

**ULCC | CHLC**

**UNIFORM LAW CONFERENCE OF CANADA**

**MINUTES OF THE CRIMINAL SECTION (2022)**

**Prepared by  
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## **ATTENDANCE**

[1] After meeting virtually in the past two years due to the COVID-19 global pandemic, delegates were happy to once again meet face-to-face to discuss the business of the Criminal Section of the Uniform Law Conference of Canada (ULCC), which held its 104<sup>th</sup> meeting in Edmonton, Alberta, August 15-19, 2022.

[2] This year, 33 delegates, of whom 10 were new, from nine (9) federal and provincial jurisdictions participated in the deliberations of the Criminal Section. Prince Edward Island (PEI), host of ULCC 2023, along with Nova Scotia (NS) did not send delegates to the Criminal Section meeting and for the first time in recent memory, there were no Criminal Section delegates from the Territorial governments: Northwest Territories (NWT), Nunavut (NU) and Yukon (YK).

[3] Delegates were drawn from a broad cross section of Canada's criminal law subject matter experts both from within and outside government. They included academics, criminal law policy counsel, prosecutors, as well as members of the defence bar and the judiciary. Several organizations were also represented: the Barreau du Québec; the Canadian Association of Provincial Court Judges (CAPCJ); the Canadian Bar Association (CBA); the Canadian Council of Chief Judges (CCCJ); the Canadian Council of Criminal Defence Lawyers (CCCDL); the Court of Quebec; the Criminal Defence Advocacy Society (CDAS); the Criminal Defense Lawyers Association of Manitoba (CDLAM); the Criminal Lawyers Association (CLA); the Public Prosecution Service of Canada (PPSC) and the Quebec Defense Lawyers Association (QDLA).

## **OPENING**

[4] The Criminal Section convened to order on Monday, August 15, 2022. Kevin Westell, Partner, Pender Litigation and Representative of the Criminal Defence Advocacy Society presided as Chair and Dorette Pollard served as Secretary.

[5] Kevin Westell reflected on the rare privilege for a member of the defence bar to serve as Chair of the ULCC Criminal Section. He spoke of the remarkable amount of work undertaken by many people to resume in-person meetings, including members of the 2021-2022 Criminal Section Steering Committee: Lisa Stead, Jurisdictional Representative (JR) for Newfoundland and Labrador; Matthew Hinshaw, JR for Alberta; Chloé Rousselle, immediate past Chair; Anny Bernier, incoming Chair and Dorette Pollard.

[6] Following the introduction of delegates, the Criminal Section Agenda was adopted by consensus. The Chair drew attention to some of its more notable highlights: 24 resolutions on

a wide range of topics; a proposed amendment to the *Rules of Procedure* of the Criminal Section; status reports from three (3) Working Groups; an update of the Diversity and Inclusion Committee, as well as the Annual Report of the Federal Jurisdictional Representative. The Chair also underscored what promised to be a fascinating Earl Fruchtman Memorial Seminar, when Matthew Hinshaw and four distinguished Justices from Alberta would present the ground-breaking Alberta Courts Restorative Justice Pilot Project.

[7] Finally, the Chair reminded delegates how fortunate we were to resume in-person meetings. However, if delegates fell ill or developed COVID-19 symptoms, they were encouraged to inform the Chair or Secretary and self-isolate, in an effort to avoid putting fellow delegates at risk.

## **PROCEEDINGS**

### ***Amendment to the Rules of Procedure, 2022***

[8] Kevin Westell explained that in 2021, the Criminal Section adopted the final report of the Working Group tasked to review the scope of the mandate of the criminal section. The Review of the Scope of the Criminal Section's Mandate contained three resolutions, the first of which called for an amendment to the *Rules of Procedure* of the Criminal Section to clarify the mandate of the Criminal Section and establish a procedure for determining whether an issue falls within its purview. This work was led by Chloé Rousselle who noted that the second resolution did not call for a vote but encourages diversity within the Steering Committee, while recognizing the discretion for selecting members at large rests solely with the Chair of the Criminal Section. Delegates were reminded that the third resolution requiring an amendment to the Constitution of the ULCC in order to harmonize the texts in both official languages was adopted by jurisdictional vote at the plenary and joint session of both Criminal and Civil sections earlier in the day.

