

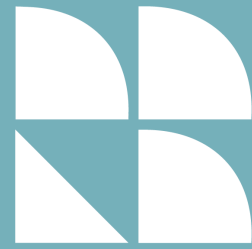
2023

IMPROVING LAWS IN BC

2023 ANNUAL REPORT



ABOUT THE BCLI



The British Columbia Law Institute (BCLI) brings together the expertise and experience of collaborators to improve the law, increase access to justice, and develop just and innovative solutions for British Columbia.

The Canadian Centre for Elder Law (CCEL) is a division of BCLI.

Our Purpose

Better Laws. Plain and Simple.

Our work falls into three broad categories:

REPORTS

Reports recommend specific reforms for legal frameworks based on deep research, expert input, and public engagement.

STUDY PAPERS

Study papers explore and analyze current legal issues and considerations for reform.

PRACTICAL RESOURCES

Practical resources provide public legal information materials and tools for best practices.

Our Process

INVESTIGATE

Identify legal issues to determine law reform needs.

RESEARCH, ANALYSIS, & ENGAGEMENT

Carry out legal research, analysis, and engagement to recommend reforms.

OUTREACH

Connect to deepen support for law reform needs.

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and Executive Director**

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Message from Our Board Chair and Executive Director

Dear Friends and Colleagues,

We are pleased to introduce our 2023 annual report, highlighting a busy and productive year for BCLI. Our reports and materials continue to be of value to policy makers and legal practitioners in BC and beyond. We explore emerging areas to reflect the rapidly changing legal landscape in BC, and we continue to renew our organization with new approaches and new faces.

RECONCILING CROWN LEGAL FRAMEWORKS (RCLF) PROGRAM

In 2022 we launched our RCLF program to support the research and innovation required to implement the *Declaration on the Rights of Indigenous Peoples Act*. To date we have released five primers that feature the use of Indigenous artwork to enhance our materials. The primers were intentionally designed to be more accessible to help adjust the ways we think about law. These efforts reflect our commitment to advancing legal reform and promoting reconciliation. We encourage you to learn about our projects and also explore the range of activities we have undertaken to increase awareness of our work in our Community Engagement section.

20TH ANNIVERSARY OF THE CANADIAN CENTRE FOR ELDER LAW

November marked the 20th anniversary of the Canadian Centre for Elder Law (CCEL), a division of the BC Law Institute, formed in 2003 to address legal issues affecting our aging population. Since its inception, CCEL has produced substantive reports, study papers, and resources on a wide range of issues that impact older persons. Additionally, CCEL has fostered a strong community dedicated to advancing the rights of older persons in Canada and internationally. This milestone was celebrated at the Canadian Elder Law Conference on November 9th.

PUBLICATIONS

We released two other resources: *Undue Influence Recognition and Prevention: A Guide for Legal Practitioners* and the *Supporting Vulnerable Witnesses Study Paper*. The guide updates best practices for legal practitioners to ensure that wills and personal planning documents reflect clients' true intentions and can withstand undue influence challenges. The study paper reviews the criminal justice system's challenges for vulnerable adults, current accommodations and rights, and offers comparative research and best practices for supporting vulnerable adults in the justice system.

OUR WORK IN ACTION

This year, we made several contributions to legal discussions and policy developments. In July, Karen Campbell and AI and Civil Liability Project Committee Member Kristen Thomasen published an opinion editorial in the *Vancouver Sun*, focusing on our consultation paper on artificial intelligence and civil liability. The Summer edition of *The Verdict*, the Trial Lawyers Association of BC magazine, featured an article on our *Gender Diverse Legal Writing Guide*. Additionally, we were invited by the federal Department of Justice to provide comments on the Consolidated Working Draft of the Council of Europe Framework Convention on Artificial Intelligence, Human Rights, Democracy, and the Rule of Law. These activities underscore BCLI's commitment to shaping contemporary legal discourse and policy.

