

## RESOLUTIONS SUMMARY

### CRIMINAL SECTION

#### AUGUST 2012

#### ALBERTA

##### **Alberta - 01**

In order to ensure the viability of fines as a sentencing option, Justice Canada should examine S. 734 of the *Criminal Code* in response to the Supreme Court of Canada decision in *R. v. Topp* to determine the appropriate onus of proof regarding an offender's ability to pay a fine.

**Carried as amended: 17-2-6**

##### **Alberta - 02**

It is recommended that a working group be created to examine the notice provisions in the *Criminal Code* and applicable notice provision in the *Canada Evidence Act* to modernize these provisions post *R. v. Stinchcombe*.

**Carried as amended: 23-0-2**

##### **Alberta – 03**

That Justice Canada should examine s. 119 (2) of the *YCJA* to ensure that the period of access does not include any time an accused has voluntarily absented from court proceedings.

**Carried as amended: 20-0-4**

##### **Alberta - 04**

The definition of “serious personal injury offence” in section 752(b) of the *Criminal Code* should be amended to include sections 151, 152 and 153.

**Carried: 23-0-2**

##### **Alberta - 05**

Justice Canada should examine the interrelationship between the Dangerous and Long Term Offender provisions to ensure that there are no unwarranted gaps, particularly

where offenders may not satisfy the requirements to be classified a Dangerous Offender, but to be too high a risk to satisfy the criteria for a Long Term Offender order.

**Carried: 23-0-3**

### **Alberta - 06**

The *Criminal Code* should be amended to provide explicit guidance to the Courts regarding the paramount importance of public safety as a sentencing consideration for material breaches of long term offender orders pursuant to section 753.3 of the *Criminal Code*. Such an amendment is particularly important given the need to coordinate these provisions with the related provisions in the *Corrections and Conditional Release Act* which have been recently amended to emphasize the importance of public safety in correctional and Parole Board decisions.

**Carried: 12-7-5**

## **BRITISH COLUMBIA**

### **British Columbia – 01**

That Section 4 (2) of the *Canada Evidence Act* be amended to include s. 163.1 in the offences exempted from the spousal competence and compellability rule.

**Withdrawn**

### **British Columbia – 02**

That s. 162 Voyeurism be included as an enumerated offence in 810.1 applications.

**Withdrawn**

### **British Columbia – 03**

That s. 450, 452 and 453 of the *Criminal Code* be amended to give the Crown the election to proceed by indictment or by summary conviction for the offences of possession and uttering of counterfeit currency.

**Carried: 19-2-5**

#### **British Columbia – 04**

That s. 742.6(4) be amended to provide that a report may be provided by a peace officer where the offender is arrested without warrant.

**Defeated: 7-9-8**

#### **British Columbia – 05**

That s. 487.051 of the *Criminal Code* be amended to provide that where an order made under subsection (4) remains outstanding, a justice of the peace may issue a summons to appear to allow samples of bodily substances to be taken.

**Carried as amended: 17-1-7**

#### **MANITOBA**

##### **Manitoba - 01**

That *Criminal Code* sections 268(2) (Aggravated Assault) and 270.02 (Aggravated Assault of Peace Officer) be amended to provide for maximum sentences of life imprisonment.

**Withdrawn after discussion**

#### **NEW BRUNSWICK**

##### **New Brunswick – 01**

Amend subsections 503(2.1) and 499(2) of the *Criminal Code*, to permit a peace officer or officer in charge to release a person on the condition to keep the peace and be of good behaviour.

**Carried as amended: 23-0-2**

##### **New Brunswick - 02**

Amend S.4 of the *Canada Evidence Act* to ensure that the spouse of a person accused of an offence under s.163.1 of the *Criminal Code* is both competent and compellable to testify.

**Carried as amended: 22-0-3**

### **New Brunswick – 03**

Amend *Criminal Code* Regulation SOR 98-462 (Regulations Prescribing Certain Firearms and other Weapons, Components and Parts of Weapons, Accessories, Cartridge Magazines, Ammunition and Projectiles as Prohibited or Restricted) to redefine “**Brass Knuckles**” without a reference to a **band of metal**.

