



Resolutions Adopted at the 96th Annual Conference

August 2001
Saskatoon, Saskatchewan

CANADIAN ASSOCIATION OF CHIEFS OF POLICE
Leading progressive change in policing

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RESOLUTIONS ADOPTED AT THE CANADIAN ASSOCIATION OF CHIEFS OF POLICE 9TH ANNUAL CONFERENCE

SASKATOON, SASKATCHEWAN

AUGUST 2001

1. Dead Time Sentencing
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Approved at the 96th Annual General Meeting on August 22, 2001

Resolution 2001-01

DEAD TIME SENTENCING

WHEREAS one of the fundamental purposes of sentencing is to contribute to the respect for the law and the maintenance of a just and peaceful society, and;

WHEREAS the principle of proportionality in sentencing requires a sentence to fit both the offender and the nature of the offence, and;

WHEREAS when considering the length of a sentence, section 719(3) of the *Criminal Code of Canada* allows the courts to take pre-trial custody or "dead time" into consideration, and;

WHEREAS although current sentencing practices in Canada vary with each province, case law is developing which is influencing courts to provide offenders with credit for dead time served at a rate of two days for every one day served, and;

WHEREAS the result of this sentencing practice is that an offender receives an unfair, unjust and disproportionate credit on the sentence imposed, thereby compromising public safety and eroding public confidence in the justice system.

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police urges the Minister of Justice to amend section 719 (3) of the *Criminal Code*, to limit the discretion of the courts in compensating offenders for dead time to no more than one day credit for each day served, and;

BE IT FURTHER RESOLVED that the Minister of Justice be encouraged to amend the *Criminal Code* to remove the courts ability to provide pre-sentence credit when the offender is held in custody to ensure the safety and/or security of any victim or witness to the related offence.

Resolution 2001-02

CANADIAN POLICE COLLEGE

WHEREAS the Canadian Association of Chiefs of Police is fully committed to the mandate of the Canadian Police College as a vital part of the National Police Service, and;

WHEREAS the Government of Canada through the Solicitor General has a responsibility to fully fund the Canadian Police College as part of the National Police Service, and;

WHEREAS the new *Youth Justice Act*, crime prevention through social development and other initiatives are priorities of the Government of Canada, and;

WHEREAS the Canadian public expects their police officers to be fully trained to national standards on new policing initiatives,

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police urges the Solicitor General of Canada to provide adequate funding to the Canadian Police College, thus enabling it to carry out its mandated responsibilities of ensuring Canadian police officers are prepared for the implementation of new crime prevention initiatives of the Government of Canada.

Resolution 2001-03

DNA - DESIGNATED OFFENCES

WHEREAS the *DNA Identification Act* was brought into force on June 30th, 2000, and;

WHEREAS it has been established that a person's DNA is a positive form of personal identification and that bodily substances located and seized can be used to identify an offender, and;

WHEREAS the *Criminal Code of Canada* empowers a provincial court to issue a warrant to obtain bodily substances suitable for DNA profiling, when certain criteria are met and there are reasonable grounds to believe that a designated offence has been committed, and;

WHEREAS the designated offences listed in section 487.04 CCC do not include any offences contained within the Controlled Drugs and Substances Act such as Trafficking and Possession for the Purpose of Trafficking, and;

WHEREAS drug related offences continue to create hardship and stress in our communities and continually fuel activities related to organized crime,

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police urge the Minister of Justice to amend the *Criminal Code* to include drug related offences such as Trafficking and Possession for the Purpose of Trafficking as designated offences, and;

BE IT FURTHER RESOLVED that the Canadian Association of Chiefs of Police urges the Minister of Justice to refine the legislation and increase its practical effectiveness through consultation with law enforcement entities.

Resolution 2001-04

PERSONAL INFORMATION PROTECTION AND ELECTRONIC DOCUMENTS ACT

WHEREAS organized crime is a serious problem and a major concern to Canadian law enforcement and the people of Canada, and;

WHEREAS police services and other law enforcement agencies rely heavily on public cooperation in providing valuable information and intelligence with respect to persons and organizations involved in criminal activity, and;

WHEREAS organized crime often uses intimidation as a weapon against those who cooperate with law enforcement authorities, and;

WHEREAS disclosure requirements in criminal cases developed post *Stinchcombe* coupled with the new privacy laws enacted by the Parliament of Canada as contained in *Bill C-6 (Personal Information Protection and Electronic Documents Act) (PIPEDA)* Part 1 of which came into force on January 1, 2001, will make it extremely difficult for Canadian police officers to gain access to information required in furtherance of criminal investigations, and;

WHEREAS provisions contained within *PIPEDA* are likely to seriously impair the cooperation of business owners to voluntarily provide information or intelligence to police as they may fear liability under this legislation, thereby depriving law enforcement of valuable sources of information and intelligence and having the consequence of reducing the effectiveness of law enforcement efforts to succeed in combating organized crime and other major criminal activity including the prosecution of those involved, and;

WHEREAS *Bill C-6* will be imposed in all Provincial jurisdictions on January 1, 2004, if they fail to enact acceptable privacy laws similar to that of *Bill C-6* (Province of Quebec excepted because it has already enacted privacy legislation),

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police encourages its members to become fully informed of the potential impact of privacy laws currently enacted or proposed and that the CACP consider preparing an action plan relative to the *PIPEDA* and other similar provincial legislation which may be proposed or enacted.

