

# **REPORT OF THE SENIOR FEDERAL DELEGATE, 2016**

## **UNIFORM LAW CONFERENCE OF CANADA**

### **CRIMINAL SECTION**

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#### **INTRODUCTION**

[1] The Uniform Law Conference of Canada (ULCC) plays an important role in the harmonization and modernization of Canada's laws. This is particularly evident in the work of the Criminal Section where each year judges, prosecutors, policy experts, defence lawyers, and academics examine resolutions and working group reports to advance reforms to the criminal law. The in depth deliberations and critical research papers help to shape reforms of the *Criminal Code* and related criminal statutes.

[2] In addition, the Criminal Section of ULCC provides a unique opportunity for the federal Department of Justice to take the pulse and consult key stakeholders in the criminal justice system on its priorities, including to ensure that federal legislation meets the highest standards of equity, fairness and respect for the rule of law and to support the Government of Canada's priorities through the delivery of high-quality legal services, while ensuring compliance with Canada's legal framework in order to preserve public trust and confidence in the integrity of the justice system.

[3] Resolutions passed by the ULCC Criminal Section are carefully considered by the Department of Justice criminal law policy officials. The Deputy Minister of Justice and the Minister of Justice are informed of the outcome of ULCC discussions following the annual meeting, as are other Departments where it is established that an issue raised by a ULCC resolution falls within the purview of another federal minister. While the passage of resolutions calling for *Criminal Code* and other related criminal law amendments may not result in immediate legislative reform, the work of the ULCC Criminal Section is integral to this process. Officials at the Department of Justice turn regularly to past ULCC deliberations to inform the policy development process leading to amendments to the *Criminal Code* and related criminal statutes.

[4] Part I of the Annual Report examines federal-provincial-territorial (FPT) developments of interest to ULCC. Part II provides an update of ULCC resolutions between 2011 and 2015.

[5] Since the last meeting of the Criminal Section in Yellowknife, Northwest Territories, August 9- 13, 2015, a new federal government was elected on October 19, 2015. All matters on the Order Paper at that time died when the writ was dropped on August 2, 2015 and the 42<sup>nd</sup> Parliament began its first session on December 3, 2015. The criminal law legislative agenda is highlighted in Part III of this Annual Report.

## PART I – FPT DEVELOPMENTS OF INTEREST TO ULCC 2015-2016

### *FPT Ministers Responsible for Justice and Public Safety*

[6] FPT attorneys general and ministers responsible for justice and public safety usually meet at least once a year to discuss key justice and public safety issues and give direction to government officials from the various jurisdictions on new and ongoing collaborative work being conducted over the year. Many of the issues discussed at these meetings are related to the issues raised by delegates to the ULCC.

[7] The first meeting of FPT Ministers Responsible for Justice and Public Safety under the new government was held in Québec city, on January 21, 2016. With a new federal government and a number of new provincial and territorial governments, this meeting was an opportunity to build new relationships and outline key issues that they will work on together.

[8] The Ministers focused on items of shared priority such as violence against Indigenous women and girls, reconciliation, physician-assisted dying, countering radicalization, cyber security, and financing an innovative justice system.

[9] Ministers discussed the issue of reconciliation with Indigenous Peoples, informed by the Truth and Reconciliation Commission's Calls to Action and agreed on the need to address related issues, such as First Nations Policing. Recognizing the need to take immediate action to address violence against Indigenous women and girls, ministers articulated strong support for the National Inquiry into Missing and Murdered Indigenous Women and Girls and approved the Justice Framework to Address Violence Against Indigenous Women and Girls. The ministers acknowledged that the Justice Framework, which is informed by numerous reports and discussions with Indigenous Peoples, can be updated to incorporate additional findings, including those from the National Inquiry. Ministers agreed to continue their important collaboration, including putting the Justice Framework into action in accordance with jurisdictional priorities. In addition, they recognized that work must continue across the country to resolve outstanding cases of missing and murdered Indigenous women and girls, and to improve services and supports to victims and their families.

[10] Ministers also emphasized that collaboration is essential to the effectiveness of Canada's

approach to countering radicalization to violence. Ministers committed to supporting the development of a framework for countering radicalization to violence, to coordinate efforts, share information and best practices, and identify priorities. Ministers also agreed to share information and best practices on cyber security.

