

ULCC | CHLC

UNIFORM LAW CONFERENCE OF CANADA

**WORKING GROUP ON THE REVIEW
OF SECTION 490 OF THE CRIMINAL CODE**

STATUS REPORT

Presented By: Nadine Nesbitt

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.

**Charlottetown
Prince Edward Island
August 2023**

Presented to the Criminal Section

Uniform Law Conference of Canada

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[1] At the 2022 meeting of the Uniform Law Conference of Canada (ULCC) the Criminal Section passed the following resolution unanimously (26-0-0):

Working Group on Section 490 of the Criminal Code

Be it resolved that the Section 490 Working Group be reconstituted and provide a report to the Criminal Section at the 2023 annual meeting.

Il est résolu que le Groupe de travail sur l'article 490 du *Code criminel* soit reconstitué et présente un rapport à la Section pénale lors de la réunion annuelle de 2023.

[2] The Working Group (WG) interpreted this broad mandate as consisting of a comprehensive review of the property detention provisions of the *Criminal Code*. With this goal in mind, individual discussions with various members of the reconstituted group took place. Based on the content of these discussions, as well as relying upon the significant efforts made by the previous 490 working group, the Chair of the WG synthesized the myriad of perspectives into a draft report.

[3] The distribution of the draft report resulted in further feedback and perspectives expressed both in writing and during WG meetings. Consequently, a second draft report – running some 73 pages – was distributed amongst the WG. The final report of the ULCC on s. 487 of the *Code* was also circulated amongst the WG; there is some important overlap between the provision of the *Code* considered by the two groups.

[4] Unfortunately, owing to the breadth of the second draft report and various summer schedules, further efforts at collaborative discussions were hindered, which ultimately frustrated the goal of submitting the final report in time for this year's meeting. Much substantive progress has been made on a layered and complicated inquiry. The aim is to meet again beginning in September 2023 and the WG intends to finalize the report for presentation to ULCC at its 2024 meeting.

[5] The membership of the Group included:

Melissa Adams	Crown Law Office (Ontario)
Marc-Antoine Rock	Defence Counsel (Quebec)
Erin Cassidy	Department of Justice Canada – Criminal Law Policy Section (Ontario)
Michael Fawcett	Crown Law Office (Ontario)
Sandro Giammaria	Department of Justice Canada – Criminal Law Policy Section (Ontario)
Melissa Insanic	York Regional Police (Ontario) [<i>membership ceased</i>]
Pauline Lachance	Procureure aux poursuites criminelles et pénales (Québec)
Michael McEachren	Public Prosecution Service of Canada (Ontario)
Nadine Nesbitt	Crown Prosecution Service (Alberta)

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Nicholas Reithmeier
Emilie Robert
Julie Roy
Heather Russell
Martine Sallaberry
Kimberly Stark
Kevin Westell
Jeffrey Wyngaarden
Marta Zemojtel

Crown Prosecution Service (British Columbia)
Procureure aux poursuites criminelles et pénales (Québec)
Procureure aux poursuites criminelles et pénales (Québec)
Public Prosecution Service of Canada (British Columbia)
Medicine Hat Police Service (Alberta)
Royal Canadian Mounted Police (British Columbia)
Defence counsel Pender Litigation (British Columbia)
Crown Law Office (Ontario)
Department of Justice Canada (British Columbia)