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Resolution 2001-05

ORGANIZED CRIME STRATEGY

WHEREAS the Canadian Association of Chiefs of Police is committed to making Canada a safer place to live, work and raise a family, and;

WHEREAS Organized Crime poses a significant threat to Canadians and their communities right down to the basic lifeline and quality of life experienced in the homes and neighbourhoods of the nation, and;

WHEREAS the Federal Government has declared that “combating organized crime is the number one law enforcement priority on Canada’s public safety agenda”, and;

WHEREAS Canadians are increasingly concerned about the presence and impact of organized crime in their communities and feel that governments and law enforcement institutions should be doing more to address this growing and pervasive threat to public safety and the economic stability of corporate sector enterprises, and;

WHEREAS Canada played a key role within the United Nations in the development of the United Nations Convention against Transnational Organized Crime, signed in December 2000, and;

WHEREAS the Canadian Association of Chiefs of Police is aware that co-ordination by law enforcement is fundamental to fighting organized crime enterprises that regard borders and jurisdictions as opportunities to escape detection and prosecution, and;

WHEREAS the Canadian Association of Chiefs of Police Organized Crime Committee’s mandate is:

Governed by the imperative of public safety, security and quality of life impacting all citizens of Canada and their communities, the CACP Organized Crime Committee undertakes to lead and strengthen co-operation and co-ordination amongst law enforcement in the fight against organized crime.

The Committee proposes to invite, evaluate and promote innovative law enforcement initiatives against organized crime through leadership in both national and international levels, through public communication, awareness and education, and through advocacy with regard to policy and legislation.

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Through strategic decisions guided by information and intelligence from the greater law enforcement community and beyond, the Committee will prompt policy development and action against organized crime.

The CACP Organized Crime Committee determines to forge partnerships and model action plans to guide a unified law enforcement response to the threat of organized crime in Canada.

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police through its Organized Crime Committee develop a “National Tactical Organized Crime Enforcement Strategy” , and;

BE IT FURTHER RESOLVED that the Canadian Association of Chiefs of Police urges all levels of government to ensure that the appropriate laws and resources are in place to assist Canadian law enforcement agencies in their fight against national and international organized crime.

Resolution 2001-06

LAWFUL ACCESS

- WHEREAS** in 1999, the Canadian Association of Chiefs of Police submitted a Resolution focusing on Lawful Access, and;
- WHEREAS** Lawful Access issues continue to be a high priority and further delay is detrimental to Law Enforcement as well as Peace, Order and Good Government in Canada, and;
- WHEREAS** the ability to lawfully intercept private communications is an essential investigative tool, especially in relation to organized crime activities and the investigation of other serious crimes, and;
- WHEREAS** the Government of Canada's deregulation of the telecommunications industry as it relates to wireline and wireless telephone services has resulted in the emergence of new law telecommunications service providers and new technologies, thus making lawful interceptions by law enforcement agencies more complicated, difficult and expensive, and;
- WHEREAS** police budgets continue to fund the fees for service currently being charged by the wireline and wireless telecommunications service providers with respect to lawful interceptions, and;
- WHEREAS** the law enforcement community recognizes that each new and emerging telecommunications technology, including but not limited to wireless communications, Personal Communications Service (PCS), satellite communications, encryption, Internet communications local number portability (LNP), and Local Multi-point Communications Service (LMCS) present significant technical challenges to lawful intercept, and;
- WHEREAS** Industry Canada's official Cryptography Policy (permitting the possession, use and exportation of all forms of encryption devices) as well as the Canadian Radio- television and Telecommunications decision to not regulate the Internet have the combined effect of failing to prevent the commission of crimes being perpetrated through the medium of the Internet, and;
- WHEREAS** existing lawful access and search and seizure legislation is ineffective for the purpose of investigating crimes committed using cryptographic devices, and;

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WHEREAS the provisions contain in Part VI and Part XV of the *Criminal Code* could be modified and strengthened in order for law enforcement (and national security) agencies to effectively use those provisions to overcome crimes committed using cryptographic devices and other emerging technologies,

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police urges the federal Minister of Justice to enact legislation to ensure that the law enforcement community has the ability to access accurate information obtained under judicial authority in a timely manner including the ability to render voice, text or images into a clear or unencrypted format, and;

BE IT FURTHER RESOLVED that the Canadian Association of Chiefs of Police urges the Minister of Justice to:

Enact legislation to ensure that existing and emerging telecommunications service providers and network operators provide lawful access capabilities in compliance with the Solicitor General's Enforcement Standards;