[11] Ministers discussed a range of innovative initiatives underway to deliver more efficient and effective programs and services for Canadians. They committed to meet again in the fall to follow up and collaborate on these and other key issues of importance to all jurisdictions.

#### **FPT Coordinating Committee of Senior Officials - Criminal Justice (CCSO)**

[12] CCSO was initiated in 1986. It has responsibility for analysis and recommendations on criminal justice policy issues that are of joint concern to the FPT governments. It serves as a key forum for discussion and analysis of these issues in a manner that incorporates the interests and responsibilities of the different jurisdictions and for producing recommendations and analysis that reflect these varying interests and responsibilities. CCSO has established a broad set of working groups to handle the work that is set before it. A number of issues that were the subject of ULCC Criminal Section resolutions in recent years are currently being considered by CCSO, including bail, infanticide, mandatory minimum penalties, publication bans, cybercrime and strangulation.

[13] At their November 5-6, 2015, meeting in Fredericton and at their April 14-15, 2016, meeting in Banff, all CCSO working groups were again reminded to follow-up on ULCC resolutions in order to report back on their follow-up by CCSO.

### **PART II – STATUS OF ULCC RESOLUTIONS 2011-2015**

[14] The Criminal Section considers resolutions presented by the federal, provincial and territorial delegations. Following deliberations, a vote is taken on each resolution, which can be adopted as carried, carried as amended, withdrawn, withdrawn following discussion or defeated. This report examines what has happened to the ULCC resolutions between 2011 and 2015. A chart containing all the resolutions adopted by the Criminal Section since 1983 can be found on the Uniform Law Conference of Canada website.

[15] During this period, the Criminal Section considered and voted on 125 resolutions. Of these, 27 resolutions were either withdrawn outright (10) or withdrawn following discussion (13), while four resolutions were defeated. Further, eight resolutions led to the creation of working groups. Of the remaining 90 resolutions, nine (9) have been addressed in the context of legislative amendments to the *Criminal Code* and other Acts, such as the *Canada Evidence Act*, and one was addressed by case law. Justice Canada continues to actively pursue policy development options in a number of resolutions (45). Several resolutions are presently under study and

consultation at CCSO (35). Examples of resolutions from each of these three categories are discussed in greater detail below. Clearly, the work of the ULCC Criminal Section over the past 5 five years has helped to shape policy development and the scope of the criminal law.

***Resolutions that have been addressed in statute***

[16] [Bill C-13](#), the *Protecting Canadians from Online Crime Act*, S.C. 2014, c. 31, implemented proposals made in a number of ULCC resolutions. First, it included the proposal made in resolution **AB2013-01**, which called for urgent legislative measures to modernise provisions to address all forms of modern telecommunication pertaining to harassing, indecent and other forms of prohibited communication in subsections 372 (2) and (3) of the *Criminal Code*. In line with resolution **AB2013-06 A**), the *Criminal Code* was also amended to specify that production orders (sections 487.012 to 487.017) are effective throughout Canada without the need for endorsement or other order if they are to be executed in a jurisdiction other than that in which they were issued, and that the provisions of 487.015 (variation applications) provide for a fair and efficient mechanism to apply for variation where the order has been issued in a jurisdiction other than the one in which it is executed. Resolution **NB2011-01** has also been addressed in the Bill which provides that production orders may be executed anywhere in Canada. Finally, Bill C-13, took into account resolution **QC2011-02** dealing with orders to be made when an offender has been convicted of a computer-related offence.

[17] [Bill C-26](#), the *Tougher Penalties for Child Predators Act*, S.C. 2015, c. 23, amended section 4 of the *Canada Evidence Act* to ensure that the spouse of a person accused of a child pornography offence is both competent and compellable, as called for in **NB2012-02**. Subsequently, amendments made in the *Victims Bill of Rights* ([Bill C-32](#)) amended the *Canada Evidence Act* to make spouses competent and compellable for the Crown in all cases.

[18] Similarly, the *Criminal Code* was amended in line with ULCC Resolution **AB2014-03**, pursuant to [Bill C-32](#), *An Act to enact the Canadian Victims Bill of Rights and to amend certain Acts*, c. 13, s. 16. This resolution called for Justice Canada to amend subsection 486.3(4.1) (Application) of the *Criminal Code* so as to allow any judge of the Court with jurisdiction over the offence to hear an application under section 486.3 (Accused not to cross-examine witness under 18) of the *Criminal Code* prohibiting the personal cross-examination of witnesses in specified circumstances.