[9] The Chair called for discussion and vote of the first resolution to amend the *Rules of Procedure*. During discussion, one delegate asked how differences between the Chair and the Secretary on such mandate issues would be resolved. The Chair responded that the decision would be brought to the Steering Committee and where there is a difference of opinion, the matter would be resolved by the Chair. Following discussion, the first resolution was adopted unanimously by a jurisdictional vote (27-0-0).

***Report of the Federal Jurisdictional Representative***<sup>1</sup>

[10] Matthew Taylor, (General Counsel and Director, Criminal Law Policy Section, Justice Canada), Federal Jurisdictional Representative acknowledged the contribution of his predecessor, Lucie Angers, (General Counsel, Director, External Relations, Criminal Law Policy Section, Justice Canada) who served in this capacity from 2012 to 2021. Mr. Taylor limited his remarks to the key outcomes over the past year from meetings of Federal-Provincial-Territorial Ministers responsible for Justice and Public Safety, as well as legislative reforms of the criminal law since the ULCC's Criminal Section virtual meeting in August 2021. As required by Rule 8 of the *Rules of Procedure*, the Federal JR also reported on the status of the resolutions carried in prior years, between 2016 and 2021.

***Resolutions***<sup>2</sup>

[11] In keeping with subsection 4(3) of the *Rules of Procedure*, Alberta was the first province to present a resolution this year. Each jurisdiction and independent body, such as the CCCDL and PPSC presented one resolution each in alphabetical order.

[12] Initially, jurisdictions submitted 27 resolutions for consideration by delegates. However, three (3) of them were withdrawn prior to the distribution to delegates because two (2) were resolutions considered within the past five (5) years and the other fell outside the mandate of the Criminal Section. Thus, 24 resolutions were distributed to all delegates for consideration and prior to the annual meeting.

[13] However, in the end, delegates considered a total of 27 resolutions, since one resolution was amended into three separate voting parts, while another became a two-part voting resolution following discussions.

[14] In addition, seven (7) resolutions or 25% were adopted in their original form and only one, unanimously. Sixteen (16) resolutions were adopted after amendment. Of these, six (6) resolutions were carried by a unanimous vote, while one amended resolution was defeated following further discussion.

[15] Despite the number of amended resolutions, the Chair held a deft gavel making it possible for delegates to fully discuss 27 resolutions and vote on 24 resolutions; given the withdrawal of three (3) resolutions, as illustrated in Table 1 below.

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<sup>1</sup> This document is available separately.

<sup>2</sup> A list of resolutions with the result of the vote for each is available separately.

**Table 1 Results of ULCC Resolutions – 2022**

<b>Results of ULCC Resolutions</b>	<b>Resolutions (Votes reported: In Favour – Opposed – Abstentions)</b>	<b>Total</b>
Carried	AB2022-02 (17-9-1) BC2022-01 (23-0-4) MB2022-01 (14-2-10) NB2022-01 (26-0-0) ON2022-01 (19-0-7) ON2022-02 (18-2-7) ON2022-05 (18-0-8)	7
Carried as Amended	AB2022-01 (24-0-0) BC2022-02 (24-0-3) Can-CAPCJ2022-01 (26-0-0) Can-CAPCJ2022-02 (25-0-0) Can-PPSC2022-01a) (16-10-1) Can-PPSC2022-01b) (24-1-2) Can-PPSC2022-02 (15-0-11) MB2022-03 (22-2-3) ON2022-03 (19-0-4) ON2022-04 (13-5-5) QC2022-02(1) (22-0-0) QC2022-02(2) (22-0-1) QC2022-02(3) (14-5-4) QC2022-04 (23-0-0) QC2022-05 (18-0-8) QC2022-06 (23-0-0)	16
Defeated	None	0
Defeated as amended following discussion	Can-CCDL2022-01 (3-20-3)	1
Withdrawn	MB2022-02 QC2022-01 QC2022-03	3
<b>Total</b>		<b>27</b>

### ***Criminal Section Working Groups***

[16] The Criminal Section discussed the progress of its four (4) Working Groups, three (3) of which provided interim reports:

#### **1) Section 487 Working Group**

[17] On behalf of outgoing Chair, Normand Wong (Manager and Senior Counsel, Justice Canada), Nadine Nesbitt, (Senior Policy Counsel, Alberta Crown Prosecution Service) presented an interim Report of the Working Group examining section 487 of the *Criminal Code* (search warrants). This Working Group was created in 2018 to review section 487 of the *Criminal Code* 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 was to report back to the Section with either an interim report or a final report at the next conference.