Modify existing interception, search and seizure, and assistance procedures to better suit circumstances where cryptography is used to facilitate a crime by either incorporating the General Warrant provisions of the *Criminal Code* onto Part VI or modifying section 487.01 to include elements of Part VI for lawful intercept purposes;

Enact legislation to criminalize the unauthorized disclosure of hardware and software cryptographic keys;

Enact legislation to make the use of encryption in the commission of an offence a separate offence and an aggravating factor in sentencing, and permit the seizure and forfeiture of any equipment utilized for the purposes of that encryption;

Amend the *Criminal Code* definition of "private communication" to encompass emerging technologies;

Enact legislation which provides for the establishment of a national database containing all telephone numbers and subscriber information relating to those numbers with specified search parameters and lawful access criteria;

Establish administrative access as opposed to a warrant process to ensure access to telecommunications subscriber information;

Establish the appropriate legislative and policy foundation to require the Communications Security Establishment (CSE) to provide assistance to Canadian law enforcement agencies in relation to cryptography and other complex technologies which are used in the commission of a criminal offence;

Legislate the appropriate changes to ensure the active support of Industry Canada and the Federal Department of Justice to assist law enforcement and national security agencies on issues of cross border intercepts.

Resolution 2001-07

Curfew Accountability

- WHEREAS** the prevention of crime is a critical component of an efficient community police function, and;
- WHEREAS** Courts in Canada regularly make probation and judicial interim release orders where curfews form part of the order, and;
- WHEREAS** there are no legislative or practical ways to ensure any specific accountability or enforcement of the curfew order, and;
- WHEREAS** some attempts have been made recently in Canada to develop proactive accountability mechanisms to ensure compliance with curfew orders, and;
- WHEREAS** there are practical and legal concerns associated with the enforcement of curfew orders,
- THEREFORE BE IT RESOLVED** that the Canadian Association of Chiefs of Police seeks the support of the Crime Prevention Council of Canada to:
- conduct research into the mechanisms and legal requirements necessary to develop and implement an effective and fair accountability mechanism for Court ordered curfews, and;
 - conduct a pilot project in relation to curfew accountability and enforcement in association with the Canadian Association of Chiefs of Police.

CURFEW RESOLUTION

BACKGROUNDER

Curfew provisions form part of many Court Orders issued everyday by Canadian Courts. Pursuant to the order, the subject must stay at home by a certain hour thereby presumably reducing the likelihood that the person will re-offend. Such provisions are therefore a preventative attempt by the Courts to curtail the activities of the person - by and large, it is sound thinking.

However, the only real enforcement mechanism is that if the police find the person on the streets, check the order, determine that the person is in violation of the order, the police can charge a person. This usually happens when the person is arrested and investigated for another offence and the failure to comply with curfew is an added on "breach" charge.

Many in the criminal justice system believe that the underlying goal of the curfew order is sound. By keeping the person at home after a reasonable hour the person is less likely to associate with those involved in crime or to become involved in the activities that lead to crime.

What is missing is a realistic mechanism for curfew accountability or enforcement.

Police can go to the home of the subject and ask for the person but there is no legal mechanism to ensure compliance with the order, (for example compelling the person to come to the door). Enforcement is restricted to actually catching the person in breach, (for example on the street).

In order to develop strategies to address this issue, the Canadian Association of Chiefs of Police would like to conduct multi-disciplinary research to build on the work already conducted on an individual basis by some police services across Canada. It is hoped that this will lead to concrete proposals which can be tested by pilot projects undertaken by the CACP with some member police services. As is often the case in today's policing environment the challenge is to strike a balance between community objectives and individual rights

In this way the CACP can equip itself with realistic and tested proposals for legislative or practical solutions to the problem.

The CACP is looking to the Canadian Crime Prevention Council to support of this initiative.

Resolution 2001-08

PROCEEDS OF CRIME

- WHEREAS** the economic and social consequences of organized crime are known to disenfranchise all citizens and communities within Canadian society, and;
- WHEREAS** the debilitating effects of organized crime are known to most visibly impact vulnerable people, neighbourhoods and communities, and;
- WHEREAS** the sophistication, the evolution and the pervasive nature of both domestic and international organized crime enterprises are predisposed to the use of violence, corruption and any other unlawful tactics to overcome the combined efforts of Canadian society, and;
- WHEREAS** the extraordinary advances being made by organized crime enterprises are continuing to severely challenge the ability and resources available to communities and their law enforcement agencies, and;
- WHEREAS** extensive research, studies and reports have continued to highlight the enormous acquisition of resources through the varied commodities pursued by organized crime enterprises, and;
- WHEREAS** the various levels of government have enacted specific organized crime legislation including the seizure and disposition of proceeds of crime,
- THEREFORE BE IT RESOLVED** that the Canadian Association of Chiefs of Police pursue initiatives directed at the various levels of government intended to facilitate a more equitable and strategic disposition of proceeds of crime resulting from organized crime investigations and that these be dedicated directly back to fight organized crime at the local and national level.