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CANADIAN ASSOCIATION OF CHIEFS OF POLICE
Leading progressive change in policing

582 Somerset Street West Ottawa, Ontario K1R 5K2
p: 613-233-1106 f: 613-233-6960
e: cacp@cacp.ca w: www.cacp.ca

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Resolution #01 - 2006

PREVENTION OF MISCARRIAGES OF JUSTICE

Submitted by the Law Amendments Committee

WHEREAS it is recognized that any wrongful conviction of an innocent person in Canada is a miscarriage of justice and a fundamental failure of the criminal justice system, and;

WHEREAS the police in Canada recognize their responsibilities in providing strong leadership to combat instances of wrongful convictions and to support policing partners within the criminal justice system in a coordinated effort to prevent future instances of miscarriages of justice, and;

WHEREAS in 2002, in response to a number of reports of wrongful convictions across Canada the Federal, Provincial and Territorial Heads of Prosecution Committee established a Working Group, which included trial and appellate prosecutors and also benefited from extensive representative participation in its work by members of the CACP Law Amendments Committee, to identify the root causes of wrongful convictions and to provide recommendations on the Prevention of Miscarriages of Justice, and;

WHEREAS in September 2004 the Working Group presented a comprehensive report to the FPT Heads of Prosecution which identified several key factors that have contributed to past instances of wrongful convictions. The report specifies how these factors have affected the proper administration of justice in Canada and provides recommendations to combat these issues and to avoid wrongful convictions, and;

WHEREAS the Report on the Prevention of Miscarriages of Justice has received widespread approval from both the policing and prosecution communities in Canada for its value in providing significant guidance to prevent wrongful convictions;

THEREFORE BE IT RESOLVED that the Canadian Association of the Chiefs of Police recommends that the Report on the Prevention of Miscarriages of Justice be adopted by all CACP member police agencies in Canada and that the recommendations specific to law enforcement be endorsed and implemented, and;

BE IT FURTHER RESOLVED that the CACP recommends that all police agencies conduct an examination of relevant policies to ensure that current procedures and practices are consistent, where applicable, with the recommendations.

Resolution #01 - 2006

PREVENTION OF MISCARRIAGES OF JUSTICE

Commentary:

The specter of the wrongful conviction of an innocent person erodes the fundamental trust that the public values in the criminal justice system. Although Canada has traditionally enjoyed a high level of confidence in the proper administration of criminal justice, it has not been immune to specific instances of miscarriages of justice.

In recent years, we have experienced public inquiries into the aftermath of wrongful convictions across the country. Reports from these commissions of inquiry, such as the *Royal Commission on the Donald Marshall Jr. Prosecution* (Nova Scotia: 1989); *The Commission on Proceedings involving Guy Paul Morin* (Toronto, Ontario: 1998) and *The Inquiry Regarding Thomas Sophonow* (Winnipeg, Manitoba: 2001) have all provided great insight into the root causes that contribute to eventual miscarriages of justice.

In isolation, any one instance of the wrongful conviction of an innocent person would spark the need for correction and redress. However, where a number of such instances are reviewed and common factors found, it is important to globally address these factors and learn from the past.

The policing community in Canada is recognized as a leading partner in the criminal justice system. In conjunction with the prosecution, the police carry the burden of responsibility for ensuring the proper credibility of the case for the Crown. The police recognize public expectations that their investigations meet accepted standards and the police strive to keep current with progressive changes in that regard.

In furtherance of this continual learning process, the policing community has recognized the important recommendations put forth in the FPT Heads of Prosecution Report on the Prevention of Miscarriages of Justice. These recommendations are expected to provide a strong foundation with which the policing community is able to use to combat and avoid further instances of miscarriages of justice.

The administration of justice benefits from a criminal justice system in which the police and the prosecution clearly understand their individual roles as well as appreciating their collective responsibilities. The recommendations, contained in the Report on the Prevention of Miscarriages of Justice provide direction on areas specific to the prosecution and others that relate to policing duties. It is important that both partners recognize, understand and fully appreciate all the recommendations so that the overall criminal justice system will be enhanced.

In its role as providing leadership to the policing community, the Canadian Association of the Chiefs of Police have a responsibility to promote the prevention of miscarriages of justice. The adoption of this report is heralded as a major step in the fulfillment of this responsibility.

The Canadian Association of Chiefs of Police recommends that all police agencies conduct an examination of relevant policies to ensure that current procedures and practices are consistent, where applicable, with the recommendations. In order to aid in this review, a detailed explanation of the recommendations is appended herein for ease of reference. (see Appendix A")

Resolution #01 - 2006

PREVENTION OF MISCARRIAGES OF JUSTICE

Media Lines:

- Any wrongful conviction of an innocent person in Canada is a miscarriage of justice and a fundamental failure of the criminal justice system.

- Everyone involved in the criminal justice system must play a role in guarding against the potential for miscarriages of justice. From partner agencies to individual officers and prosecutors, we all need to make this a priority.

- It is the responsibility of the police to provide strong leadership to combat instances of wrongful convictions.

- As policing agencies, we are committed to working with our partners within the criminal justice system to prevent future instances of miscarriages of justice.

- Various commissions and studies, in Canada and around the world, provide insight into the systemic causes of wrongful convictions and point out recurring problems. Police conduct was identified as a factor and we are committed to identifying changes in that area.

- Adoption of Resolution 01# represents the Canadian Police Chiefs' commitment to preventing future miscarriages of Justice by eliminating those systemic causes that have been shown to contribute to wrongful convictions.

Appendix "A"

RECOMMENDATION category	RECOMMENDATION text
1. TUNNEL VISION	Tunnel vision has been defined as "the single minded and overly narrow focus on an investigation or prosecutorial theory so as to unreasonably colour the evaluation of information received and one's conduct in response to the information." The following law enforcement practices should be considered to assist in deterring tunnel vision:
1.1	Law enforcement must recognize: that the role of the Crown should emphasize the quasi-judicial role of the prosecution and the danger of them adopting the views and/or enthusiasm of others; and that the Crowns should remain open to alternate theories put forward by defence counsel and other parties.
1.2	Regular training for Crowns and police on the dangers and prevention of tunnel vision should be implemented. Training for Crown Attorneys should include a component dealing with the role of the police, and training for police should include a component dealing with the role of the Crown.
1.3	Crowns and police should respect their mutual independence, while fostering cooperation and early consultation to ensure their common goal of achieving justice.
1.4	In jurisdictions without pre-charge screening, law enforcement should have charges scrutinized by Crowns as soon as practicable.
1.5	All jurisdictions should consider adopting a "best practice," where feasible, of having a different Crown Attorney prosecute the case than the Crown Attorney who advised that there were grounds to lay the charge. Different considerations might apply with mega-cases.
1.6	Second opinions and case review procedures should be available and adopted in all serious crime investigations.
2. EYEWITNESS IDENTIFICATION AND TESTIMONY	The following are reasonable standards and practices that should be implemented and integrated by all police agencies:
2.1	An officer who is independent of the investigation should be in charge of the lineup or photo spread. This officer should not know who the suspect is, thus avoiding the possibility of inadvertent hints or reactions that could lead the witness before the identification takes place, or increase the witness's degree of confidence afterward.
2.2	The witness should be advised that the actual perpetrator may not be in the lineup or photo spread, and therefore the witness should not feel that they must make an identification.
2.3	The suspect should not stand out in the lineup or photo spread as being different from the others, based on the eyewitness' previous description of the perpetrator, or based on other factors that would draw extra attention to the suspect.
2.4	All of the witness's comments and statements made during the lineup or photo spread viewing should be recorded verbatim, preferably by videotaping, or by audio taping, or by recording verbatim in writing.
2.5	If the identification process occurs on police premises, reasonable steps should be taken to remove the witness on completion of the lineup to prevent any potential feedback by other officers involved in the investigation and cross contamination by contact with other witnesses.