Alongside these contributions, we also saw one of our past reports implemented. On October 26, the *Money Judgment Enforcement Act* (Bill 27) received royal assent. First introduced in May, this legislation gives effect to recommendations from our *Report on the Uniform Civil Enforcement of Money Judgements Act* published in 2005. Although many years have passed since the report was published, it serves as a reminder that law reform often requires a long-term approach. The Act is set to enter into force in 2025.

WELCOME AND GOODBYES

Two new board members joined us in 2023 – Dr. Alexandra E. Flynn appointed by University of British Columbia and Aubin P. Calvert appointed by Canadian Bar Association - British Columbia.

Dr. Alexandra Flynn is an Associate Professor at the Allard School of Law, University of British Columbia, specializing in law and cities. Her research focuses on the constitutional role of cities and urban governance, with numerous publications in top journals. She leads CMHC and SSHRC-funded projects addressing Canada's housing crisis. Additionally, she works on projects related to the governance and human rights of precariously housed individuals in Canadian cities.

Continue on next page

MESSAGE FROM THE BOARD CHAIR AND EXECUTIVE DIRECTOR

Aubin Calvert is an associate at Hunter Litigation Chambers in Vancouver. Her practice is focused on administrative and constitutional law. She also teaches conflict of laws at the Allard School of Law. Aubin served as a law clerk to Chief Justice Richard Wagner of the Supreme Court of Canada from 2016 to 2018.

We were grateful to have Kelly Melnyk join our team for a short time as our CCEL Director, based out of Kamloops, and we especially appreciate the Memorandum of Understanding (MOU) with Thompson Rivers University (TRU) that resulted from her time with us. The MOU establishes office space and envisions future collaboration with TRU. We are committed to engaging students and emerging lawyers in our work, and we were pleased to have Kira Davidson as our articling student and Meghan Little as a summer intern through the University of Toronto Law's public interest fellowship program.

Kira, who brought tremendous capacity to our team, completed her BA in English Literature at the University of Calgary, her JD at the University of Alberta, and her LLM at the University of Edinburgh. Meghan joined us as a summer intern in our Reconciling Crown Legal Frameworks program.

We also bid farewell to our Communications Manager, Taja De Silva, and our articling student, Sara Pon. Taja helped us find new ways to engage audiences in our work, while Sara, who had previously worked with us as a researcher, made significant contributions to many of our CCEL projects during her time with us.

Sincerely,



Edward L. Wilson
Board Chair



Karen Campbell
Executive Director



OUR WORK

Our work is organized into three main areas: reports, study papers, and practical resources. Reports offer detailed recommendations for legal reforms, grounded in thorough research, expert insights, and public consultations. Study papers delve into current legal issues and explore potential avenues for reform. Practical resources provide accessible legal information and tools to support best practices.

New Project

RENOVATE THE PUBLIC HEARING

Building on the Public Hearing Study Paper Project in 2022, we launched a law reform project that will make recommendations for specific reforms to the *Local Government Act* and related legislation on public hearings. Critics say that current public-hearing requirements result in costs, wasted time, low satisfaction, and sometimes trauma for those involved. Is there a better way to engage the public and reduce pre-development risk and barriers to housing? We seek to answer this question in the Renovate the Public Hearing Project. This project is being conducted in conjunction with the Simon Fraser University Wosk Centre for Dialogue and funded by Canada Mortgage and Housing Corporation.



Ongoing Projects

REVIEW OF PARENTAGE UNDER PART 3 OF THE FAMILY LAW ACT PROJECT

Initiated in September 2020, this project specifically addresses some of the gaps and needs to transform and review legal parentage under Part 3 of the *Family Law Act*. Since the enactment of Part 3 over a decade ago, societal norms and reproductive technologies have evolved significantly. This evolution underscores the growing need to review and update these laws to better reflect these changes. An expert project committee has met regularly to consider options for reform since 2021. The final report was released in the middle of 2024.

ARTIFICIAL INTELLIGENCE AND CIVIL LIABILITY PROJECT

The goal of the Artificial Intelligence and Civil Liability Project is to determine how to adapt tort law to address harm caused by autonomous artificial intelligence. Artificial Intelligence is being used widely across many sectors and concerns arise due to potential impacts on individuals' lives. This creates challenges as tort law is crafted to deal with harm caused by humans. The consultation phase ended in November 2023. The project committee re-convened and held two meetings in that month to review the responses to the consultation paper. The final report was released in 2024.

