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UNIFORM LAW CONFERENCE OF CANADA

**WORKING GROUP ON
Section 487 Review (Search Warrants)**

STATUS REPORT

**Presented by
Normand Wong**

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.

**Via Zoom
August 2020**

Presented to the Criminal Section

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[1] The Uniform Law Conference of Canada (ULCC) Criminal Section Working Group (WG) on the Section 487 Review met via teleconference six times since it was established by ULCC in Quebec City at its August 2018 meeting, and only once since the last ULCC in St. John's. As a result of those teleconferences the WG now has a rough draft paper of approximately 70 pages, which will need to be distilled and better organized to continue discussions. The resolution from which the WG received its mandate is as follows (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 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 “open” search power. Section 487 is the only general “open” search tool in the *Criminal Code*. “Open” is considered to refer to the overt 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. Although there were a number of discussions relating to surreptitious search powers, the WG decided that the breadth of this review should be constrained to “open” searches given the scope of the current section 487. 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 “open” search context. This involved discussions of search of premises, conveyances, computers and people.

[3] The rough draft of the report is a compilation of a variety of sources and contributions that working group members made, that cover the entire scope of the work undertaken by the WG. Some of the contributions came from other sources and initiatives that have also looked at related issues and as such must be incorporated into the report to reflect the discussions of the working group. This work is scheduled to occur in summer-fall 2020.

[4] During the 2020-2021 timeframe, the WG will meet to discuss the draft report. The draft report will be distributed to the WG for their review in fall 2020. The WG will look to finalize the report for presentation to ULCC at its August 2021 meeting.

[5] Members of the WG include: Normand Wong, Stéphanie O'Connor, Glen Boyd, Kenyatta Hawthorne and Karen Audcent (all Justice Canada), Matt Asma (Ontario), Kevin Westell (Pender), James Wood (CavaWood), Nadine Nesbitt (Alberta), Karen Lee (New Brunswick), Mia Manocchio (defence Bar), Paul Pearson (British Columbia), and Nicolas Abran (Quebec).