RECOMMENDATION category	RECOMMENDATION text
2.6	Show-ups (presentation of single suspect) should be used only in rare circumstances, such as when the suspect is apprehended near the crime scene shortly after the event.
2.7	A photo spread should be provided sequentially, and not as a package, thus preventing 'relative judgments.'
2.8	Never show a witness an isolated photograph or image of an accused during the interview.
2.9	Never tell a witness that they are right or wrong in their identification.
2.10	Disclosure is a continuing obligation, and all inculpatory and exculpatory evidence must be disclosed to the defence in a timely fashion. In the event that a witness materially changes their original statement, by offering more, or recanting previously given information during an interview, the defence must be told.
2.11	Workshops on proper interviewing techniques should be incorporated in regular and ongoing training sessions for police and prosecutors.
2.12	Presentations on the perils of eyewitness misidentifications should be incorporated in regular and ongoing training sessions for police and prosecutors.
3. FALSE CONFESSIONS	
3.1	Custodial interviews of a suspect at a police facility in investigations involving offences of significant personal violence (e.g. murder, manslaughter, criminal negligence causing death or bodily harm, aggravated assault, aggravated sexual assault, sexual assault of a child, armed robbery, etc.) should be video recorded. The video recording should not be confined to a final statement made by the suspect, but should include the entire interview.
3.2	Investigation standards should be reviewed to ensure that they include standards for the interviewing of suspects (and witnesses) that are designed to enhance the reliability of the product of the interview process and to accurately preserve the contents of the interview.
3.3	Police investigators and Crown prosecutors should receive training about the existence, causes and psychology of police-induced confessions, including why some people confess to crimes they have not committed, and the proper techniques for the interviewing of suspects (and witnesses) that are designed to enhance the reliability of the product of the interview process.
4. IN-CUSTODY INFORMERS	In-custody informers are inmates who approach police with incriminating information about an accused, usually an alleged confession relating to offenses that occurred outside of the custodial institution, obtained when they are in custody together. Cross-sectoral educational programming should be provided to ensure that justice professionals are aware of:

4.1a	the dangers associated with in-custody informer information and evidence;
4.1.b	the factors affecting in-custody informer reliability;
4.1.c	policies and procedures that must be employed to avoid the risk of wrongful convictions precipitated by in-custody informer information or evidence.
4.2	Policy guidelines should be developed to assist, support and limit the use of in-custody informer information and evidence by police and prosecutors.
4.3	Each province should establish an in-custody informer registry so that police, prosecutors and defence counsel have access to information concerning prior testimonial involvement of in-custody informers. The creation of a national in-custody informer registry should be considered as a long-term objective.
4.4	A committee of senior prosecutors unconnected with the case should review every proposed use of an in-custody informer. The in-custody informer should not be relied upon except where there is a compelling public interest in doing so. The In-Custody Informer Committee's assessment should take into account, among other things, factors affecting the reliability of the information or evidence proffered by the informer. That reliability assessment should, moreover, begin from the premise that informers are, by definition, unreliable. Any relevant material change in circumstances should be brought to the In-Custody Informer Committee's attention to determine whether the initial decision as to whether there was a compelling public interest in relying on the in-custody informer should be revisited.
4.5	Any agreements made with in-custody informers relating to consideration in exchange for information or evidence should, absent exceptional circumstances, be reduced to writing and signed by a prosecutor (in consultation with the relevant police service/investigative agency), the informer, and his or her counsel (if represented). A fully recorded oral agreement may substitute for a written agreement.
4.6	In-custody informers who give false evidence should be vigorously and diligently prosecuted in order to, among other things, deter like-minded members of the prison population.
5. DNA EVIDENCE	
5.1	Strong policies and procedures should be implemented in all jurisdictions to ensure that the DNA data bank provisions are being used to their full potential.
5.2	Provincial tracking systems should be developed to better understand the use and effectiveness of DNA in the criminal justice system, with the ultimate goal of establishing a national tracking system.
5.3	The significance of the national DNA data bank to both convicting the guilty and preventing the conviction of the innocent should be included in any educational programs for Crowns and police.
5.4	Protocols and procedures should be developed by law enforcement agencies and justice departments to facilitate the release of forensic materials for independent testing upon the request of the defence.

5.5	Continued expansion of the DNA data bank should be considered, and any expansion of the list of primary and secondary designated offences must take into account important *Charter* protections to ensure that individual rights and freedoms are respected in the collection and use of DNA information.
5.6	Law enforcement agencies must be alert to the issue of access to post-conviction DNA testing.
6. EDUCATION	The following options for educational venues should be considered:
6.1.a	joint educational sessions involving Crowns, police, defence and forensic scientists;
6.1.b	specialized conferences, courses and educational materials for police;
	The following educational techniques should be considered:
6.2.a	presentation of case studies of wrongful convictions and lessons learned;
6.2.b	small group discussions and role-playing, demonstrations of witness interviews, and conducting photo-lineups;
6.2.c	on-line training for Crowns and police;
6.2.d	distribution of educational materials/policies on CD-ROM;
6.2.e	video-linked conferences;
6.2.f	participation of psychologists, law professors and criminologists in educational conferences;
6.2.g	guest speakers, including the wrongfully convicted; and
6.2.h	regular newsletters on miscarriage of justice issues.
	The following educational topics should be considered:
6.3.a	role of the Crown and Attorney General;
6.3.b	role of the police;
6.3.c	tunnel vision;
6.3.d	post-offence conduct and demeanour evidence;
6.3.e	frailties of eyewitness identification;
6.3.f	false confessions;
6.3.g	witness interviews;
6.3.h	alibi evidence;
6.3.i	jailhouse informants;
6.3.j	forensic scientific evidence and the proper use of expert evidence;
6.3.k	benefits of DNA evidence;
6.3.l	disclosure;
6.3.m	charge screening;

7. POLICE NOTEBOOK / CROWN FILES/ TRIAL EXHIBITS	Clear policies should be developed for police, Crowns and court services on how long to keep police notebooks, Crown files and trial exhibits. Clearly the cost implications will have to be considered in developing such policies.
8. CONCLUSION	
8.1	Subject to available resources, the Heads of Prosecutions Committee (HOP), perhaps in association with the Canadian Association of Chiefs of Police, should establish a resource center on the prevention of wrongful convictions. This could be a Web page or a page on the revamped HOP Intranet site.
8.2	The CACP should provide continued involvement of the police community in establishing a permanent committee on the prevention of wrongful convictions in conjunction with the Heads of Prosecution..
8.3	The recommendations in the Report on Wrongful Convictions should be continually reviewed by the committee to take into account developments in the law and technology and subsequent commissions of inquiry. At a minimum, a full review should take place in five years building on the ongoing work of the original committee.

Resolution #02 -2006

"NON-RETURNABLE" WARRANTS

Submitted by the Law Amendments Committee

WHEREAS the courts and the Crown, when issuing or requesting a warrant for the arrest of an offender, often impose a geographical limitation on the warrant, and;

WHEREAS the practical effect of a geographical limitation on a warrant is that it encourages the offender to flee the jurisdiction in which the warrant is valid, and;

WHEREAS these types of outstanding warrants, which are generally referred to by the police community as "non-returnable warrants," are left unenforced by police officers who contact these offenders in jurisdictions beyond the radius of the warrant, and;

WHEREAS in a 2005 study conducted by the Vancouver Police Department, more than half (56%) of the "non-returnable" warrants examined were issued for more than one criminal offence, and;

WHEREAS in the same study, the Vancouver Police Department found that 84% of these offenders had more than one prior criminal conviction, while at least 55% of these offenders had 11 or more prior criminal convictions, and;

WHEREAS many offenders know that they can avoid arrest and prosecution for offences by leaving the jurisdiction in which the warrant is valid, and;

WHEREAS these offenders frequently continue to commit serious crimes in the jurisdiction to which they flee, and;

WHEREAS permitting violent and/or chronic offenders to avoid prosecution through inter-provincial flight endangers the safety of Canadians and brings the administration of justice into disrepute, and;

WHEREAS the Canadian Association of Chiefs of Police (CACP) believes that Canadian citizens generally, and the victims of crime in particular, must have confidence that our criminal justice system will resolutely pursue persons who flee the jurisdiction to avoid facing the consequences of their criminal activity.