STUDY PAPER ON INDIGENOUS-LED CONFLICT RESOLUTION

We are researching into the various models of courts in existence in Canada, United States, New Zealand, Africa, and Latin America with a special focus on tribunals that apply the traditional and customary laws of the Indigenous peoples they serve. The project is intended to assist in finding ways in which the justice system of BC can adapt to support Indigenous legal orders. Research and drafting of the paper is underway.

CCEL'S DEMENTIA + DECISION-MAKING PROJECT

The Dementia + Decision-Making Project is an initiative to support the rights of people living with dementia in making decisions about their care and well-being so that the rights of people living with dementia are respected, and that they participate as much as possible in the decisions that matter to them. The practical resources teach health care sector stakeholders including doctors, nurses, long-term care facility staff, and family members how to support people living with dementia. The final project was released in early 2024.

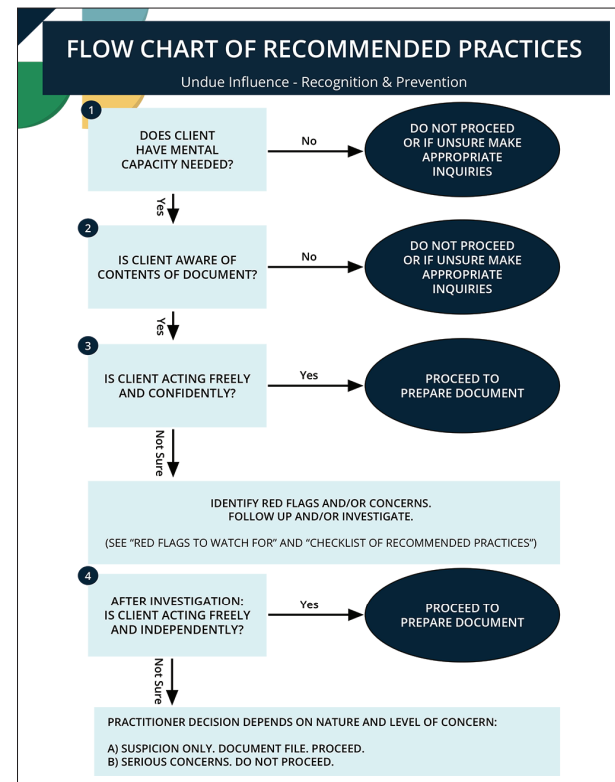
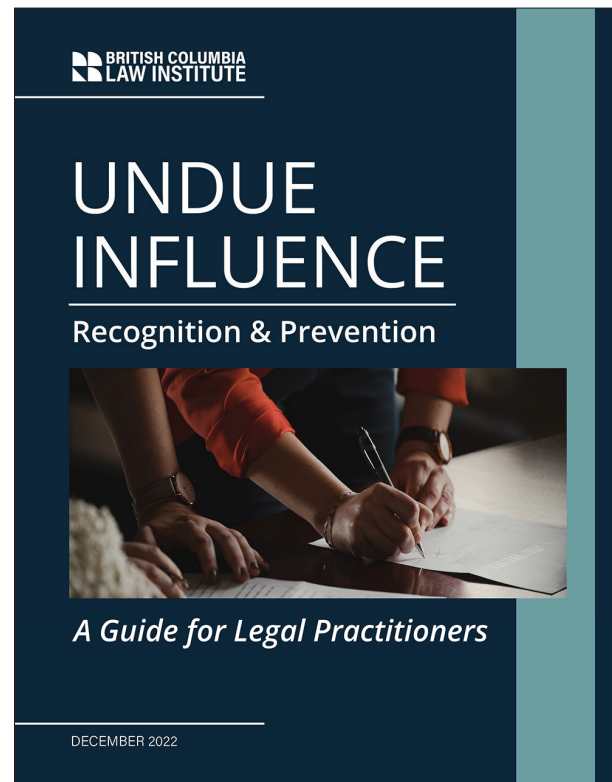
Completed Projects