[18] The Working Group held many helpful meetings and discussions throughout 2019. Mr. Wong prepared a document of 60-70 pages, which was intended to form the basis of the final Report. However, in February 2020, the global pandemic derailed its progress and each year since its creation, the Working Group has requested more time to present its final report. At a Working Group meeting in June 2022, Norm Wong advised that he could no longer Chair the Working Group and asked for a volunteer to take the flambeau. Matt Asma from Ontario has agreed to serve as new Chair and current members have agreed to continue the Working Group under his leadership. The members are: Matt Asma (–Chair, ON), Normand Wong (former Chair), Nadine Nesbitt (AB), Paul Pearson (BC), Karen Lee (NB), Pauline Lachance (QC), Kevin Westell (CDAS), and Adam Weisberg (CLA), as well as Karen Audcent, Glen Boyd, Kenyatta Hawthorne and Stéphanie O’Connor (all from Justice Canada).

[19] Ms. Nesbitt presented the resolution that the interim report of the Working Group be adopted and that the Working Group pursue its work and present a report at the ULCC 2023 meeting. The resolution was carried by a unanimous vote (29-0-0).

#### **2) Section 490 Working Group (no report)**

[20] On the opening day of the Conference, Kevin Westell informed delegates that there would be no Status Report from the Section 490 Working Group. Due largely to the COVID-19 pandemic, the Working Group had not met since February 2020 and the Chair, Manon Lapointe tendered her resignation in June of this year.

[21] Mr. Westell invited delegates to consider whether this Working Group should be reconstituted and if so, to indicate names of individuals who would be interested in joining the

Working Group. Finally, the Chair indicated that British Columbia has a vested interest and expertise in the subject matter and with the support of the JR from BC, Nicholas Reithmeier (Administrative Crown Counsel, New Westminster, BC Regional Crown Office) has volunteered to take the reins and complete the task at hand.

[22] Upon resumption of discussions some days later, there was a clear and strong consensus that the Section 490 Working Group should not be disbanded given the live issues involved with the section 490 scheme. Moreover, several delegates expressed an interest in participating or suggested the names of possible members: James Meloche (PPSC); Nadine Nesbitt (AB); Adam Weisberg (CLA); Pauline Lachance (QC) and Melissa Adams (ON). Before closing the discussion, Kevin Westell recommended that an invitation be sent to all previous members of the Working Group and especially those not present at ULCC 2022, to determine their interest in remaining in a reconstituted Working Group. Previous members of the Working Group include: Nadine Nesbitt (AB); Nicholas Reithmeier (BC); Melissa Adams (ON); Adam Weisberg (CLA); Michael McEachren (PPSC); Martine Sallaberry, Edmonton Police Service, Legal Advisors' Section; and Michel Green, Prosecutor, Directeur des poursuites criminelles et pénales, as well as Stéphanie O'Connor and Normand Wong (Justice Canada).

[23] In a unanimous vote (26-0-0), delegates reconstituted the Section 490 Working Group and tasked it to provide a report to the 2023 annual meeting.

### **3) Working Group on Technology in the Courtroom**

[24] Mark Knox, Chair of the Working Group on Technology in the Courtroom provided an interim status report. This Working Group was created in 2021 following the adoption of two resolutions from CAPCJ and CCCDL, to make 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. Members include: Mark Knox, Chair (CCCDL), Shannon Davis-Ermuth (Justice Canada), Patrick McGuinty (NB), Kevin Westell (CDAS), Craig Savage (MB), Justin Tremblay (QC), Nancy Bray (NS), Samantha Reynolds (Justice Canada), Paul Sandhu (AB), Andrew Synyshyn (MB), Claudia Mann (NS), Lisa Stead (NL), Andrew Davis (SK), Catherine Cooper (ON) and both Scott Newman and Gerri Wiebe of the Criminal Defense Lawyers Association of Manitoba.

[25] The Working Group held two meetings. However, given the introduction of 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), since the establishment of the Working Group, it 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. Further, clarification was sought to exclude audio bail hearings and video hearings when referring to "remote hearings."

[26] On behalf of the Chair of the Working Group, Cathy Cooper, JR for Ontario presented the amended Status Report with an amended Resolution, which were adopted unanimously (23-0-0).