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police calls upon the Solicitor General, the Minister of Justice, and the Minster of Public Safety to take affirmative action to prevent the threat to public safety and the erosion of public confidence in the criminal justice system caused by the proliferation of "non-returnable" warrants. The CACP urges the Ministers to lead their provincial counterparts in developing and funding an operationally practical and cost effective, national transportation system that will ensure that those individuals who are arrested on inter-provincial warrants are brought before the justice system.

The Canadian Association of Chiefs of Police further urges the Minister of Justice to amend the Criminal Code of Canada to:

- create an indictable criminal offence for crossing a provincial boundary where he/she knew or ought to have known, that a warrant for his/her arrest has been issued;

- include in the sentencing provisions that crossing a provincial boundary to avoid prosecution is an aggravating factor which the sentencing judge must consider;

Resolution #02 -2006

"NON-RETURNABLE" WARRANTS

Commentary:

When it is determined that a warrant for the arrest of an accused person is required, the Criminal Code places authority in the court to restrict the warrant geographically. For example, it is common to restrict the radius of the warrant to a territorial jurisdiction within a province or to a province as a whole. While the legal authority may be present for a police officer to arrest the accused when found outside the radius of the warrant, the accused is considered "non-returnable" either by virtue of the restricted radius of the warrant or the Prosecution Service's (Crown) unwillingness to expend the funds to return the accused to face trial.

Between January 1st, 2005 and March 31st, 2005 the Vancouver Police Department conducted a local study of the incidence of persons coming into contact with the police who had outstanding warrants from other jurisdictions. In that period 726 persons and 1582 "non-returnable warrants" were captured for the study. The following points emerged:

- During the period of study, the Vancouver Police Department had 2183 contacts with the 726 persons. 64% of the subjects had more than 2 contacts.
- The study revealed substantial inconsistencies in how these warrants are issued. Of the 1582 "non-returnable warrants" examined there were considerable differences in the way the warrants were issued. For example, 99% of the warrants from one province had a province-wide radius while in another; the majority had a much more localized radius such as a city or other territorial jurisdiction.
- Over one-half of the warrants studied contained between 2 and 5 outstanding criminal charges. Approximately 48% were for property-related crimes while just under one-quarter were for weapons or violent offences.
- A substantial number (43%) of the offenders had generated additional criminal charges in British Columbia.
- 15% of the offenders studied were chronic offenders. (defined as having and active criminal charge in Vancouver and 10 or more criminal convictions)
- 84% of the offenders had 4 or more criminal convictions. Six of the individuals studied each had in excess of 100 criminal convictions.

The study conducted by the Vancouver Police Department offers insight into the very troubling picture of cross-Canada fugitives. As was found, many of the subjects of non-returnable warrants are frequent offenders who know the system well. There is a growing understanding among these persons that they can "wait out" the criminal justice system and avoid accountability for their actions. In many cases, their actions leave victims behind who see no consequences meted out to those who have harmed them.

The Canadian Association of Chiefs of Police believes that the present situation of "non-returnable" warrants is a significant problem which the government must address. Permitting offenders to avoid prosecution (often repeat and violent offenders) erodes public confidence in the criminal justice system and threatens the safety of the public.

Resolution #02 -2006

"NON-RETURNABLE" WARRANTS

Media Lines:

There is a gaping loophole in Canadian law enforcement that allows criminals to flee one jurisdiction and live free and immune in another. In many cases these are career offenders, committing multiple crimes as they move across the country taking advantage of a loophole police call "non returnable warrants."

It works like this. When an arrest warrant is issued, the authority of the warrant is often restricted to a geographical area. In some cases that area is a city, in others it is a province. While police are allowed to arrest a person who moves outside that area, they are considered "non-returnable" because of the warrant's restriction or the common fact that no one will pay to transport the accused back to where they were originally arrested.

It's a fact that is not lost on chronic offenders. A recent three-month Vancouver Police Department study of 726 people with 1,582 "non-returnable" warrants revealed:

- More than half of the warrants contained between two to five criminal charges
- Just under half the charges were for property crimes but a quarter were for weapons and violent offences
- Almost half the accused who flee to British Columbia commit new crimes in B.C,
- About 84 per cent of those in the study had four or more convictions, 15 per cent had ten or more and six individuals had 100 criminal convictions

These frequent offenders know the system well. They leave their victims behind them as they move across the country literally thumbing their noses at police attempts to bring them to justice.

The current situation threatens the public safety. It erodes confidence in our justice system. It must not be allowed to stand.

A recent resolution from the Law Amendments Committee of the Canadian Association of Chiefs of Police urges Ottawa to lead the provinces towards the creation of a national transportation system to bring these fugitives back to face their crimes.

The Association also urges the Minister of Justice to amend the Criminal Code to make it illegal to cross provincial boundaries to knowingly evade a regional warrant and provide stiffer sentences for those who do.

Resolution #03 - 2006

ARREST OF PERSONS ON WARRANTS IN CORRECTIONAL FACILITIES

Submitted by the Law Amendments Committee

WHEREAS the Canadian Association of Chiefs of Police is dedicated to the well-being of society and the protection of the public, and;

WHEREAS the government of Canada has recognized the right to a reasonable expectation of privacy within one's dwelling-house, and;

WHEREAS the government of Canada has recognized that there is a societal interest in having a clear legislative framework to regulate the entry of peace officers into a dwelling-house for the purposes of arresting or apprehending a person where a warrant for the arrest or apprehension of that person or the grounds to arrest that person exist, and;

WHEREAS the government of Canada amended the Criminal Code in 1997 by adding section 529 to provide peace officers with the necessary powers to enter a dwelling-house for the purposes of arresting or apprehending a person where a warrant for the arrest or apprehension of that person or the grounds to arrest that person exist, and;

WHEREAS the Supreme Court of Canada has recognized that a person confined in a jail or prison has a substantially reduced level of privacy in such institutions as "imprisonment necessarily entails surveillance, searching and scrutiny" (Weatherall v. Canada (Attorney General), (1993) 2 S.C.R. 872), and;

WHEREAS Section 529 does not apply to prisons as imprisonment necessarily entails surveillance, searching and scrutiny by the government and therefore cannot be a dwelling-house, and;

WHEREAS Section 527(7) of the Criminal Code of Canada states that a person confined in a prison can only be transferred to the custody of a peace officer on application made by a prosecutor to a judge of a superior court, if the prisoner consents in writing and the judge is satisfied that the transfer is required for the purpose of assisting a peace officer acting in the execution of his duties, and;

WHEREAS an inmate cannot be removed from a prison without his consent,

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police urges the federal government to amend section 529 of the Criminal Code by making it applicable to prisons and other correctional facilities.

Resolution #03 - 2006

ARREST OF PERSONS ON WARRANTS IN CORRECTIONAL FACILITIES

Commentary:

Sections **529 and 529.1** of the Criminal Code currently provide that a warrant (hereinafter referred to as a "Feeney" warrant after the Supreme Court decision in R. v. Feeney (1997)) may be issued or endorsed allowing the police to enter a dwelling-house for the purpose of arresting or apprehending a person if there are reasonable grounds to believe that the person is or will be present in the dwelling-house and (a) there is a warrant for their arrest in force anywhere in Canada, or (b) grounds exist to arrest the person without warrant.

Pursuant to s. 2 of the Criminal Code a "dwelling-house" is defined as "the whole or any part of a building or structure that is kept or occupied as a permanent or temporary residence".

It is the position of both the Manitoba and Federal Justice Departments and Corrections Canada that a correctional facility is not a dwelling-house due to the reduced expectation of privacy therein.

As a correctional facility is not a dwelling-house, police officers effecting an arrest inside a provincial institution do not require an entry warrant or endorsement under s. 529 or 529.1 of the Criminal Code; they only require an arrest warrant (or other court order) to remove the prisoner for interviewing and processing on criminal charges.

However where the police have reasonable grounds to believe an inmate has committed an indictable offence, but they do not possess an arrest warrant, the inmate does not have to leave the facility unless he consents. As such an entry warrant under s. 529.1(b) would be required to remove the inmate if they did not consent to leave. However, this is impossible as a correctional facility is not a dwelling-house.

Correctional Services of Canada (CSC), on the other hand, has taken the position that even with an arrest warrant, peace officers cannot remove inmates from a federal correctional facility without their consent. They rely on section 527(7) of the Criminal Code (which just precedes the entry order section for dwelling-houses) which states that an inmate cannot be transferred to a peace officer unless a prosecutor applies to the Court for a removal order AND the inmate consents.