UNDUE INFLUENCE RECOGNITION / PREVENTION GUIDE UPDATE PROJECT

We released an update to one of our frequently cited publications, the *Undue Influence Recognition and Prevention: A Guide for Legal Practitioners*. This guide lays out a set of recommended practices to ensure that wills genuinely represent the independent wishes of the deceased and are protected against challenges based on undue influence. The new guide addresses issues related to remote signing, audiovisual technology, and increased use of videoconferencing by lawyers and notaries. The updated guide and

the accompanying reference aid checklist and flowchart were released in January 2023. A video was created in fall 2023 that explains how to apply the updated version of our guide.

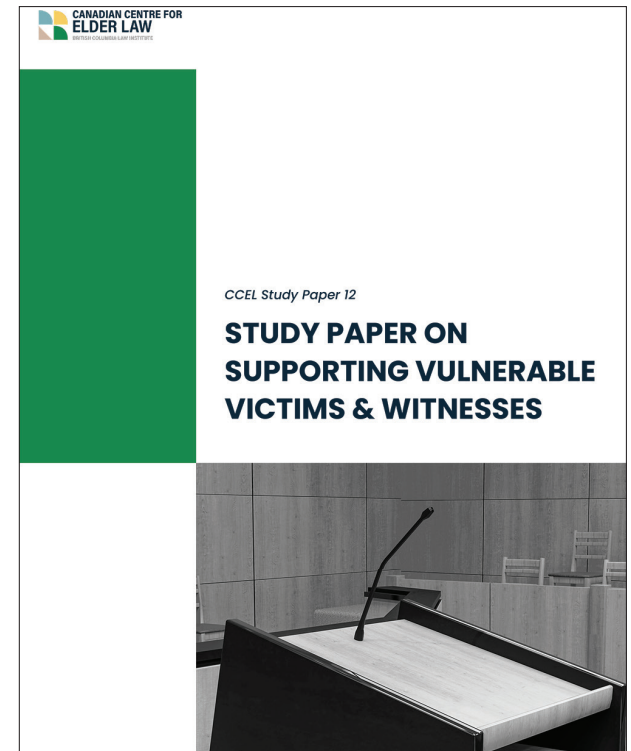
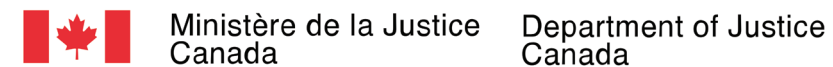
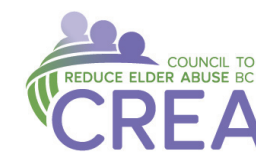
Funding for the updated guide and video was provided by the Notary Foundation of British Columbia.



SUPPORTING VULNERABLE VICTIMS AND WITNESSES STUDY PAPER

The CCEL conducted comparative jurisdictional research to identify law and policy responses aimed at supporting vulnerable victims and witnesses of abuse. This research project involved consultation with police, victims service workers, criminal law practitioners, and others. The study paper, released in fall 2023, offers an overview of the criminal justice system and the rights and barriers faced by vulnerable adults. It includes research on Crown prosecution policies and provides best practice recommendations to help BC and federal Crown develop policies that better support vulnerable adults.

The study paper is funded by the BC Council to Reduce Elder Abuse and the Department of Justice Canada.



Our Reconciliation Primers

In November 2019, BC passed the *Declaration on the Rights of Indigenous Peoples Act (Declaration Act)*. Implementation of the *Declaration Act* presents new legal issues and research opportunities. We have now published 5 primers that provide information about some of the law reform issues related to this legislation.

PRIMER 1: THE UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES AND BC'S DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES ACT

Our first primer introduces the *Declaration Act* and its implications for BC legislation. It discusses how the *Declaration Act* applies to the laws of BC, and its legal obligations.

