

Minister of Public Safety



Ministre de la Sécurité publique

Ottawa, Canada K1A 0P8

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RECEIVED  
July 6/17

Mr. Herman Van Ommen, Q.C.  
President  
The Law Society of British Columbia  
845 Cambie Street  
Vancouver, British Columbia V6B 4Z9

Dear Mr. Van Ommen:

Thank you for your co-addressed correspondence of May 1, 2017, concerning the searching of lawyers' electronic devices by Canada Border Services Agency (CBSA) officers.

The CBSA plays an important role in the law enforcement community, as border services officers (BSOs) are uniquely positioned to interview travellers and to examine goods entering Canada. The CBSA is committed to maintaining the balance between an individual's right to privacy and the safety and security of Canadians.

Paragraph 99(1)(a) of the *Customs Act* allows BSOs to examine any goods that have been imported into Canada to ensure compliance with our laws. A "good" is defined as any document in any form, and it therefore includes electronic media and their content. The examination of electronic goods can uncover a range of customs-related offences, from electronic receipts proving that goods were undervalued or undeclared to the interception of prohibited goods contained within the devices themselves (child pornography, obscenity, etc.).

Current CBSA policy is that examinations of electronic goods should not be a matter of routine. Instead, a multiplicity of indicators must suggest that evidence of contraventions may be found on a device. Such examinations of digital devices and media are only performed when there is a clear link to administering or enforcing CBSA-mandated program legislation that governs the cross-border movement of people and goods.

CBSA officers are exposed to the importance of solicitor-client privilege at several points during their training. Officers are instructed not to examine documents if they suspect they may be subject to this privilege, if they are specifically marked with the assertion that they are privileged, or if this privilege is claimed by a lawyer or notary with respect to documents carried by these individuals.

Canada

All examinations are conducted in strict adherence to Canadian legislation. I assure you that the CBSA has appropriate safeguards in place to protect personal information, as required by the *Privacy Act* and the *Customs Act*.

Thank you again for writing.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'R. Goodale', written in a cursive style.

The Honourable Ralph Goodale, P.C., M.P.