Furthermore, as this section states that the purpose of removal is for "assisting a peace officer" and not to "arrest or apprehend" (as in s. 529), it is the position of the police that this section was enacted to allow for the removal of inmates who will truly assist the police in an investigation as either a witness or an informant (or who possibly wants to

confess to other crimes or point out evidence of crimes then unknown to the police). It was not meant as a shield to protect inmates from being processed according to law.

In fact, this section, first proposed in 1984 pursuant to the Criminal Law Amendments Act, (Bill C-18) and added to the Criminal Code in 1985 (c. 19, S.C. 1985) is sometimes referred to as an "Olson Order", likely relating to a court order obtained from the B.C. Supreme Court to remove Clifford Olson from Kingston Penitentiary because it was believed he would provide information as to the whereabouts of more bodies (which turned out to be false).

Furthermore, under s. 17 of Corrections and Conditional Release Act or s. 9 of the Correctional and Conditional Release Regulations, CSC has stated there is no authority for the institutional head to release an inmate for anything other than "for medical, administrative, community service, family contact, personal development for rehabilitative purposes, or compassionate reasons, including parental responsibilities".

Therefore, while an inmate of a provincial institution who is wanted for a serious criminal offence can be turned over to the police for interviewing and processing if a valid arrest warrant exists, the CSC refuses to do so even though an arrest warrant (if signed by a Queens Bench or Superior Court Judge) may be executed anywhere in Canada.

Section 514 of the Criminal Code states that an arrest warrant may be "executed by arresting the accused wherever he is found within the territorial jurisdiction of the justice". Section 503 further provides that a peace officer who arrests a person with or without warrant shall cause that person to be detained in custody and taken before a justice within 24-hours to be dealt with according to law. This time period allows the police some latitude to conduct an investigation, including arresting the person, conducting an interview and processing them.

In the past two years the Winnipeg Police attempted to remove four inmates from CSC facilities using a Court order under section 529 (lawful authority of the judge to issue such an order was not recognized by CSC lawyers as a correctional facility is not a dwelling-house) and using a Removal Order under 527 (CSC refused to turn over inmate who would not consent to his removal). In effect, CSC and the Criminal Code were being used by inmates wanted by the police, two for first-degree murder, to hide behind institutional bars.

It is the position of CSC that a penitentiary is "hallowed ground" and that neither an arrest warrant nor reasonable grounds to arrest can override the inmates right to remain inside the institution. As such, a convicted offender inside a federal correctional facility has more rights than anyone else in Canada as no one else in Canada has the right to hide behind the walls of their residence to avoid being arrested, interviewed and processed by the police (see s. 529 of the Criminal Code).

Although the Winnipeg Police attempted to work with CSC by obtaining a Feeney warrant under 529.1; obtaining a Removal Order issued under 527 (relying on the inherent jurisdiction of the court to issue orders notwithstanding the inmates consent); or applying for a General Warrant under s. 487.01 to remove an inmate without his consent, CSC refused to recognize these orders or the jurisdiction of the courts to issue such orders.

In an effort to resolve this impasse the matter was taken before Jeffrey Oliphant, Associate Chief Justice of the Manitoba Court of Queens Bench, for an Assistance Order under section 487.02 of the Criminal Code directed to the person in charge of the CSC facility where the person was being housed to release him/her into the custody of the police even if the inmate did not consent. CSC complied with these orders.

Notwithstanding the foregoing, as an Assistance Order can only be obtained in conjunction with a warrant (typically a search warrant as this is the section of the Criminal Code in which an Assistance Order appears), it could not be used where the police only had reasonable and probable grounds to believe an inmate had committed a indictable offence (but no arrest warrant). Furthermore, an Assistance Order can only be issued by "the judge who ... issues the warrant". As such, and unlike a Feeney warrant under 529.1, the police cannot go to a different judge for an Assistance Order (which can cause problems if the judge or justice who issued the warrant is sick, on holidays, retired or lacks jurisdiction to issue an Assistance Order).

In addition, a secondary issue arose with respect to CSC inmates who are in custody at a facility in another province. According to CSC lawyers, even with the Assistance Order, a transfer to another province would entail an involuntary transfer of the prisoner and as such the prisoner could file an appeal to the Federal Court to block the transfer. Again, no other person in Canada has the right to block their arrest and transfer to another province for the purpose of arrest and prosecution. In fact, even where no arrest warrant exists, under section 503(3) of the Criminal Code a person may be arrested, detained for up to six days and returned to the jurisdiction where he is wanted.

With the implementation of the DNA Databank in July 2000 and the mandatory sampling of certain offenders upon conviction, the likelihood of matching DNA from unsolved crimes to a sentenced prisoner will increase dramatically. As such the likelihood of needing to remove inmates to arrest them in such cases will also increase.

To simplify the matter it is recommended that the Criminal Code be amended with a simple clause that adopts sections 529 and 529.1 with respect to custodial institutions. This can be added as section. 527(10), which could state that, subject to section 527(9) – the return of a prisoner after processing - sections. 529 and 529.1 of the Criminal Code apply, with such modifications as the circumstances require to a person confined in a prison or other custodial institution.

Resolution #03 - 2006

ARREST OF PERSONS ON WARRANTS IN CORRECTIONAL FACILITIES

Media Lines:

- In 1997 the *Criminal Code of Canada* was amended by adding section 529 to provide peace officers with the necessary powers to enter a dwelling house for the purpose of arresting or apprehending a person where there was a warrant or the grounds to arrest the person existed.

- Section 529 does not apply to correctional facilities as imprisonment necessarily entails surveillance, searching and scrutiny by the government and therefore cannot be a dwelling house.

- In situations where police have reasonable grounds to believe an inmate has committed an indictable offence, but they do not possess an arrest warrant, the inmate does not have to leave the facility unless he consents. If the facility were to be considered a dwelling house, an entry warrant under 529 would be required to remove the inmate if they did not consent to leave. However, this is impossible as a correctional facility is not a dwelling house.

- Amending section 529 to include correctional facilities would prevent the unintended shielding of inmates within those institutions.

Resolution #04 - 2006

SCHEDULING OF CRIMINAL ORGANIZATIONS

Submitted by: Organized Crime Committee / Law Amendments Committee

WHEREAS Canadians are concerned about the growing and pervasive threat of organized crime in their communities. In response to their concerns, and in cooperation with the provinces and territories, the Government of Canada introduced anti-organized crime legislation, Bill C-24, which was assented to on December 18th, 2001, and;

WHEREAS Bill C-24 introduced three new offences that target various degrees of involvement with criminal organizations and attempted to simplify the current definition of "criminal organization" in the *Criminal Code*, and;

WHEREAS there have been numerous attempts to prosecute criminal organizations under the criminal code provisions but success has been limited due in part to the excessive cost and complications associated to disclosure in relation to proving that an identified group is a criminal organization, and;

WHEREAS in prosecuting criminal organization offences the Crown is currently required to prepare and lead months of evidence at extreme cost, to prove the existence of the criminal organization, and;

WHEREAS the *R v Lindsay* and *R v Bonner* cases in Ontario concluded that the Hell's Angels Motorcycle Club was proven to be a Criminal Organization only after leading extensive evidence which included: opinion testimony from multiple Outlaw Motorcycle Gang experts, academic experts on organized crime groups and dynamics, subpoenaed documents from across Canada pointing to local, regional and national dimensions of the Hells Angels and an extensive overview of the evolutions of this criminal organization's move into Canada and subsequent expansion to various provinces, and;

WHEREAS the creation of a criminal organization scheduling regime within the Criminal Code could be beneficial and cost effective by reducing court time, disclosure obligations and required police resources, and;

WHEREAS the criminal organization schedule would include groups, to the extent supportable by law enforcement information or previously proven in court to be a criminal organization, thus providing for an expedited process for future prosecutions of that criminal organization. Once placed within the schedule, prosecutors would not be required to prove the criminal organization existed in subsequent prosecutions, and;

WHEREAS the current *Anti-Terrorism Act* in section **83.05** (1), provides an example of a scheduling process in that the Governor in Council may, by regulation, establish a list on which the Governor in Council may place any entity if, the Governor in Council is satisfied that there are reasonable grounds to believe that the entity has knowingly carried out, attempted to carry out, participated in or facilitated a terrorist activity; or the entity is knowingly acting on behalf of, at the direction of or in association with an entity, and;

WHEREAS the principal objective under this Resolution is to use the scheduling of criminal organizations, to the extent supportable by the criminal courts or law enforcement information, as proof that the scheduled group is, *as a matter of law*, a criminal organization as defined by the *Criminal Code of Canada.*

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police urges the Minister of Justice to create or amend legislation to provide for the scheduling of proven criminal organizations within the *Criminal Code of Canada*.