PRIMER 2: INDIGENOUS LAWS

This primer is a collaborative publication with the Indigenous Law Research Unit at the University of Victoria. It provides an overview of Indigenous laws, their sources and how they operate. Indigenous laws describe the principles and processes that Indigenous Peoples and communities use and have always used to govern themselves. Aboriginal law, by contrast, describes Canadian laws about Indigenous issues.

PRIMER 3: LEGAL PLURALISM IN CANADA

This primer provides a brief overview of the legal pluralist frameworks that have always been part of Canada's Crown legal framework.

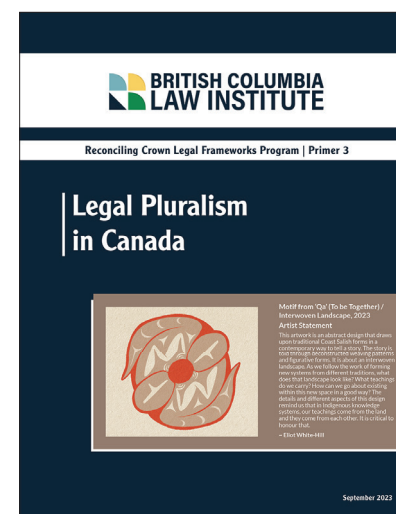
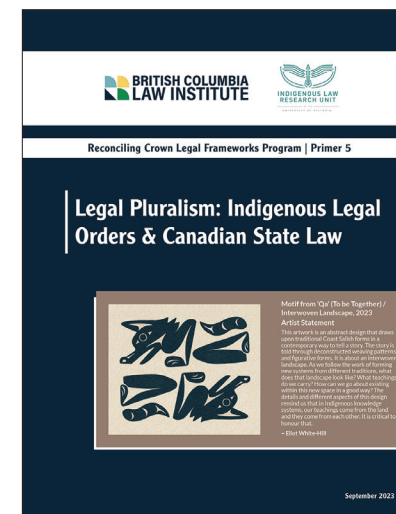
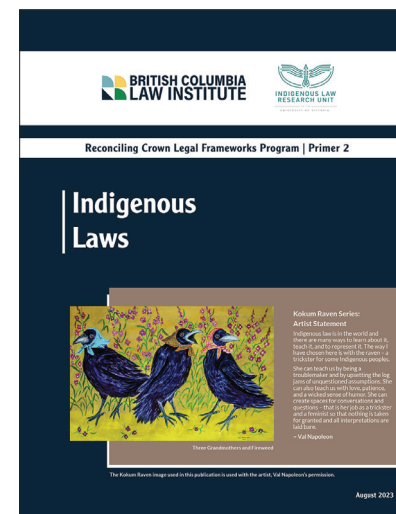
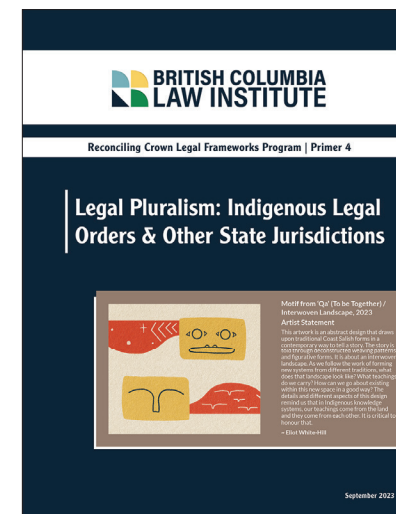
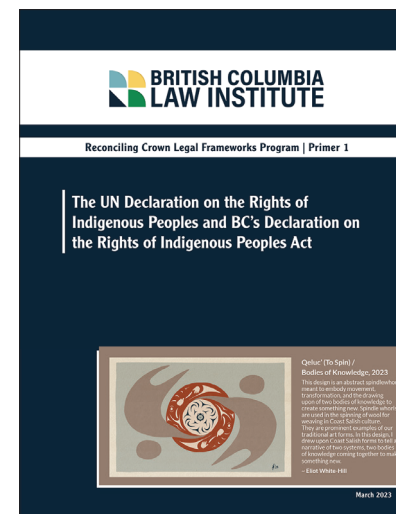
The publications were made possible with the financial support of the Law Foundation of British Columbia, the Real Estate Foundation of BC, and the McLachlin Fund. Primers 2 and 5 were produced in partnership with the Indigenous Law Research Unit at the University of Victoria.

