate compliance. Those who refuse to be searched will apparently not be allowed to board transit vehicles. The news release announcing this policy included a comment from the Victoria police chief applauding this policy. This is an attempt to evade what the police complaints process has already found unlawful.

The CPC report examined the *British Columbia Transit Act* and found that

"The transit employee's power to deny the use of a transit vehicle is contingent upon the person's disobedience of a sign or failure to comply with rules. The disobedience or failure must be established before the employee may take such action. The regulation does not authorize the transit employee to search the passenger or would-be passenger in order to determine whether the person is disobeying or not complying. It is not the source of a power to search passengers' bags."

RCMP Commissioner William Elliott agreed with the CPC report and stated that “the *British Columbia Transit Act* and *Transit Conduct and Safety Regulation* do not authorize searches of passengers’ bags at the bus stops.” As a result of the CPC report, Commissioner Elliott has expressly directed RCMP members not to participate in mandatory search programs.

Holmes added: “This policy runs smack into the efforts made to get people out of cars and onto transit if they drink. Contrasting BC Transit’s free rides on New Year’s Eve with this imitation of the Spanish Inquisition makes its nonsensical nature clear.”

As a result of the BC Transit policy, the BCCLA is advising those who may be affected to consult legal counsel about bringing a class action or other civil suit should they be subjected to an illegal search. People who feel compelled to submit to a search, even if they consent to such a search in order to board a bus, may argue that they have been subjected to unlawful detention and search. As a matter of law, the police must catalogue all seized property so that it can be reclaimed.

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