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UNIFORM LAW CONFERENCE OF CANADA

**WORKING GROUP ON
S. 490 OF THE CRIMINAL CODE**

STATUS REPORT

**Presented by
Manon Lapointe**

Readers are cautioned that the ideas or conclusions set forth in this paper, including any proposed statutory language and any comments or recommendations, may not have not been adopted by the Uniform Law Conference of Canada. They may not necessarily reflect the views of the Conference and its Delegates. Please consult the Resolutions on this topic as adopted by the Conference at the Annual meeting.

**Quebec
August 2018**

Presented to the Criminal Section

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the Uniform Law Conference of Canada.
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info@ulcc-chlc.ca

[1] At the 2017 ULCC meeting in Regina, Saskatchewan, the Criminal Section adopted a resolution from British Columbia to examine s. 490 of the *Criminal Code*. The Resolution is as follows:

That the Criminal Section of the Uniform Law Conference of Canada establish a working group to undertake an examination of section 490 (Detention of things seized) of the *Criminal Code* with a view to reform the detention of seized property regime.

(Carried as amended 26-0-1)

[2] The Working Group, chaired by Manon Lapointe of the Public Prosecution Service of Canada (PPSC) is composed of Melissa Adams, Andrew Hotke (Attorney General of Ontario), Isabelle Doray (Director of Criminal and Penal Prosecutions of Quebec), Rachel Huntsman (Royal Newfoundland Constabulary), Michael McEachren, Simon William (PPSC), Luc Labonté (Attorney General of New Brunswick), Nadine Nesbitt (Department of Justice of Alberta), Hélène Mathieu, (Department of Justice of Québec), Stéphanie O'Connor, Paul St-Denis, Norm Wong (Department of Justice Canada), Richard Prihoda (Avocats Montréal), Nicholas Reithmeier (Department of Justice of British Columbia).

[3] The working group met throughout the year. Members consulted their colleagues and shared with the working group the information gathered. In addition, the working group received numerous comments from a number of members of the judiciary and from law enforcement, notably through the Canadian Association of Chiefs of Police. The information gathered greatly informed the contributed discussion of the working group.

[4] As a first step, the working group agreed to identify enforcement problems related to s. 490 of the *Criminal Code* and potential short-term legislative amendments which could be helpful. An inventory of these enforcement problems is enclosed at Annex 1. However, members of the working group recognize that this complex section of the *Criminal Code* needs a complete overhaul. In order to make meaningful recommendations in this regard, the working group will need to consider fundamental questions of criminal law policy such as

- Is the report to a justice still required today?
- Should all the provisions dealing with forfeiture and proceed of crime be grouped in one section of the *Criminal Code*?
- How should electronic evidence be dealt with?

[5] The examination of such policy issues may go beyond the terms of reference of this working group and will require time. While they are cognizant of these realities, the members of the working group are committed to this process. Thus, the working

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group recommends to continue its work and report back to the Criminal Section at the annual meeting in 2019.

Encl. Annex 1