PRIMER 4: LEGAL PLURALISM: INDIGENOUS LEGAL ORDERS & OTHER STATE JURISDICTIONS

This primer surveys examples of other state jurisdictions that have built frameworks for the operation of legal pluralism as between state and Indigenous laws. It considers ways that legal pluralism is incorporated into state legal frameworks through state constitutions, state legislation, and state court procedures.

PRIMER 5: LEGAL PLURALISM: INDIGENOUS LEGAL ORDERS & CANADIAN STATE LAW

This primer explores the operation and interactions of different legal orders and jurisdictions in what is now known as Canada. It looks at these interactions from two perspectives: between Indigenous legal orders, and between the Canadian state and Indigenous legal orders.



Indigenous Artwork

Incorporating Indigenous art into the Reconciling Crown Legal Frameworks Program helps embody the narratives, histories, and cultural perspectives of Indigenous peoples. By integrating these artistic expressions, the program hopes to honour these perspectives.

Primers 3, 4 and 5 uses motifs from our commissioned artwork 'Qa' (ToBeTogether) / Interwoven Landscape by Coast Salish artist Eliot White Hill. In Eliot's words the artwork is an abstract design that draws upon traditional Coast Salish forms in a contemporary way to tell a story. The story is told through deconstructed weaving



patterns and figurative forms. It is about an interwoven landscape. As we consider the work of forming new systems from different traditions, what does that landscape look like? What teachings do we carry? How can we go about existing within this new space in a good way? The details and different aspects of this design remind us that in Indigenous knowledge systems, our teachings come from the land and they come from each other. It is critical to honour that.

COMMUNITY ENGAGEMENT

As a law reform institute, we look to legislators and policy makers to implement our work. We know that engaging community is an important way to increase awareness of our work. In 2023 we undertook a variety of activities such as presentations, attendances at various conferences, and outreach/communications activities. Some examples of our work over the past year include:

CONNECTIONS WITH UNIVERSITIES

As part of the University of British Columbia community, we actively participated in several of its events. In February, we participated in the UBC Social Justice Forum hosted by Allard Law School, connecting with law students interested in social justice legal practice opportunities. Our senior staff lawyer, Greg Blue KC, delivered a presentation and took part in a panel discussion on artificial intelligence in medicine at the UBC Data Science Health Conference.

meet with Thompson Rivers University (TRU) Dean of Law Daleen Millard. This activity and others help build a stronger relationship with TRU Faculty of Law. We also signed a Memorandum of Understanding with TRU in August. It includes office space, related amenities and a commitment to collaboration. We were pleased to be able to do that and it came about in part due to Kelly Melnyk's efforts. We look forward to engaging the TRU law community in our work, and to participating in activities in and around the law school.

RECONCILING CROWN LEGAL FRAMEWORKS

In our ongoing efforts to support the research and innovations required to implement the *Declaration on the Rights of Indigenous Peoples Act*, we engaged in two events focused on Indigenous issues. We attended the BC Cabinet and First Nations Leaders' Gathering in November to highlight the Reconciling Crown Legal Frameworks (RCLF) program. We distributed reconciliation primers and shared information about upcoming initiatives, including our study on Indigenous led conflict resolution. Minister of Indigenous Relations and Reconciliation, Murray Rankin, endorsed the primers during his presentation, encouraging delegates to pick up copies. Additionally, we participated in the Canadian Institute for the Administration of Justice's Symposium on Indigenous Courts, where diverse perspectives on building justice systems that honour Indigenous values were discussed.



Kira Davidson and Megan Vis-Dunbar at the UBC Social Justice Forum

We met with the Kamloops legal community at the Kamloops Bar Association's Bench and Bar Dinner. This event was an opportunity to

PARTNERSHIPS

It is important for us to join events that discuss ways to improve the law.