**4) Working Group on section 672.26 and related sections of the *Criminal Code* (juries and fitness hearings)**

[27] In the absence of co-Chairs Rebecca Law (Ontario) and Joanna Wells (Justice Canada), Julie Roy (Department of Justice, Quebec) presented the Status Report of the Working Group on section 672.26 of the *Criminal Code* (Juries and fitness hearings). In addition to the two co-Chairs, the Working Group is composed of Lee Kirkpatrick and Noel Sinclair (both of Yukon), Adam Badari (AB), Alexander Godlewski (Justice Canada), Julie Roy (Department of Justice, QC), Magalie Provost (DPCP, QC), Lucie Joncas (CCCDL), and Rachel Anstey (NB).

[28] Briefly, this Working Group was created at the 2021 virtual annual meeting to study section 672.26 and related sections of the *Criminal Code* for possible legislative reform on determining fitness when an accused has elected a trial before judge and jury. The Working Group has interpreted its mandate very broadly to include all provisions under the heading fitness to stand trial, which includes not only section 672.26, but also section 672.22 to subsection 672.33(6). It has held five (5) meetings, and has received in-depth case studies presented by two Members relating to Canada's fitness regime, the problems and possible solutions. Other group members have provided comparative analysis on the fitness regimes in the criminal justice systems of other jurisdictions, including the United Kingdom, Ireland, Australia, New Zealand and several in States in the U.S.A. When the Working Group reconvenes in September 2022, it will explore the possible impediments to transferring fitness hearings from the jury to a judge. In the months leading up to the 2023 annual meeting, the Working Group will also identify the most significant impacts on the accused and possible legislative fixes.

[29] The Status Report of the Working Group on section 672.26 and related sections of the *Criminal Code* (juries and fitness hearings) was adopted by a unanimous vote 26-0-0.

***New Criminal Section Working Groups***

[30] Two new Working Groups were established following discussion and vote of resolutions at the 2022 Criminal Section meeting, as discussed briefly below:

**1) Legal treatment of animals in the *Criminal Code***

[31] Resolution ON2022-03 recommended that a hybrid offence of 'Theft of companion animal or service animal' be added to the *Criminal Code* given the increase in dog thefts during

the pandemic in some provinces. Ontario relied on the fact that other common law jurisdictions have criminalized such behaviour, citing The Animal Welfare (Kept Animals) Bill (see ss. 43-44 re “Taking of pets”) presently before the United Kingdom Parliament, which is aimed at tackling the rise in dog thefts, which has been exacerbated by the increased demand for pets as companions during pandemic lockdowns. Following protracted discussions on the resolution, it was amended to establish a working group to examine the treatment of animals in Canadian criminal law. During discussion, it was observed that the topic would lend itself to the creation of a joint working group with the Civil Section to examine other laws beyond the *Criminal Code*, such as provincial legislation that affect animal cruelty and animal welfare. The amended resolution states as follows:

Create a ULCC Criminal Section Working Group to explore the treatment of animals in the *Criminal Code of Canada*, with a view to making recommendations for amendments.

The Criminal Section will also bring the issue of the treatment of animals in the civil and criminal law contexts to the ACPDM for consideration of the establishment of a joint working group, which if established would subsume the Criminal Section working group noted above.

**(Carried as amended: 19-0-4)**

[32] Members of the new Animals Working Group include: Nadine Nesbitt (AB), Chair; Adam Badari (AB); Nadia Farinelli (BC); Andrew Davis (SK); Andrew Synyshyn (MB); Andrew Cappell (ON); Caitlyn Kasper (Aboriginal Legal Services Toronto); Melanie Webb (CBA-ON) and Aleksander Godlewski (Justice Canada). The Working Group is to present a report of its work to the ULCC Criminal Section meeting in 2023.

**2) Advisory Committee on the Modernization of Courtroom Proceedings**

[33] During discussions on Resolution QC2022-02(3), the Criminal Section adopted the resolution for the creation of a ULCC Advisory Committee available upon request to provide advice to Justice Canada on the operational implications of *Criminal Code* amendments with respect to issues relating to the modernization of courtroom proceedings, including the new realities of paperless courtrooms, virtual hearings and the procedural impacts of new technology.

[34] Several jurisdictions expressed interest in the creation of an Advisory Committee, which would lend itself to a Joint Working Group given that there are synergies in courtroom modernization for both criminal and civil proceedings. It was also noted that there are many groups that are working on this issue but mainly on court rules and not legislative reform. As well, reference was made to the existence of the Action Committee on Court Operations in

Response to COVID-19 and efforts should be made not to duplicate what is being done already. Following further discussion, the amended resolution QC2022-02(3) calling for the creation of an advisory committee was adopted (14-5-4).