Resolution #04 – 2006

SCHEDULING OF CRIMINAL ORGANIZATIONS

Commentary:

In response to the concern of Canadians over the pervasive and growing threat of organized crime in their communities, the Government of Canada introduced anti-organized crime legislation, Bill C-24, assented to on December 18th, 2001, which introduced three new offences that specifically target criminal organizations.

While the offences within the *Criminal Code of Canada* appear appropriate, a difficulty arises when prosecuting these offences as it has to be proven that a criminal organization existed beyond a reasonable doubt based on admissible evidence; this requirement has proven to be extremely difficult, cumbersome and expensive.

The scheduling of criminal organizations, similar to the regime currently established for terrorist groups in section 83.05 of the *criminal code*, would see a criminal organization placed within a schedule, contained in the *CCC Regulations*, when the Governor in Council upon recommendation from the appropriate Minister, is satisfied there are reasonable grounds to believe that a specific group is a criminal organization. The grounds for this reasonable belief would be established through the criminal court as in the *Lindsay and Bonner* case in Ontario, or upon recommendation by law enforcement based upon reliable and supportable information.

The impact of scheduling a criminal organization will be to remove the requirement to repeatedly prove that a specific group is a criminal organization, expedite legal proceedings, and eliminate the significant disclosure burdens and costs tied to the ongoing need for proving the existence of a criminal organization.

The principal objective under this Resolution is to use the scheduling of criminal organizations, to the extent supportable by the criminal courts or law enforcement information, as proof that the scheduled group is, *as a matter of law*, a criminal organization as defined by the *Criminal Code.*

The listing of criminal organization will enhance Canada's efforts against organized crime, strengthen the Governments ability to take effective and efficient action against criminal organizations, and give affect to Canada's obligation to deal with organized crime nationally, internationally and globally.

Resolution #04 - 2006

SCHEDULING OF CRIMINAL ORGANIZATIONS

Media Lines:

- Canadians are concerned about the growing threat of organized crime in their communities.

- While Bill C-24 introduced legislation that specifically created organized crime related offences, the successful use of the legislation has been limited due in part to the excessive costs and complications of disclosure in relation to proving an identified group is a criminal organization.

- The principal objective of this Resolution is to use the scheduling of criminal organizations, to the extent supportable by the criminal courts or law enforcement information, as proof that the scheduled group is a criminal organization as defined by the *Criminal Code of Canada*, thus removing the burden of continually re-proving that a specific group is a criminal organization.

Resolution #05 - 2006

NATIONAL COMMUNITY SAFETY ACTION PLAN

Submitted by the Crime Prevention/Community Policing Committee

WHEREAS the foundation of community safety requires well-functioning individuals, families and community institutions, and;

WHEREAS the Canadian Association of Chiefs of Police advocates achieving safer communities through comprehensive responses that include law enforcement, crime control and crime prevention in all its forms, and;

WHEREAS the Canadian Association of Chiefs of Police has joined with over forty national non-governmental organizations in an informal Coalition on Community Safety, Health and Well-being, and;

WHEREAS this Coalition represents agencies having responsibilities for policing, police governance, municipal affairs, health and mental health, youth, education and literacy, sports and recreation, immigrant and refugee integration, support to seniors and Aboriginal peoples, literacy, cross-cultural understanding, and substance abuse prevention, and;

WHEREAS the Canadian Association of Chiefs of Police and its Coalition partners support targeted investments in preventive measures that are proven to yield both short and long-term results and cost savings for policing, the courts, the correctional system and other social service areas funded by federal, provincial and municipal governments, and;

WHEREAS positive benefits accrue to Canadian communities when governments and the non-governmental sector at all levels work together in their respective roles so that communities can address their crime prevention needs, and;

WHEREAS the Canadian Association of Chiefs of Police, its Coalition partners, crime prevention experts and representatives of federal and provincial-territorial governments have identified the need for a basic comprehensive framework for crime prevention action planning, and;

WHEREAS the Canadian Association of Chiefs of Police and its Coalition partners commend the federal leadership role of the National Crime Prevention Centre in managing the National Crime Prevention Strategy with the provincial-territorial governments.

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police

1) calls upon the federal government to continue its leadership role through the National Crime Prevention Strategy;

2) endorses a robust role for the provinces-territories and municipalities so that Canada's national strategy is realized in practical and lasting ways in our diverse communities, and;

3) seeks federal-provincial-territorial and municipal commitment to assist communities through the development of a National Community Safety Framework for Action, to guide local communities in developing crime prevention action plans that contain the required ingredients and proven methods.

Resolution #05 - 2006

NATIONAL COMMUNITY SAFETY ACTION PLAN

Commentary:

Experts and communities themselves agree that the foundation of community safety requires pro-social individuals, well-functioning families and supportive community institutions.

The Canadian Association of Chiefs of Police (CACP) is the respected and credible voice of police leaders on policing and community safety. Its work in advocating a focus on prevention has been facilitated by the National Crime Prevention Strategy.

The CACP supports a continuum of policing responses, including prevention in all its forms. The CACP is committed to providing leadership in adopting and promoting a comprehensive, inclusive approach addressing root causes of crime and social disorder. The CACP supports positive social change to enhance the quality of life in our diverse communities.

The CACP has taken concrete steps to increase police and community awareness about crime prevention. In order to become better informed about the root causes of crime and to share expertise on the ingredients for community safety, the CACP has reached out to other national associations, many of which have not traditionally been recognized as partners with the police. This is the Coalition on Community Safety, Health and Well-being, representing a broad spectrum of expertise on building safe and healthy communities.

On 22-23 February 2006, the CACP was joined by forty-four national non-governmental organizations at the Community Safety Round Table. The objectives were 1) to build linkages among associations in order to reinforce the community ownership of crime prevention and 2) to articulate key messages about community-owned approaches. These key messages include:

- safe and healthy communities, like solid chairs, rest on four legs: prevention, enforcement, the courts and corrections;
- crime prevention is the business of governments, communities and private individuals;
- crime prevention is a shared responsibility that requires a national infrastructure and national leadership to support and fund local crime prevention plans at the local level that address the multiple factors contributing to criminal and anti-social behaviour; and
- Canada needs a national planning model, based on a clear understanding of tri-level government mandates for crime prevention, to be made available to communities.

The purpose of a national action plan is four-fold:

- to assemble and make available a coherent body of information about good practices based on existing research and practical application;
- to identify the essential components of a sustainable community safety plan;
- to provide methods for local communities to implement these components; and
- to provide assurance to communities and decision-makers at all levels that local community safety action planning is consistent with a recommended process, represents effective investment of resources, eliminates duplication, maximizes coordination and provides a method for evaluating results against planned outcomes.

The CACP and its Coalition partners seek the continuing leadership of the federal government and the provincial-territorial governments through the National Crime Prevention Strategy.

The Strategy provides the vehicle through which these governments can support Canadian communities and stakeholders in developing a national crime prevention action plan that responds to the needs identified by the Coalition on Community Safety, Health and Well-being.

Resolution #05 - 2006

NATIONAL COMMUNITY SAFETY ACTION PLAN

Media Lines:

- community safety requires well-functioning individuals, families and community institutions.