In June, we connected with our counterparts across the country at the Federation of Law Reform Agencies of Canada (FOLRAC) conference held in Toronto. The use of technology and access to justice concerns emerged as common themes underlying much of the work being done across Canada. In August, we attended the Civil Section of the Uniform Law Conference of Canada, which seeks to harmonize laws across the country.

We would like to highlight our collaborations with other legal organizations. In October, Board member Julia Lawn and staff lawyer Megan Vis-Dunbar co-chaired the CLEBC's Legal Research Conference on AI and emerging technologies, bringing together nearly 70 lawyers, academics, and judiciary members to discuss AI regulation, ethical concerns, and technology's impact on justice. Our Board member, Registrar Timothy Outerbridge from the BC Court of Appeal, was a featured speaker. Additionally, staff lawyer Gregory Blue, KC, and project committee member Geoff White, KC, presented on applying our *Undue Influence Recognition and Prevention: A Guide for Legal Practitioners* at the CBABC's Wills and

Estates Conference. These collaborations help promote our work and educate the broader legal community.

PUBLIC ENGAGEMENT

Besides engaging with the broader legal community, we were involved with several events to educate the public. Our articling student, Sara Pon, started off this year with a January presentation on Supported Decision Making at Aspire Richmond. Her talk focused on decision-making rights for people living with disabilities and provided strategies to support decision-making for parents of older-aged and soon-to-be adult children with disabilities. We also delivered a presentation on CCEL's Supporting Vulnerable Victims and Witnesses project during Victims and Survivors of Crime Week in June. In September, we shared the findings of our *Vulnerable Victims and Witnesses Study Paper* at a TRU faculty of law presentation and with members of the Kamloops bar.



Community outreach at Aspire Richmond

OUR PEOPLE

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 Kelly Melnyk, *Director of CCEL*
 Megan Vis-Dunbar, *Staff Lawyer*
 Alison Wilkinson, *Staff Lawyer*
 Shauna Nicholson, *Office Manager*
 Kira Davidson, *Articling Student*

* Joined in 2023

** Departed in 2023

*** Deceased

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 Dr. Cindy Grimm
 Cynthia Khoo
 Maya Medeiros
 Dylan Merrick
 Darin Thompson (*Ministry Liaison Observer*)
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 Tracey Anderson (*Dec. 2020-Sep. 2021*)
 Jeannette Aucoin
 Lynda J. Cassels
 barbara findlay, *KC*
 Mathew Good*** (*Sep. 2021-Apr. 2023*)
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 Catherine J. Wong
 Holly Yager
 Prof. Margot Young (*Dec. 2020-Aug. 2021*)

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UNDUE INFLUENCE RECOGNITION / PREVENTION GUIDE UPDATE PROJECT COMMITTEE

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 Kevin Coughlin
 Kathleen Cunningham
 Hilde Deprez
 Patricia Fedewich
 Deidre Herbert
 Emma McArthur
 Maryanne Prohl
 Dr. Jessica Tracy
 Dr. Zak Witkower
 Geoff White, *KC*



Daleen Millard, Kelly Melnyk, Karen Campbell and Ryan Ganther at the Kamloops Bar Association's Bench and Bar

APPRECIATION



Funders and partner organizations are one of the cornerstones of our mission to advance law reform. They fuel us financially, while also providing the knowledge and connections that are essential for our work.”

– **KAREN CAMPBELL,**
Executive Director

The BCLI thanks all of its friends, supporters, colleagues and collaborators over the years. In particular we thank the many committee members for generously sharing your time and expertise, and a special thank you to our funders and partner organizations.