[35] Delegates expressing an interest in the creation of the new Working Group/Joint Working Group for the creation of a ULCC Advisory Committee include: Lisa Stead (NL), Alicia Adams (BC), Melanie Webb (CBA-ON), Cathy Cooper (ON), and Matt Taylor (CA), as well as representatives of the CAPCJ; the CCCJ and the Court of Quebec.

### ***Earl Fruchtmann Memorial Seminar***

[36] At the Earl Fruchtmann Memorial Seminar on Wednesday, August 17, 2022, delegates from the Criminal Section and the Civil Section heard from a panel of four distinguished jurists, on an innovative Restorative Justice Pilot Project (RJ Pilot Project), which was launched in all adult criminal trial level courts in Alberta, on March 31, 2022.

[37] Moderated by Matthew Hinshaw, panelists included Justice Anna Loparco, Alberta Court of Queen's Bench; Deputy Chief Judge Joanne Durant, Alberta Provincial Court; Judge Michelle Christopher, Alberta Provincial Court and Justice Leonard (Tony) Mandamin (retired), Federal Court who made a land acknowledgment of appreciation, as delegates gathered on Treaty 6 Territory; the land of the Cree, the Assinboine, the Saulteaux, the Dene and people of all members of Treaty 6. It is also the land of the Métis People who have a longstanding history and tradition on these lands.

[38] Justice Loparco began the presentations by tracing the genesis of this initiative. It was inspired by the late Honourable Beverley Browne for whom the project is named, as she shared the view that the benefits of Restorative Justice, which was already widely used in youth criminal courts in Alberta could be transferred to adult criminal matters. Justice Loparco highlighted the fact that while Restorative Justice did exist for decades in some communities and for centuries in Indigenous communities such as Bigstone, Siksika, Kainai and Elizabeth Metis Settlement, it was informal, unfunded and conducted wholly outside the courts. Given the need to respond to the Truth and Reconciliation Commission of Canada (TRC): Calls to Action, the Committee established to coordinate the Pilot Project created partnerships with Indigenous communities to understand how best to respond to crime in ways that are culturally appropriate.

[39] Justice Loparco also noted that the Pilot Project is based on the following five restorative justice principles that require: written acknowledgment by the accused of his/her actions; voluntary, free, and informed consent of all participants; priority given to the physical and psychological safety of all participants; balance the needs of all participants and consider their dignity while respecting their experiences as victims, offenders, and community members; and

agreements reached between victims, offenders, and communities must be made voluntarily by participants. The Justice added that participants must decide that the agreement is reasonable, attainable, and that it meets their needs; noting, however that not all RJ processes lead to agreements.

[40] Matthew Hinshaw spoke briefly to the creation of the Referral Framework consisting of robust guidelines for both Crown and Federal Prosecutors to consider when determining whether it would be appropriate to refer a criminal matter to the RJ Pilot Project. Mr. Hinshaw stated that the goal of the Referral Framework is to have consistency and transparency of decision making province-wide; so that everybody knows how and why the Crown is making these decisions. He also highlighted the fact that while all criminal matters can be referred to RJ Pilot Project; either pre-plea or post plea, certain serious offences do require enhanced referral guidelines, as detailed in the Referral Framework.

[41] Delegates also learned a great deal from Judge Christopher on what happens when a matter returns to court, and the possible Restorative Justice options in terms of sentencing. Justice Christopher also deconstructed several myths of Restorative Justice. Contrary to popular belief, for instance, the RJ Pilot Project is not only for Indigenous offenders and it is not a get out of jail free card or lenient on crime. Further, the victim does not have to participate in the process. Judge Christopher added that the objective is to reduce recidivism and provide an alternative path to healing, as opposed to the ineffective incarceration model that puts an offender in jail without the tools to deal with his or her demons. It is hoped that quantitative and qualitative data collected for an evaluation of the RJ Pilot Project will determine whether there is a reduction in recidivism and in the over incarceration of Indigenous people in Alberta prisons.