- when crime and victimization are prevented, there is less need for police, the courts and the corrections system

- it makes good economic sense to invest in prevention measures that are proven to work, in both the short and longer term

- the Canadian Association of Chiefs of Police (CACP) has joined with over forty national associations in a Coalition on Community Safety, Health and Well-being

- many of these associations, representing

  - health and mental health,
  - sports and recreation,
  - education and literacy,
  - support to seniors and Aboriginal peoples,
  - substance abuse treatment and prevention, and
  - municipal affairs

  have not traditionally been recognized as partners with the police on crime prevention matters

- the CACP and its Coalition partners have identified the need for a national planning model to assist local communities in building crime prevention action plans that address the multiple factors contributing to crime

- the CACP and its Coalition partners seek the continuing leadership of the federal government, and the provincial-territorial governments, through the National Crime Prevention Strategy.

Resolution #06 - 2006

COMPUTER ANALYSIS FORENSIC TRAINING

Submitted by the e-Crime Committee

WHEREAS Canadians have connected to the Internet and embraced computer related technologies at one of the highest rates in the world, and;

WHEREAS electronic crime has become an issue of national and international significance that demands the attention of law enforcement agencies and the criminal justice system, and;

WHEREAS to address these demands the Canadian Association of Chiefs of Police formed the e-Crime Committee in 2002 with the mandate of this Committee to establish a CACP leadership role in the development of administrative policy and standards for technology-based investigations, the promotion of inter-agency cooperation in the detection and investigation of internet-based crime, the establishment of training standards and the identification of effective cooperative strategies to combat e-Crime at a local, Provincial, Canadian and International level, and;

WHEREAS the committee has addressed in its Strategic Plan the establishment of a leadership role in the development of administrative policy and standards for technology based investigations, the promotion of inter-agency cooperation in the detection and investigation of computer based crime, and the establishment of training standards, and;

WHEREAS the examination of computer forensic training for Canadian law enforcement agencies by the e-Crime Committee has revealed that while specific standardized training programs exist, disparities exist amongst Canadian law enforcement agencies in the application and enforcement of standardized training for computer forensic investigators, and;

WHEREAS the forensic examination of digital evidence by untrained, partially trained or self-trained investigators who do not follow validated search and seizure methodologies creates huge risk for the Canadian law enforcement community which may reduce public confidence in the investigative capability of police agencies, undermine procedural fairness and may serve to bring the administration on justice into disrepute, and;

WHEREAS the Canadian Police College has developed and validated computer forensic based training courses that are delivered by the Canadian Police College and available to all accredited law enforcement agencies, and;

WHEREAS the Canadian law enforcement community has accepted the Canadian Police College Technological Crime Learning Institute training courses as the “standard” for computer forensic investigators, and;

WHEREAS the CACP e-Crime Committee has endorsed the Canadian Police College Technological Crime Learning Institute Training Program as the basis for all Canadian law enforcement personnel undertaking computer forensic investigations, further that the CACP e-Crime Committee recommends that such training be delivered in such a manner as to facilitate learning and qualification in both official languages,

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police recognizes the current training at the Canadian Police College for computer forensic investigators, as being an approved agency to provide training in computer forensic examination for Canadian law enforcement agencies, which recognition does not restrict Canadian Association of Chief of Police member law enforcement agencies from acquiring additional forensic computer training, as would support the investigative function in the furtherance of the common goal, of thorough, comprehensive and impartial e-Crime investigations in the best interests of the Canadian administration of justice, and;

BE IT FURTHER RESOLVED that the Canadian Association of Chiefs of Police urges that all member agencies undertaking computer related search, seizure and forensic examinations undertake these functions only with personnel who have met, at a minimum, the recommended training standards of the Canadian Police College Technological Crime Learning Institute Program or other validated training.

Resolution #06 - 2006

COMPUTER ANALYSIS FORENSIC TRAINING

Commentary:

Since the creation of information technology, digital information or data is used in the everyday lives of all Canadian citizens and businesses. Data is stored on a variety of media and is invisible to the naked eye and for all intents and purposes, intangible. The range of electronic criminal opportunities is extensive and will continue to expand in tandem with technological advances in online communications and access. As more Canadians and Canadian enterprise conduct business on-line, data containing personal biographical information and corporate secrets become susceptible to unauthorized access by inside employees and attacks from the outside. The forensic examination of digital evidence by untrained, partially trained or self-trained investigators who do not follow validated search and seizure methodologies creates huge risk for the Canadian law enforcement community which may reduce public confidence in the investigative capability of police agencies, undermine procedural fairness and may serve to bring the administration on justice into disrepute. In some provincial jurisdictions it is the responsibility of the police organizations to provide services according to their level of classification therefore mandating more duty and accountability. The Canadian Police College provides training courses which are necessary to enable all police organizations to provide such services and therefore must be properly funded and equipped to provide computer forensics training in both official languages as required, at a minimum of once a year.

Resolution #06 - 2006

COMPUTER ANALYSIS FORENSIC TRAINING

Media Lines:

- Electronic crime has become an issue of national and international significance that demands the attention of law enforcement agencies and the criminal justice system.

- Forensic examination of digital evidence by untrained, partially trained or self-trained investigators who do not follow validated search and seizure methodologies creates huge risk for the Canadian law enforcement community

- Although standardized training programs exist, disparities exist amongst Canadian law enforcement agencies in the application and enforcement of standardized training for computer forensic investigators

- It is the recommendation of the CACP that all member agencies undertaking computer related search, seizure and forensic examinations undertake these functions only with personnel who have met, at a minimum, the recommended training standards of the Canadian Police College Technological Crime Learning Institute Program or other validated training.

- The Canadian Police College provides training courses which are necessary to enable all police organizations to provide such services and therefore must be properly funded and equipped to provide computer forensics training in both official languages as required, at a minimum of once a year.

Resolution #07- 2006

MISSING PERSONS INVESTIGATION POLICIES

Submitted by the Policing With Aboriginal Peoples Committee

WHEREAS Canadian Police Leaders and all Canadians are concerned with the number of Aboriginal women who are reported missing or murdered in Canada. In fact, Aboriginal women between the ages of 25 and 44 with status under the Indian Act, are five times more likely than all other women of the same age to die as the result of violence, making them prime targets and the most vulnerable in our society. *(Aboriginal Women: A Demographic, Social and Economic Profile, Indian and Northern Affairs Canada, Summer 1996)",* and;

WHEREAS National Aboriginal organizations such as the Assembly of First Nations and the Native Women's Association of Canada have continued to advocate for more constructive measures to deal with the pervasive issue of violence toward Aboriginal women. *(AFN Women's Council and Special Chiefs Assemblies in 2005 and 2006; NWAC Sisters in Spirit Campaign),* and;

WHEREAS the Policing with Aboriginal Peoples Committee and the Ontario First Nations Police Commission organized and facilitated a Responding to Missing Aboriginal Persons Conference in March 2003, and;

WHEREAS involved communities reviewed missing person's policies from several Canadian police services and determined that while they were generally well written, the defining issue was the degree to which bias and stereotyping played a role in the application of the police response to a missing person case involving a person from a marginalized group, and;

WHEREAS recommendations contained in various inquiries and reports, from the 1991 Aboriginal Justice Inquiry of Manitoba to the 2004 Stolen Sisters Report from Amnesty International, urge police services to put in place specific protocols that are sensitive to the particular concerns and circumstances in relation to violence against Aboriginal women, and;

WHEREAS there is an ongoing need to identify and implement appropriate and effective protocols that will result in more successful investigations that are sensitive to the particular concerns and circumstances in which Aboriginal as well as marginalized people are reported missing, and;

WHEREAS the Canadian Association of Chiefs of Police, as the national voice of Canadian police leadership, is committed to continue to raise awareness of the issue of Aboriginal missing persons Canada-wide, and;

WHEREAS the Ontario Provincial Police, based on the results of the Committee consultations, has produced a comprehensive and holistic policy manual for dealing with lost/missing persons cases that, with regard to Aboriginal and marginalized people, is based on principles of cultural sensitivity, respect, compassion and empathy,

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police requests that all police services in Canada consider adopting the principles incorporated in the Ontario Provincial Police Lost/Missing Persons Manual and specifically with respect to Aboriginal and marginalized people.