**Carried: 24-0-2**

### **New Brunswick – 04**

Amend subsection 490.012(4) to allow a limited right of appeal of subsections 490.012(1) and (3).

**Carried: 23-0-2**

## **QUEBEC**

### **Quebec - 01**

Section 680 of the *Criminal Code* should be amended so as to provide for review by the Court of Appeal, with its permission, of decisions concerning the release or remand of an accused by a judge of a superior court of criminal jurisdiction under section 520 or 521 of the *Criminal Code*.

**Withdrawn**

### **Quebec - 02**

(A) That the *Criminal Code* be amended to make it possible, unless otherwise provided, to obtain by telewarrant any warrant or judicial authorization obtained *ex parte*.

**Carried as amended: 21-0-4**

(B) That the *Criminal Code* be amended to provide that to obtain a warrant by a means of telecommunication that produces a writing, that it no longer be necessary to show that it would be impracticable to appear personally before a justice.

**Carried as amended 21-0-4**

## SASKATCHEWAN

### **Saskatchewan - 01**

Amend subsection 810.1(4) to include the Attorney General as a party that may apply for a variation of conditions imposed under a section 810.1 peace bond.

**Carried: 22-0-2**

## CANADA

### Canadian Bar Association

#### **CBA – 01**

Section 525 of the *Criminal Code* be amended to allow an accused person to waive in writing his or her appearance under the 90/30 day review period.

**Carried as amended 16-0-7**

#### **CBA – 02**

That Part XXI of the *Criminal Code* be amended to include a section permitting an appellate court, which has ordered a new trial, to remand the accused to a specific date to the appropriate court.

**Carried as amended 16-0-8**

### Public Prosecution Service of Canada

#### **PPSC – 01**

That section 195(1) of the *Criminal Code* be amended to remove the naming requirement for federally designated wiretap agents and peace officers in annual reports to Parliament.

**Carried: 20-0-5**

#### **PPSC – 02**

Section 115 should be further amended so that police forces involved in the investigation of offences alleged to have been committed by young persons are also clearly required to keep records of summary and indictable offences committed by those young persons.

**Withdrawn**

## **FLOOR RESOLUTIONS**

### **ONTARIO**

#### **Ontario – 01**

Add s. 162 (Voyeurism) to the lists of offences in subss. 161(1.1) and 810.1(1) of the *Criminal Code* so as to make s. 161 Orders of Prohibition and s. 810.1 Recognizances available in relation to that offence.

**Carried: 16-0-1**

#### **Final Report of the Working Group on Contradictory Evidence: Criminal Liability for Recanted *K.G.B.* Statements**

That the Uniform Law Conference of Canada Criminal Section accept the report of the Working Group on Contradictory Evidence and asks the Working Group to continue its study and report back to the Uniform Law Conference Criminal Section in 2013.

**Carried as amended: 19-0-5**

#### **Report of the Working Group on Exemptions from Mandatory Minimum Penalties**

It is recommended that the Criminal Section of the Uniform Law Conference:

- A. Receive the report by Yvon Dandurand (University of the Fraser Valley) titled “Exemptions from Mandatory Minimum Penalties”;
- B. Thank Yvon Dandurand for his great contribution to the work of the Criminal Section;
- C. Agree that this report informs further work of the Working Group on Exemptions from Mandatory Minimum Penalties;
- D. Approve the Draft Terms of Reference for the Working Group;
- E. Task the Working Group to continue its work in 2012-2013 and report at the 2013 meeting of the Criminal Section.

**Carried: 22-0-2**

## **Report of the Working Group on Enforcement of Extra-provincial Search Warrants**

The working group requests that the ULCC pass a resolution to:

1. Accept this progress report;
2. Confirm its support for the working group to explore options to address the problem with the enforcement of extra-provincial search warrants.

**Carried as amended 21-0-3**