[42] Drawing upon the paintings of several renowned Indigenous artists, such as Daphne Odjig's large painting called, "the Indian in Transition", Justice Mandamin illustrated the fundamental differences that exist between the Aboriginal and non-Aboriginal approaches to justice. The painting by Roy Thomas, an Anishinaabe artist from North Western Ontario, called "Indian Law" depicts the positive values that form the content of Aboriginal Justice. According to the artist, the pine trees in the painting are straight and that stands for honesty. The rocky knoll is strong, it is hard and that stands for the concepts of courage, perseverance and bravery. The grass is soft; that is kindness, and love; while the moose upon whom the Indigenous people depend, represents sharing. Honesty, courage, love, respect, truth, humility and wisdom are the seven sacred teachings in the Indigenous community and this is the basis for Indigenous Justice, emphasized Justice Mandamin. This stands in sharp contrast to the retributive justice system that was imposed on Indigenous people upon colonization and in particular with Confederation, as exemplified by the *Criminal Code* that is based on the fundamental principle that if you do something wrong you are going to be punished.

[43] According to Justice Mandamin, the early cases illustrate the clash between these two approaches to justice, as portrayed in the sketch by the artist, Lloyd Caibiosai depicting an Indigenous person behind bars, symbolizing the fact that the incarceration rates of Indigenous people were increasing. It was noted that these rates started to increase in the late 1950s-1960s and this has gotten progressively worse. Justice Mandamin shared that in the 1980s, the rate of incarceration of Indigenous peoples was 12%; today, 30% of the federal penitentiaries are Indigenous people and for Indigenous women, it is 50%. While section 718 of the *Criminal Code* says it is there to engender respect for the law, it relies on incarceration and an adversarial system rather than the Aboriginal approach to justice based on healing, love, dignity, respect and making the persons involved and their communities whole again, by sitting in a circle and talking things out, as poignantly depicted in the painting by Leland Bell of people sitting in a Sharing Circle, in the sacred Aboriginal tradition.

[44] We wish we had more time, as Deputy Chief Judge Joanne Durant demonstrated the benefits of using restorative justice principles instead of the traditional retributive approach to justice through the lens of *R. v. Larivière* 2021 ABQB 432, a historical sexual assault case of 44 years, which resulted in a pregnancy. Referral to restorative justice was explored to which the victim agreed. Both the victim and Mr. Larivière fully participated in the process, along with respected elders, circle keepers, family members of Mr. Larivière and the victim, community members involved with the justice system and addiction issues, as well as the facilitators. The recommendation that resulted from this Restorative Justice process and that was accepted by the Queen's Bench Justice was for a suspended sentence. At sentencing Judge Burns pronounced on the importance of judicial independence but also on the need to consider Restorative Justice recommendations:

[45] In terms of statistics, Deputy Chief Judge Durant reported that as of August 8, 2022, 119 criminal matters were referred to the Restorative Justice Pilot Project involving 315 separate charges. This data demonstrates that there is an important interest from across the province and significant violent offences are being referred, including assault, assault causing bodily harm, assault with weapons, forcible confinement and sexual assault.

[46] To complete the compelling presentations, Justice Loparco concluded by noting that the Alberta Courts RJ Pilot Project for criminal matters seeks to redefine justice from the perspective of the parties and the affected communities. It is hoped that it will provide a culturally appropriate space where offenders may face their victims and make amends so that healthy lives and relationships can be re-established. Finally, given the success thus far, consideration is already being given to the use of a similar Pilot project in family law matters and civil proceedings. Delegates were encouraged to visit the Alberta Courts [website](#) for the Honourable Beverley Browne - Wiyasow Iskweew –Restorative Justice Pilot Project, which lists roster agencies and provides details about the referral framework and the scope of this

innovative Pilot Project.

***Joint Session: Diversity and Inclusion Committee***

[47] At a joint session of the Criminal Section and the Civil Section, on Friday, August 19, 2022, Matthew Hinshaw, Chair of the Diversity and Inclusion Committee (D&I Committee) presented the results of a survey of ULCC delegates that was conducted, in both official languages following the 2021 Annual Meeting. The survey was conducted by the Newfoundland and Labrador Statistics Agency (NLSA), in partnership with the D&I Committee.

[48] Based on survey results, Mr. Hinshaw reported that the ULCC is lagging far behind in terms of minority-identifying communities. Eighty-nine percent (89%) of survey respondents identified as “White (European descent)”, while Statistics Canada’s figures are in the range of 70% to 72%. Only 11% of respondents identified as “Indigenous, Black, Asian, Latino or Middle Eastern”. Mr. Hinshaw asked that delegates inform their jurisdictions and organizations of these results. JRs were tasked to consider these results when selecting members of their delegation next year.