Resolution #07 - 2006

MISSING PERSONS INVESTIGATION POLICIES

Commentary:

Canadian police leaders along with all Canadians are concerned with the number of Aboriginal women who are reported missing or murdered in Canada. Indian and Northern Affairs Canada has revealed that Aboriginal women between the ages of 25 and 44, with status under the Indian Act, were five times more likely than all other women of the same age to die as the result of violence, making them prime targets and the most vulnerable in our society. Aboriginal leaders continue to be vocal in their call for changes in the way police agencies investigate cases involving Aboriginal people.

Amnesty International has recently articulated what national Aboriginal organizations have long espoused; that the way police respond to reports of missing persons is of critical concern requiring institutional reform. Few police services have specific protocols on actions to be taken when Aboriginal women and girls are reported missing. Police need to understand the specific needs of Aboriginal communities, be able to communicate without barriers of fear and mistrust, and ultimately be accountable to those communities.

In June 2002, a renewed Policing With Aboriginal Peoples Committee began work on the issue of Aboriginal missing persons cases. The committee consulted widely, involving national organizations such as the Assembly of First Nations, the Congress of Aboriginal Peoples, the Inuit Women's Association and the Native Women's Association of Canada. In March of 2003, the committee organized a Responding to Missing Aboriginal Persons Conference, attended by over 120 delegates. In May of that year the committee went to British Columbia and consulted directly with communities directly affected by missing persons cases and violence against Aboriginal women.

The committee focused their efforts on the issue of policies and practices related to missing persons from Aboriginal or marginalized communities. Policies from several Canadian police services were reviewed and it was felt that while current policies were generally well written, the defining issue was in the application of the guidelines. The committee spoke to holistic approaches to examine the degree to which bias or stereotyping played a role in the nature and degree of police responses to cases involving people from Aboriginal or marginalized groups. At the 2003 CACP Annual Conference in Halifax, then committee Co-Chair, O.P.P. Deputy Commissioner Bill Currie, made a passionate and controversial presentation on the current state of affairs in relation to police response to Aboriginal and marginalized people.

Following up on the committee research and consultations, the Ontario Provincial Police produced a modified lost/missing persons policy manual that embraced the principles of respect, compassion and empathy in a relevant culturally competent context. Since 2004, select other police agencies (such as the RCMP) have since modified their respective missing persons policies to reflect these same principles when dealing with Aboriginal people.

Despite these efforts, there is still significant feeling in Aboriginal communities that the police are not doing enough to deal with the issue of how police respond to missing persons from their communities.

The momentum initiated by the conference and the community consultations must not be allowed to dissipate further. The newest version of the Policing With Aboriginal Peoples Committee is committed to completing a priority of the original committee in creating a more effective police investigative environment around lost or missing Aboriginal or marginalized people.

There is the need for all Canadian police services to review the Ontario Provincial Police Lost/Missing Persons Manual and consider adopting similar principles specifically with respect to Aboriginal and marginalized people.

Resolution #07 - 2006

MISSING PERSONS INVESTIGATION POLICIES

Media Lines:

- Canadian police leaders recognize the need to continue improving their investigative response to cases involving Aboriginal missing persons.

- Indian and Northern Affairs Canada has revealed that Aboriginal women between the ages of 25 and 44, with status under the Indian Act, were five times more likely than all other women of the same age to die as the result of violence, making them among the most vulnerable in our society.

- Police Services across Canada need to understand the specific needs of Aboriginal communities, be able to communicate without barriers of fear and mistrust, and ultimately be accountable to those communities.

- The Policing With Aboriginal Peoples committee consulted national organizations such as the Assembly of First Nations, the Congress of Aboriginal Peoples, the Inuit Women's Association and the Native Women's Association of Canada. The Committee went to British Columbia and spoke with communities directly affected by missing persons cases and violence against Aboriginal women.

- The defining policy issue was in the application of the guidelines and the degree to which bias or stereotyping played a role in the nature and degree of police responses to cases involving people from Aboriginal or marginalized groups.

- Based on the information from the committee consultations, organizations such as the Ontario Provincial Police and the Royal Canadian Mounted Police made significant changes to their missing persons policies, embracing the principles of respect, compassion and empathy in a context that was sensitive to Aboriginal culture.

- While improvements in police response continue to be made, there is still significant feeling in Aboriginal communities that the police are not doing enough in relation to missing persons from their communities.

- The Committee selected the Ontario Provincial Police Lost/Missing Persons Manual as an example of appropriate principles for other police organizations to use in reviewing their own policies and procedures.

Resolution #08 - 2006

MINIMUM SENTENCING FOR LURING SECTION 172.1 (2) CRIMINAL CODE OF CANADA

Submitted by the e-Crime Committee

WHEREAS with the proclamation of Bill C-2 maximum penalties for offences involving the exploitation and abuse of children were increased and mandatory minimums imposed. The preamble to Bill C-2 recognizes that Canada has "grave concerns regarding the vulnerability of children to all forms of exploitation, including child pornography, sexual exploitation, abuse and neglect". The increased penalties noted above reflected that concern. For those offences where mandatory minimums were imposed, conditional sentences are no longer available, and;

WHEREAS the offence of luring under s. 172.1(1) is an obvious form of exploitation of children yet was not addressed in Bill C-2. However, many of the predicate offences involved in luring do now have mandatory minimum sentences. As well, for those that are hybrid offences, most now carry a maximum summary penalty of eighteen months, and;

WHEREAS the offence of luring is a serious form of child exploitation and the penalties should reflect the significance of the charge. The same policy concerns which lead to the imposition for mandatory minimums and increased maximums in Bill C-2 are equally applicable to the offence of luring,

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police calls upon the Government of Canada through the Minister of Justice and Attorney-General to amend the Criminal Code to Amend s. 172.1(2)(b) of the *Criminal Code* to provide for a maximum sentence of eighteen months for a summary offence, and to amend s. 172.1(2)(a) and (b) to provide for mandatory minimum sentences of imprisonment.

Resolution #08 - 2006

MINIMUM SENTENCING FOR LURING SECTION 172.1 (2) CRIMINAL CODE OF CANADA

Commentary:

Bill C-2 constitutes the Government's response to a wide variety of recently articulated public concerns. Following Bill C-2 amendments, an adult's sexual contact with someone anyone over 14, but under 18 will also constitute an offence where the relationship is "exploitative of the young person." The maximum available penalty is increased from five to ten years' imprisonment and minimum penalties are imposed. At the same time, the maximum penalties for convictions under section 215 (failing to provide necessaries of life) and section 218 (abandoning a child) are increased from two to five years. Bill C-2 does not address the offence of luring under s. 172.1(1) which is an obvious form of exploitation of children. However, many of the predicate offences involved in luring do now have mandatory minimum sentences.

Resolution #08 - 2006

MINIMUM SENTENCING FOR LURING SECTION 172.1 (2) CRIMINAL CODE OF CANADA

Media Lines:

- Bill C-2 constitutes the Government's response to a wide variety of recently articulated public concerns.

- The preamble to Bill C-2 recognizes that Canada has "grave concerns regarding the vulnerability of children to all forms of exploitation, including child pornography, sexual exploitation, abuse and neglect".

- The increased penalties noted above reflected that concern. For those offences where mandatory minimums were imposed, conditional sentences are no longer available

- The offence of luring under s. 172.1(1) is an obvious form of exploitation of children yet was not addressed in Bill C-2.

- The offence of luring is a serious form of child exploitation and the penalties should reflect the significance of the charge.