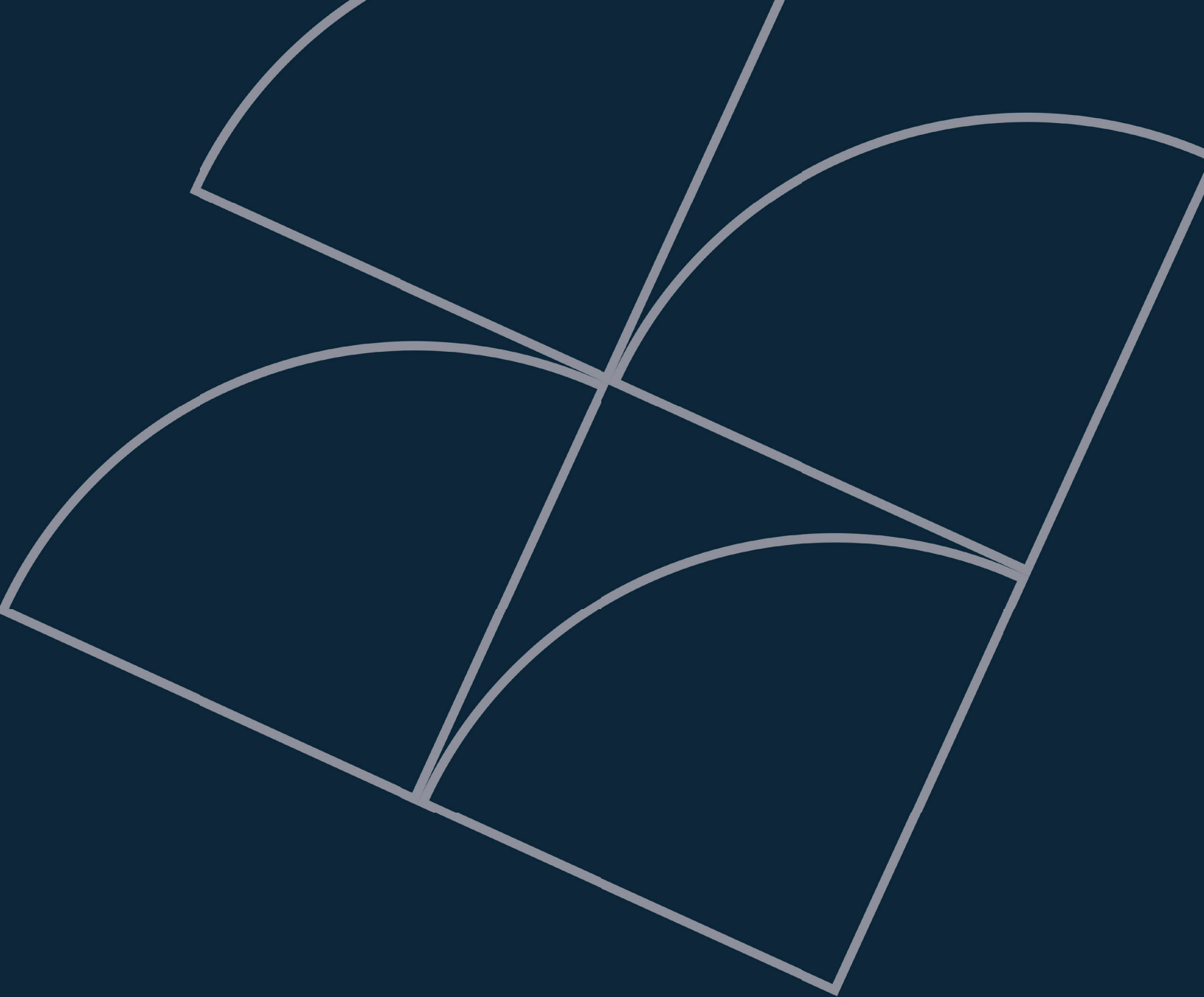
Funders




Alzheimer Society of Canada
BC Association of Community Response Networks (BCCRN)
Canada Mortgage and Housing Corporation
The Council to Reduce Elder Abuse (CREA)
Department of Justice Canada
Law Foundation of British Columbia
Ministry of Attorney General
Notary Foundation of British Columbia
Real Estate Foundation of British Columbia
Simon Fraser University
Vancouver Foundation
McLachlin Fund

Partner Organizations

Indigenous Law Research Unit
Simon Fraser University Wosk Centre for Dialogue





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The work of the BCLI primarily takes place on the unceded territories of the xʷməθkʷəy̓əm (Musqueam Indian Band), Skwxwú7mesh (Squamish Nation) and səliłwətaʔ (Tsleil-Waututh Nation).