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UNIFORM LAW CONFERENCE OF CANADA

WORKING GROUP ON TELEWARRANTS

STATUS REPORT

**Presented by
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Presented to the Criminal Section

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[1] At the 2016 meeting of the Criminal Section of the ULCC, the Public Prosecution Service of Canada (PPSC) moved a resolution on amending the *Criminal Code* telewarrant provision (section 487.1) to include all production orders as well as tracking and transmission data recorder warrants (PPSC 2016-01). The resolution was carried 16-0-8. The PPSC also presented a floor resolution that proposed the following:

That the Criminal Section of the Uniform Law Conference of Canada to establish a working group to examine the telewarrant process under section 487.1 of the *Criminal Code*, in order to develop recommendations to make it more efficient. (Carried 22-0-1)

[2] Since the last Conference, the following representatives contributed to the work of the Working Group: Ken Madsen succeeded by Paul Kirk (British Columbia), Frank Au (Ontario), André Brochu and Justin Tremblay (Director of Criminal and Penal Prosecutions of Québec), Marke Kilkie and Laura Pitcairn (Public Prosecution Service of Canada), Alex Millman (Millman Law Offices, Alberta), Lucie Angers, Karen Audcent, Kim Pearce, Normand Wong and Stéphanie O'Connor as Chair of the Working Group (Federal Department of Justice).

[3] During the past year, the Working Group continued to meet regularly to discuss further issues relating to the telewarrant scheme, including those that might be impacted by the recent enactment of Bill C-75, *An Act to amend the Criminal Code, the Youth Criminal Justice Act and to make consequential amendments to other Acts*.

[4] In the past year, various products were prepared on a number of issues including questions regarding whether to:

- Remove the threshold (“Impracticable to appear in person”) requirement for search warrant applications obtained by a means of telecommunication that produces a writing;
- Retain a threshold requirement for an oral application presented by means of telecommunication as distinguished from a written application;
- Provide that all search warrants, investigative orders and wiretap authorizations may be obtained by a means of telecommunication;
- Remove the requirement that only a justice designated by the chief judge may issue such warrants and order obtained by means of telecommunication;
- In addition to peace officers allow other state actors to apply for search warrants, investigative orders and wiretap authorizations by means of telecommunication;
- Allow search warrants, investigative orders and wiretap authorizations that are intended to be executed in another province to be obtained by telecommunications; and

- Harmonize the requirements associated with the post-execution report to justice currently applicable to the telewarrant process (subsection. 487.1(9)) with those applicable under subsection 489.1(1) following a search warrant application obtained by personal appearance.

[5] The products on various topics have been consolidated into a draft report that is now in the process of being finalized. However, the Report is not yet ready to be presented at this year's Conference. The Report will be presented to the ULCC Criminal Section at the 2020 annual meeting.