[19] [Bill C-36](#), the *Protection of Communities and Exploited Persons Act*, S.C. 2014, c. 25, added all child trafficking offences to both sections 161 and 810.1. This reform is consistent with the proposal made in resolution **ON2013-02 A**) to amend paragraph 161(1.1)(a) of the *Criminal Code* by adding sections 279.01 (Trafficking in Persons) and 279.011 (Trafficking of a Person Under 18) to the list of offences for which an order of prohibition can be made. Taking into account resolution **ON2013-02 B**), subsection 810.1(1) (recognizance – fear of sexual offence against person under 16) of the *Criminal Code* was amended by adding section 279.011

(Trafficking of a Person Under 18) to the list of offences in respect of which a person may lay an information.

[20] Finally, the coming into force of [Bill C-51 Anti-Terrorism Act 2015](#), S.C. 2015, c. 20, addressed the issue raised in resolution **MB2014-01 A**) which recommended that the *Criminal Code* be amended to allow the interjurisdictional transfer and enforcement of orders under sections 810, 810.01, 810.1, and 810.2 (sureties to keep the peace). In addition, Bill C-51 amended subsection 195(1) of the *Criminal Code* to remove the naming requirement for federally designated wiretap agents and peace officers in annual reports to Parliament, as adopted by the 2012 ULCC resolution, **CAN- PPSC-02**.

#### ***Resolutions addressed in case law***

[21] The Supreme Court of Canada (SCC) in [R v Steele](#), 2014 SCC 61, from the Manitoba Court of Appeal, decided in favour of the Crown, and settled the law on the scope of the definition of a “serious personal injury offence” (SPIO) and, consequently, the threshold for entry into the dangerous and long-term offender system. This decision deals with the issue raised in resolution **SK2013-01**, which called for an amendment to the definition of “serious personal injury offence” in section 752 (Definitions Applicable to Part XXIV – Dangerous Offenders and Long-Term Offenders) of the *Criminal Code* by inserting the words “or threatened use” between the words “attempted use” and “of violence” in subparagraph 752(a)(i).

#### ***Resolutions under active consideration by Justice Canada***

[22] The passage of resolutions calling for *Criminal Code* and other related criminal law amendments may not result in immediate legislative reform as developing criminal law policy and considering whether legislative proposals may move forward involves a number of steps. Moreover, all Government legislative reform proposals require approval of the federal Cabinet. Several legislative initiatives are of interest to the Minister of Justice. However, the Cabinet and legislative agenda include initiatives from all Ministers. While criminal law reform remains a government priority, it is not possible to forecast whether or when a particular ULCC proposal will result in legislative reform. While work of the ULCC may not result in prompt criminal law reform, its work remains important and has been reflected in past criminal reform legislation as outlined in the previous paragraphs.

[23] Several examples of these resolutions merit highlighting such as resolution **AB2015-05**, which calls for greater certainty by including “coercion” in the list of prohibitive actions subject to a penalty in subsection 467.111(a) of the *Criminal Code*; resolution **CAN-PPSC2015-01 A) and B)** that the definition of “counterfeit money” in section 448 of the *Criminal Code* should be amended to contemplate counterfeit bills made from polymer substrate; ULCC resolution **AB2013-04** which recommends that section 183 (definition of “offence” in the

context of the interception of private communications) be amended to enumerate certain other offences; resolution **CAN-PPSC2013- 01**, recommending a clarification of the powers of the Court of Appeal pursuant to section 683 of the *Criminal Code*, to expressly permit the Court of Appeal to stay, pending appeal, a ruling declaring a section of the *Criminal Code*, or other federal statute, unconstitutional, of no force and effect or otherwise a nullity and resolution **AB2011-07** to the same effect; resolution **CAN-PPSC2013-02** (to increase the maximum penalty for the offence of breach of trust by a public officer under section 122 of the *Criminal Code*); resolution **QC2013-01** (to permit a court, with the consent of the parties, to extend the period for which a probation order is to remain in force); resolution **CAN-CBA2012-02**, (an appellate Court's power to set a new appearance date); resolution **QC2012-02** (telewarrants); resolution **AB2011-05**, (reciprocal disclosure of expert evidence in limited circumstances); resolution **CAN-PPSC2011-01**, which calls for an amendment of sections 37 and 38 of the *Canada Evidence Act*, with respect to interlocutory appeals of orders refusing disclosure; resolution **MB2011-02** (Maximum term of imprisonment for offence of Sexual Exploitation of Person with Disability); and resolution **ON2013-01**(Trafficking in persons).

