



UNIFORM LAW CONFERENCE OF CANADA

**WORKING GROUP ON THE REVIEW
OF SECTION 487 OF THE *CRIMINAL CODE*
(Search Warrants)**

STATUS REPORT

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Presented to the Criminal Section

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[1] At the 2018 meeting of the Uniform Law Conference of Canada (ULCC) in Quebec City, the Criminal Section passed a resolution on the review of section 487 of the *Criminal Code*, at the request of the Canadian Bar Association (Can-CBA2018-05):

A working group should be formed to review section 487 of the *Criminal Code* (information for search warrant) and examine how this investigative power should be modernized, taking into account new technologies, the *Canadian Charter of Rights and Freedoms* and relevant national and international developments. At the discretion of the working group, it will report back to the Section with either an interim or final report at the next conference. (Carried 28-0-1)

[2] The Working Group (WG) interpreted this broad mandate as best fulfilled by focusing on issues relating to the core nature of the section 487 search warrant, which it saw as an “overt” search power. Section 487 is the only general “overt” search tool in the *Criminal Code*. “Overt” is considered to refer to the non-secretive nature of this investigative tool and the fact that the search warrant provides law enforcement officials with the authority to search and seize property with the knowledge of the search subject. With this in mind, the WG had a number of discussions on what types of open search activities police currently undertake, either pursuant to section 487 or section 487.01 (general warrant), and what the police should be able to do in an “overt” search context. This involved discussions of search of premises, conveyances, computers and people. Since those initial meetings, other issues have arisen through case law that will be considered by the WG, including examination of things that have already been lawfully seized.

[3] Members of the WG currently include: Matt Asma (–Chair, Ontario), Normand Wong (former chair), Karen Audcent, Glen Boyd, Kenyatta Hawthorne and Stéphanie O’Connor (all Justice Canada), Nadine Nesbitt (Alberta), Paul Pearson (British Columbia), Karen Lee (New Brunswick), Nicolas Abran (Québec), Kevin Westell (Criminal Defence Advocacy Society), and Adam Weisberg (Criminal Lawyers Association).

[4] The WG met via teleconference 7 times since it was established by ULCC in 2018, most recently in February 2022. Due to the exigencies related to the COVID-19 pandemic, the attention of many WG members was directed elsewhere and, as a result, there has been minimal progress on the work of the WG. In July 2022, Normand Wong of Justice Canada informed the WG that he would no longer be able to continue in his role as chair of the WG, however, Matt Asma, Ministry of the Attorney General of Ontario, fortunately agreed to take on this important role. The WG intends to finalize the report for presentation to ULCC at its August 2023 meeting.