



UNIFORM LAW CONFERENCE OF CANADA

**WORKING GROUP ON
TECHNOLOGY IN THE COURTROOM**

**AMENDED STATUS REPORT
(Following discussion on August 17, 2022)**

**Presented by
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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 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.

**Edmonton, Alberta
August 2022**

Presented to the Criminal Section

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[1] Our group was formed as a result of resolutions carried at the 2021 ULCC conference, from the Canadian Association of Provincial Court Judges (CAPCJ) and the Canadian Council of Criminal Defence Lawyers (CCCDL).

[2] CAPCJ’s resolution (Can-CAPCJ2021-01) reads:

The provisions of the *Criminal Code* relating to alternatives to physical appearance by an accused are complex and found in many different Parts of the *Code*. The *Code* should be amended to gather all of these provisions in one Part. Further, the ability of a trial judge to order a particular mode or form of appearance, with or without consent, should be clarified

[3] Building on the above resolution, CCCDL suggested in an amended resolution the creation of a working group (Can-CCCDL2021-01):

Appreciating that Can-CAPCJ2021-01 has passed (“Alternative Modes of Appearance for the Accused”), the ULCC Criminal Section establish a working group for the purposes of making recommendations in relation to possible *Criminal Code* amendments pertaining to the use of technology in criminal matters, bearing in mind the impact of the pandemic on the criminal justice system.

[4] The Technology Group consists of prosecutors, defence lawyers, legal policy counsel, consultants, and analysts: Mark Knox, Shannon Davis-Ermuth, Patrick McGuinty, Kevin Westell, Craig Savage, Justin Tremblay, Nancy Bray, Samantha Reynolds, Paul Sandhu, Andrew Synyshyn, Claudia Mann, Scott Newman, Lisa Stead, Andrew Davis, Catherine Cooper and Gerri Wiebe.

[5] The Working Group on Technology in the Courtroom (“the Technology Group”) met virtually on two occasions: January 26, 2022 and April 22, 2022.

[6] Fortunately, we were introduced to Bill S-4, *An Act to Amend the Criminal Code and the Identification of Criminals Act and to make related amendments to other Acts (COVID-19 response and other measures)* at our April 22 meeting, thanks to Shannon and Samantha’s familiarity with the Bill. The third reading at the Senate was completed on June 21, 2022.

[7] We have concluded:

- Remote appeal work is not a significant issue for anyone.
- Many bail hearings are being held remotely. Most bail hearings do not involve calling evidence and there were relatively few concerns raised with remote bail hearings done by videoconferencing.

- Having good connectivity between the courthouses, counsel and participants is an ongoing and troublesome issue in some areas.
- Self-represented persons, both in or out of custody, require particular attention by the judiciary and counsel.
- The use of court exhibits in remote proceedings requires particular attention.

[8] In light of the introduction of Bill S-4 since the establishment of the Working Group, the Working Group concluded that it made sense for it to be disbanded without prejudice for the CCCDL, or any other delegation or sub-delegation of the Criminal Section, to seek to establish a new working group with a similar mandate in the future.