[24] A number of the criminal law reforms adopted during the 39<sup>th</sup> and 41<sup>st</sup> Parliaments have attracted judicial scrutiny, including constitutional challenges with respect to the *Canadian Charter of Rights and Freedoms (Charter)*. Many ULCC resolutions reflect this evolving legal landscape and they remain under active consideration by Justice Canada officials. Noteworthy among these is the reforms to the sentencing regime that were considered by the ULCC Working Group in its report on “Statutory Exemptions to Mandatory Minimum Penalties”, as well the victim surcharge provisions included in [Bill C-37, Increasing Offenders’ Accountability for Victims Act](#), S.C. 2013, c. 11. The following year, **SK2014-01** called for an amendment to the definition of appeals for indictable offences in section 673, as well as of summary convictions in section 785 of the *Criminal Code*, to define “sentence” as including victim surcharge orders made under section 737 of the *Code*.

### ***Resolutions before CCSO***

[25] Given the issues covered in ULCC resolutions, a significant number of ULCC resolutions adopted in the five-year period have been under consultation and further study within the following CCSO Working Groups.

[26] The Working Group on Criminal Procedure has paid particular attention to the following resolutions: **NB2013-03** (preliminary inquiry); **CAN-CBA2012-01** (Variation of the Automatic Bail Review by an Accused); and, **NB2012-01** (Release of a person on conditions). With respect to resolution **ON2011-02** (Management of fees/rates to be paid to court-ordered counsel) and the possibility of amending section.672.24, this matter was discussed at CCSO and policy work is ongoing.

[27] The Working Group on High Risk Offenders has established a subgroup on Sex Offender Registry which will consider resolution **ON2014-03** (Amendments by judge to enable correction of errors in DNA and SOIRA orders), resolution **QC2014-04** (Harmonization of English and French text in Form 54), resolution **NB2013-02** (SOIRA), resolution **NB2012-04** (SOIRA Orders/Appeals), resolution **AB2011-06** (SOIRA or DNA Hearings where the Court fails to make a mandatory Order at the time sentence is imposed) and resolution **AB2011-01** (SOIRA and DNA hearings). Given the recommendation it contains, resolution **BC2013-02** (Use of 810 and 810.1 without the need to generate and swear a new information in appropriate cases where accused originally charged with an offence) is being considered by both the Working Group on High Risk Offenders and the Working Group on Criminal Procedure. Resolutions **AB2012-04** (definition of “serious personal injury offence”), **AB2012-05** (dangerous and long term offenders), **SK2011-01** (Amending the list of primary designated offences) and **AB2012-06** (Codification of sentencing principles for breach of long term supervision orders) are under active consideration by the Working Group on High Risk Offenders and its subgroup on Dangerous Offenders. Resolution **ON2012-01** (Voyeurism), resolution **SK2012-01** (Attorney General power to vary the condition of a peace bond), resolution **SK2011-02** (An accused who violates an officer-in-charge undertaking should show cause why he should be released on bail) and resolution **SK2011-03** (Cancelling a suspension of a deferred custody and supervision order) remain under active consideration by the Working Group on High Risk Offenders.

[28] As a result of resolution **AB2014-04** calling upon Justice Canada to review the infanticide provisions in the *Criminal Code*, CCSO established an ad hoc Working Group on Infanticide.

[29] The Working Group on Organized Crime has been following up on a number of ULCC resolutions, including resolution **AB2013-02** (justice system participant) which calls for an expansion of the definition of “justice system participant” in section 2 of the *Criminal Code*, to include family law matters among others.

[30] The Working Group on Proceeds of Crime is following up on a few ULCC resolutions, including resolution **AB2013-05** (*ex parte* management orders).