Resolution #09 - 2006

NATIONAL MASS MARKETING FRAUD STRATEGY

Submitted by the Private Sector Liaison Committee

WHEREAS the problem of Mass Marketing Fraud (MMF) (i.e. fraud committed over mass communication media – telephone, mail, and the Internet – as well as state of the art technology) is becoming an increasingly alarming problem in Canada, and;

WHEREAS MMF is perceived as highly attractive to Canadian-based operators, many having linkages to street gangs and organized crime who use the proceeds of fraudulent marketing activities to resource their underground criminal economy, including the acquisition of guns, illegal drugs, and criminal extortion, among other criminal enterprises, and;

WHEREAS MMF remains a persuasive fraudulent criminal activity in Canada that causes severe harm to Canadians and foreigners alike who prey upon the emotions, generosity, and vulnerabilities of individuals irrespective of their demographic or country of origin, and;

WHEREAS MMF erodes consumer confidence in the marketplace, directs harm at legitimate businesses, and endangers a growth in both the traditional and e-commerce marketplaces, and;

WHEREAS Canadian and American enforcement authorities have identified that a rising number of boiler rooms and fraud locations identified outside North American in centres such as Spain, the Netherlands, Costa Rica, and Antigua such that Canadian nationals are increasingly at risk of fraudsters operating outside Canada, and;

WHEREAS the ability of government and law enforcement officials to prevent, reduce, and respond decisively to the consumer threat of MMF and its threat to the economic stability of the legitimate marketing industry is one of the most challenging priorities facing the safety of Canadian consumers and the economic markets of our nation today, and;

WHEREAS Canadian-based MMF is a growing concern for this country due to the negative brand it creates for our nation tarnishing Canada's good reputation as a trusted global partner and safe place to do business, and;

WHEREAS there is a need for a coordinated and collaborative national strategy to prevent and reduce the harm resulting from MMF and to apprehend , prosecute, and punish Canadian-based operators.

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police calls upon the Government of Canada, together with its provincial and territorial partners through the federal-provincial-territorial process, law enforcement, the private sector and other partners to:

1. Support the requirement for a National MMF Strategy to dismantle, disrupt, and neutralize Canadian-based MMF operators, involving:
    - The establishment of mechanisms for increased coordination and collaboration;
    - The identification of strategies to increase the effectiveness of law enforcement initiatives;
    - Tougher sanctions and targeted legislation;
    - National harmonized data collection on MMF complaints and incidents to be housed at the PhoneBusters National Call Centre (PNCC), a joint program of the Ontario Provincial Police, Royal Canadian Mounted Police, and the Competition Bureau Canada;
    - Prevention and awareness initiatives to decrease the susceptibility of victims (Canadians and foreign) through existing fora like the Fraud Prevention Forum, chaired by the Competition Bureau Canada.

Resolution #09 - 2006

NATIONAL MASS MARKETING FRAUD STRATEGY

Commentary:

At a meeting of Canadian partners, held in Ottawa on September 19, 2005, a decision was reached to strike a National Mass Marketing Fraud (MMF) Working Group to take on the task of developing and promoting a national strategy for controlling, dismantling, and neutralizing the criminal activities of mass marketing fraudsters operating in Canada.

It was agreed that the national strategy would be based on current Canadian law enforcement accords connected with each of the existing MMF regional partnerships, including the RCMP's Projects Emptor (Vancouver) and Colt (Montreal); the Vancouver Strategic Alliance; the Alberta Partnership Against Cross Border Crime; the Toronto Strategic Partnership; and the Atlantic Partnership to Combat Cross Border Crime. While there is currently no formal MMF partnership representing Saskatchewan or Manitoban authorities, WG members agreed that steps would be taken to consult enforcement and policy stakeholders in these two jurisdictions to ensure that the national strategy did indeed encompass all major regions across Canada who may be experiencing problems with Canadian-based MMF criminal operators. To this end, a meeting was recently convened in Winnipeg with partners from Saskatchewan and Manitoba to seek the input and feedback of officials here on the national strategy. As part of our collaborative work towards the development of a national strategy, WG members agreed that it was essential that any consultations include those American partners at the working level.

MMF is a serious concern to law enforcement partners, not only because of the number of fraudsters committing such crimes in Canada, but also because recent intelligence information shows that the proceeds of MMF criminal activities are second only to those from the sale of illegal drugs as a source of revenue for street gangs and organized criminal groups in Canada, including the Outlaw Motorcycle Gangs like the Hells Angels. MMF cannot be dismissed as a "victimless" crime or grouped into the broad category of "white collar" crime because the repercussions brought about by this crime can be as serious as those usually associated with other criminal activities, such as drug trafficking and gun-related violence. The proceeds of MMF can also be used to finance all kinds of other criminal activities.

The Working Group (WG) is Co-Chaired on a federal/provincial basis by Detective Superintendent Robert Goodall, Director, Anti-Rackets Section, Ontario Provincial Police (OPP) Investigations Bureau; and Mr. Raymond Pierce, Deputy Commissioner, Competition Bureau Canada. Current WG members include representatives from each of the six regional MMF partnerships (British Columbia's Business Practices and Consumer Protection Agency (BPCPA), the RCMP's Commercial Crime Sections "E" (Surrey) and "C" Divisions (Montreal), Alberta Government Services, Vancouver Police Service, Toronto Police Service, the Sûreté du Québec, the New Brunswick Office of the Attorney General, the Department of Justice Canada, and the Department of Public Safety Canada.

Resolution #09 - 2006

NATIONAL MASS MARKETING FRAUD STRATEGY

Media Lines:

Issue:

Since September 19, 2005, Canadian government and law enforcement officials have been developing a strategy to combat MMF in order to better coordinate and focus efforts on a national basis.

Media Lines:

General:

- Mass Marketing Fraud (MMF) is a serious crime that touches the lives of consumers in Canada, the United States, and around the world.

- Members of the partnerships continue to work closely with partners at home and abroad to tackle this issue.

- A number of programs have been developed by Canadian partners to fight fraud, including

    - PhoneBusters, a national call center that receives telemarketing victims complaints; RECOL, a web-based fraud complaint mechanism managed by the RCMP that allows victims to report economic crimes over the Internet.
    - SeniorsBusters, where seniors help other seniors who have been victimized in cooperation with the police; and,
    - The Fraud Prevention Forum, chaired by the Competition Bureau Canada, is a group of private sector firms, consumer and volunteer groups, government agencies and law enforcement organizations committed to fighting fraud aimed at consumers and businesses.

- Awareness and education is a key component in the fight against MMF.

- If you have information concerning MMF activity, call the PhoneBusters National Call Centre (PNCC) at 1-888-495-8501.

On Cross-Border Mass Marketing Fraud:

- The Government of Canada and law enforcement agencies are working hard with our US partners to combat mass marketing fraud that targets US citizens.

- A number of related Government initiatives are underway to fight cross-border fraud, including the Intercept Program, which intercepts victims' money and fraudsters counterfeit cheques at the border. This program has resulted in returning millions of dollars back to the victims.

- Canada is working with its US partners to expedite extradition requests to ensure that Canadian telemarketers are prosecuted in the US.

Background:

On March 1, 2006, Competition Bureau Canada officials announced that March 2006 would be recognized as Fraud Prevention Month (FPM) by members of the Bureau-chaired Fraud Prevention Forum (FPF). A press conference was held at the National Press Theatre on March 1st where law enforcement officials from Canada and the United States joined forces to describe how partnerships are key in fighting the global scourge of fraud. At that time, they also described awareness activities that would take place across Canada in which Canadians could participate in order to prevent and report fraud.

One of the events featured involved a collaborative partnership between the Competition Bureau Canada, Shred-It, local police services, and Better Business Bureaus calling for the first national community-shredding event on Saturday, March 25, 2006 in 20 cities across Canada. Consumers were invited to bring their unwanted personal documents to any number of locations where Shred-It mobile trucks shed their material on-site, while local police and others offered tips on how Canadians could protect themselves against fraud.

The FPF's reach is international. This past March, over 24 countries who form the International Consumer Protection and Enforcement Network (ICPEN) committed to raise public awareness worldwide with their own FPM campaigns.

PhoneBusters

PhoneBusters is a national anti-fraud call centre operated on a tri-partite basis by the Ontario Provincial Police (OPP), the Royal Canadian Mounted Police (RCMP), and the Competition Bureau Canada with additional funding support from Visa Canada and others, including the US Postal Inspection Service. PhoneBusters plays a key role in educating the public about specific fraudulent telemarketing pitches. The call centre also plays a vital role in the collection and dissemination of victim evidence, identity theft complaints, statistics, documentation and tape recordings, which are made available to outside law enforcement agencies.

National Mass Marketing Fraud Strategy

The National Mass Marketing Fraud Strategy Working Group's (WG) mandate is to develop a national collaborative framework to combat MMF. The WG has identified four pillars of the strategy: (1) more vigorous law enforcement; (2) raising awareness; (3) tougher sanctions and targeted legislation; and, (4) national harmonized data collection.