[49] The surveys are expected to be an annual exercise to evaluate the ULCC and its objectives to become a more diverse and inclusive body. It was announced that the 2022 ULCC Member Survey will include additional questions relating to inclusion.

[50] Finally, the Chair thanked fellow members of the Diversity and Inclusion Committee: Alisia Adams (BC), Lee Kirkpatrick (YK), John Lee (ON), Nadia Thomas (ON), Valérie Simard (Chair of the Civil Section) and Kevin Westell (Chair of the Criminal Section).

**CLOSING**

[51] Kevin Westell moved a motion to confirm the appointment of Anny Bernier, Chair of the ULCC Criminal Section, 2023, as nominated by the Selection Committee at the 2021 Annual Meeting. The motion was adopted unanimously.

[52] Cathy Cooper made the following motion:

“That we congratulate and thank both Kevin Westell and Dorette Pollard, notwithstanding Kevin’s modesty, for their excellent running of our meeting this year. Kevin, with a steady hand on the tiller, you kept it light but professional and Dorette with your innovative daily updates, you are constantly upping your game. There is a lot that goes into a successful meeting like this but you both made it seem easy.”

[53] Following a round of applause, the Chair and Secretary thanked Cathy Cooper for her

kind words of appreciation.

[54] As immediate past Chair, Chloé Rousselle presented an oral report of the 2024 Criminal Section Committee, which consisted of Kevin Westell, Laura Pitcairn, President of ULCC 2022, Cathy Cooper (ON), Matthew Hinshaw (AB) and Anny Bernier (Incoming Chair). Ms. Rousselle reported that the Selection Committee met to discuss possible candidates to serve as Chair of the Criminal Section, 2024 and an email was sent to JRs soliciting their suggestions. Following deliberations, Craig Savage, JR of Manitoba was nominated to become the 2024 Chair of the Criminal Section.

[55] On a biographical note, Mr. Savage was born and raised in Winnipeg, Manitoba. He graduated from the University of Calgary, Faculty of Law and was called to the Bar of Manitoba in 2002. He opted not to practice law immediately but moved to Ottawa to work as an Intelligence Officer, for the Canadian Security Intelligence Service (CSIS). He returned to Winnipeg to practice law and joined the Manitoba Prosecution Service, as a Crown Attorney, in 2006, where he is presently an Appeal Crown Attorney. Finally, Mr. Savage is a longstanding delegate of the Criminal Section and was an excellent contributor to the Working Group Examining the Scope of the Mandate of the Criminal Section.

[56] The nomination of Craig Savage, as Chair of the Criminal Section 2024 was adopted unanimously.

[57] In brief closing remarks, the Chair recognized the fantastic interpretation staff: Lylian Ndze; Emilie Rochon-Gruselle and Cyndie Celestin. This was followed by a sustained round of applause.

[58] As well, the Chair acknowledged several people instrumental to the success of ULCC 2022. First, Kevin Westell recognized his mentor, Samantha Hulme, former JR of British Columbia whose invitation to join the BC ULCC Delegation in 2016 led to his position as Chair this year. Second, he thanked Laura Pitcairn for her excellent stewardship as President of ULCC during the past pandemic year. Third, the Chair acknowledged the members of the Criminal Section Steering Committee; with special thanks to Matthew Hinshaw who did a great deal not only on the Steering Committee but also a tremendous amount of work as part of the Host Committee, in addition to being Chair of the Diversity and Inclusion Committee, and the Coordinator, as well as Moderator of the excellent Earl Fruchtmann Memorial Seminar. The Chair noted it takes a village to help him succeed and Matthew Hinshaw was of immense assistance in this regard throughout the year. The Chair then thanked his predecessor, Chloé Rousselle whose wealth of knowledge he benefited from. He underscored her immense contribution to ULCC, especially over the past two years as demonstrated by the resolutions adopted at ULCC 2022 to amend the ULCC Constitution and the Criminal Section *Rules of Procedure* under her leadership as Chair of the Mandate Working Group. Finally, the Chair

acknowledged Dorette Pollard for her incredible work as Secretary of the Criminal Section throughout the year and thanked her for her dedication to ULCC.

[59] The Criminal Section concluded its work on time on Friday, August 19, 2022.

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