[31] The Working Group on Sentencing has discussed several ULCC resolutions, such as **ON2015-03** (repeal of mandatory conditions of non-communication orders) which will be examined at a future discussion on domestic violence. Other resolutions of interest to the Working Group include resolution **AB2012-01** (onus of proof regarding offender’s ability to pay a fine). Resolution **CAN-CBA2011-01** (Creation of working group to consider mandatory minimum punishment) and the ULCC report on exemptions to mandatory minimum penalties is currently being considered by the Working Group. Resolution **CAN-CBA2011-02** (Medical or Psychological Assessment for Sentencing Purposes) has been considered by the Working Group

as well as the Steering Committee on Foetal Alcohol Syndrome Dysfunction.

[32] The Coordinating Committee of Senior Officials (Youth Justice) has been following up on a number of the ULCC resolutions such as **SK2014-02** (election of adult sentence), **MB2013-01** (Allow the court to waive a placement report when sentencing a young person as an adult if all parties agree). Resolutions **AB2012-03** (ensure that the period of access does not include any time an accused has voluntarily absented from court proceedings), **NB 2011-03** (Failure to comply with sentence or disposition), **SK2011-04** (clarify that a court having found a young person in breach of a deferred custody and supervision order may cancel the suspension and vary the conditions) and **QC2011-01** (Order for a medical or psychological assessment by the youth justice court for the purpose of making its decision on an application for release from or detention in custody) are all being considered by the Technical Amendments Working Group (a sub-group of the Coordinating Committee of Senior Officials - Youth Justice) and are slated for further substantive discussion.

### **PART III – LEGISLATIVE INITIATIVES 2015-2016**

[33] During the 42<sup>nd</sup> Parliament, First Session (December 3, 2015 – Present), two Justice-led Government crime bills were introduced by Parliament, one of which was enacted.

[34] During the same period the Minister of Justice was leading the Government's response to one family justice and twelve criminal justice Private Members' Bills (PMBs). Four other PMBs were of interest to Justice. Further detail of these legislative initiatives are provided in the passages that follow.

a) ***Government Criminal Law Reform Bills (2)***

1) ***Bill C-14, An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying) S.C. 2016, c. 3***

[35] The Bill, which received Royal Assent on June 17, 2016:

- (a) creates exemptions from the offences of culpable homicide, of aiding suicide and of administering a noxious thing, in order to permit medical practitioners and nurse practitioners to provide medical assistance in dying and to permit pharmacists and other persons to assist in the process;
- (b) specifies the eligibility criteria and the safeguards that must be respected before medical assistance in dying may be provided to a person;
- (c) requires that medical practitioners and nurse practitioners who receive requests for, and pharmacists who dispense substances in connection with the provision of, medical assistance in dying provide information for the purpose of permitting the monitoring of medical assistance in dying, and authorizes the Minister of Health to make regulations respecting that information;

- (d) creates new offences for failing to comply with the safeguards, for forging or destroying documents related to medical assistance in dying, for failing to provide the required information and for contravening the regulations;
- (e) makes related amendments to other Acts to ensure that recourse to medical assistance in dying does not result in the loss of a pension under the *Pension Act* or benefits under the *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, and it amends the *Corrections and Conditional Release Act* to ensure that no investigation need be conducted under section 19 of that Act in the case of an inmate who receives medical assistance in dying;
- (f) requires independent reviews relating to requests by mature minors for medical assistance in dying, to advance requests and to requests where mental illness is the sole underlying medical condition; and
- (g) provides for a parliamentary review of its provisions and of the state of palliative care in Canada to commence at the start of the fifth year following the day on which it receives royal assent.

**2) Bill C-16, An Act to Amend the Canadian Human Rights Act and the Criminal Code**

[36] The Bill, which was introduced and received First Reading on May 17, 2016, proposes to amend the *Canadian Human Rights Act* to add gender identity and gender expression to the list of prohibited grounds of discrimination. The Bill would also amend the *Criminal Code* to extend the protection against hate propaganda set out in that Act to any section of the public that is distinguished by gender identity or expression and to clearly set out that evidence that an offence was motivated by bias, prejudice or hate based on gender identity or expression constitutes an aggravating circumstance that a court must take into consideration when it imposes a sentence.

**b) Minister of Justice led Private Members Bills (12)**

**1) Bill C-221, An Act to amend the Criminal Code (sports betting)**

[37] The Bill proposes amending the *Criminal Code* to repeal paragraph 207(4)(b), thereby authorizing single event sports betting that is conducted by a province or territory. The Bill received second hour of debate at Second Reading on June 16, 2016 (recorded vote deferred).

**2) Bill C-225, An Act to amend the Criminal Code (injuring or causing the death of a preborn child while committing an offence)**

[38] The Bill proposes amending the *Criminal Code* to make it a separate offence to cause injury

or death to a “preborn child” during the commission of an offence against the child’s mother. The Bill received first hour of debate at Second Reading on May 2, 2016.

**3) *Bill C-226, An Act to amend the Criminal Code (offences in relation to conveyances) and the Criminal Records Act and to make consequential amendments to other Acts***

[39] The Bill proposes amending the *Criminal Code* to repeal and replace existing impaired driving provisions with a new and simplified Part, authorize random roadside breath testing, create new and higher maximum penalties, create new and higher mandatory minimum penalties, require consecutive sentences in cases of impaired driving causing death, simplify proof of blood alcohol concentration, eliminate/limit technical defenses and strengthen elements related to drug impaired driving. The Bill received second reading and was referred to the House of Commons Standing Committee on Public Safety and National Security on June 9, 2016.

**4) *Bill C-229, An Act to amend the Criminal Code and the Corrections and Conditional Release Act and to make related and consequential amendments to other Acts (life sentences)***

[40] The Bill proposes amending the *Criminal Code* to make imprisonment without parole mandatory for certain first degree murders (e.g., treason, planned and deliberate if occurring during certain offences), to make imprisonment without parole discretionary for any other first degree murder and for any second degree murder where the offender was previously convicted of murder or an intentional killing under the *Crimes Against Humanity and War Crimes Act*. It would also amend the *Corrections and Conditional Release Act* to provide that an offender sentenced to life without parole may apply for an executive release by the Governor in Council after having served 35 years imprisonment. The Bill received second hour of debate at Second Reading on June 17, 2016 (recorded vote deferred).

**5) *Bill C-242, An Act to amend the Criminal Code (inflicting torture)***

[41] The Bill proposes amending the *Criminal Code* to create a new offence specifically prohibiting persons from inflicting torture on any other person (i.e., private torture) for the purpose of intimidating or coercing that person with a punishment of a maximum term of life. The Bill received second reading and was referred to the House of Commons Standing Committee on Justice and Human Rights on April 21, 2016.

**6) *Bill C-246, An Act to amend the Criminal Code the Fisheries Act, the Textile Labelling Act, the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act and the Canada Consumer Product Safety Act (animal protection)***

[42] The Bill proposes amending the *Criminal Code* to consolidate and modernize various

offences against animals, amending the *Fisheries Act* to prohibit shark finning and the *Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act* to prohibit shark fin importation. It also proposes banning the sale of cat and dog fur in Canada by amending the *Canada Consumer Product Safety Act*. The Bill received first hour of Second Reading debate on May 9, 2016.

**7) *Bill C-247, An Act to amend the Criminal Code (passive detection device)***

[43] The Bill proposes amending the *Criminal Code* to authorize the use of passive alcohol sensors at the roadside, and renaming the offences of “impaired driving causing death” and “driving with a blood alcohol concentration over 80” causing an accident with a death as “vehicular homicide as a result of impairment. The Bill received first hour of debate at Second Reading on May 3, 2016.

**8) *Bill S-201, An Act to prohibit and prevent genetic discrimination***

[44] The Bill proposes to prohibit any person from requiring an individual to undergo a genetic test or disclose the results of a genetic test as a condition of providing goods and services, or entering or continuing a contract. Exceptions are provided for health care practitioners and researchers. The bill also amends the *Canada Labour Code* to protect employees from being required to undergo or disclose the results of a genetic test and amends the *Canadian Human Rights Act* to prohibit discrimination on the ground of genetic characteristics. The *Privacy Act* and the *Personal Information Protection and Electronic Documents Act* would be amended to expressly include information derived from genetic testing as “personal information”. The Bill received first reading in the House of Commons on May 3, 2016.

**9) *Bill S-206, An Act to amend the Criminal Code (protection of children against standard child-rearing violence)***

[45] The Bill proposes amending the *Criminal Code* to remove the justification available to use force as a means of correction toward a child and to provide the Government with up to one year following Royal Assent to come into force for educational purposes and to coordinate with provinces. The Bill is at second reading debate. Due to the sponsor’s retirement the Bill is awaiting a sponsor or it will be dropped from the order of precedence.

**10) *Bill S-215, An Act to amend the Criminal Code (sentencing for violent offences against Aboriginal women)***

[46] The Bill proposes amending the *Criminal Code* to create two new provisions which would require the fact that a victim is an Aboriginal woman to be considered an aggravating factor when

sentencing an offender for certain violent offences (e.g., murder). The Bill is at second reading debate.

**11) Bill S-217, An Act to amend the Criminal Code (detention in custody)**

[47] The Bill proposes amending the *Criminal Code* to specify additional considerations to justify pre-trial detention and to require Crowns to lead specific evidence at bail hearings. The Bill also proposes to require sentencing courts to consider, when calculating credit for pre-sentence custody, if the accused was denied bail because of a prior conviction. The Bill is at Report Stage in the Senate.

**12) Bill S-220, An Act to amend the Criminal Code (international fraud)**

[48] The Bill proposes to amend the *Criminal Code* to provide Canada the ability to prosecute fraud and related offences that occurred outside of Canada. It would also expand the application of existing aggravating factors that must be taken into account by a judge when sentencing an offender for fraud-related offences. The Bill is at second reading debate. Due to the sponsor's retirement the Bill is awaiting a sponsor or it will be dropped from the order of precedence.

**c) Private Members Business – Other than Justice Lead (4)**

**1) Bill C-224, An Act to amend the Controlled Drugs and Substances Act (assistance –drug overdose)**

[49] The Bill proposes amending the *Controlled Drugs and Substances Act* to exempt a person from charges for possession in a situation where they seek emergency medical services or law enforcement assistance for someone having overdosed on a controlled substance. The Bill received second reading and was referred to the House of Commons Health Committee, which commenced its review on June 15, 2016. The Minister of Public Safety is leading the Government response to the Bill.

**2) Bill C-230, An Act to amend the Criminal Code (firearm - definition of variant)**

[50] The Bill proposes to amend the *Criminal Code* to provide a definition of "variant" in order to limit its application to certain firearms. The Bill received first hour of debate at Second Reading on May 16, 2016. The Minister of Public Safety is leading the Government response to the Bill.

**3) Bill S-203, An Act to amend the Criminal Code and other Acts (ending the captivity of whales and dolphins)**

[51] The Bill proposes amending the *Criminal Code* to create offences respecting cetaceans in captivity, the *Fisheries Act* to prohibit taking a cetacean into captivity, and the *Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act* to prohibit the import to and export from Canada of cetaceans. The Bill is at second reading debate. The Minister of Fisheries and Oceans is leading the Government response to the Bill.

**4) *Bill S-223, An Act to amend the Firearms Act and the Criminal Code to make Consequential changes to other Acts (strengthening Canadians' security and promoting hunting and recreational shooting Act)***

[52] The Bill proposes to amend the *Firearms Act* to tighten the rules governing the transportation of firearms that are not hunting firearms, replaces the concept of firearms registration with inscription and restricts locations where firearms subject to inscription certificates must be stored. It also amends the *Criminal Code* to make changes to the definitions of firearms (e.g., defining hunting firearm). The Bill is at second reading debate. Due to the sponsor's retirement the Bill is awaiting a sponsor or it will be dropped from the order of precedence. The Minister of Public Safety is leading the Government response to the Bill.

## **CONCLUSION**

[53] Justice Canada will maintain its close working relationship with ULCC and consult with the Criminal Section as it undertakes consultations in keeping with the mandate letter to the Minister of Justice and Attorney General of Canada and other related criminal law legislative proposals. Justice Canada encourages ULCC delegates to participate in the ongoing consultations to reform the criminal justice system. Finally, Justice Canada will remain attentive to ULCC resolutions in advance of next year's annual meeting in Regina, Saskatchewan. Delegates are encouraged to follow the progress of these and other criminal law reforms by consulting the Parliament of Canada website, LEGISinfo at: <http://www.parl.gc.ca>.

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August 7, 2016