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**UNIFORM LAW CONFERENCE OF CANADA**

**REPORT OF THE ADVISORY COMMITTEE ON  
PROGRAM DEVELOPMENT AND MANAGEMENT  
(ACPDM) 2021**

**Presented by  
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ULCC**

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**August, 2021**

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## **Report of the Advisory Committee on Program Development and Management (ACPDM) 2021**

### **Uniform Law Conference of Canada Annual Meeting, August, 2021**

[1] Throughout the year, the Committee on Program Development and Management (ACPDM) continued to meet monthly in order to review the progress of projects and to monitor suggestions for new projects. All meetings were by conference call or ZOOM and were limited to approximately one hour duration.

[2] In 2020, the Civil Section approved three new projects, and suggested further research into another. We have two ongoing projects – one to add to the French version of the *Uniform Benevolent and Community Crowdfunding Act* (2020); the second on the *Uniform Court Jurisdiction and Proceedings Transfer Act*. When completed, the latter working group will move on to update the *Uniform Enforcement of Canadian Judgments and Decrees Act*.

[3] We also have several ongoing projects in the Private International Law area. These are the Hague *Convention on the Law Applicable to Securities Held by Intermediaries*; the United Nations *Convention on Independent Guarantees and Stand-by Letters of Credit*; and finally, an impact assessment report on the Hague Convention on Judgments (2019).

[4] Two projects approved last year require substantial scoping decisions. Both are described in separate reports to the Section on: Charities and Online Defamation

[5] The ACPDM has decided not to proceed with a project on oaths and affirmations. The principal issue revolves around the choice between an oath or an affirmation. The older conventional law was that an oath was the primary method of requiring a witness to provide truthful evidence. If the witness wanted to affirm, then the witness had to justify the choice. Gradually, provinces and territories moved away from the necessity to justify the choice, and allowed a free choice of method, without the need to justify. The *Canada Evidence Act* so provides, and all but three provinces have amended their legislation to remove the need to justify the choice. In fact, therefore, there is a virtual uniformity on this topic, and no need to propose a new uniform act. The three outstanding provinces, should they choose to amend their law, have ample precedent to draw on.

[6] One ancillary aspect of this potential project concerns the protocol to be formed for child witnesses. They may or may not be capable of swearing at all, and if not, they could be qualified by the judge as to whether they understand the seriousness of the

proceeding and the obligation to provide truthful evidence. This aspect is already covered by an existing uniform act, the [\*Uniform Child Evidence\*](#) (1993)

[7] The civil section spent considerable time, within its commercial strategy, reviewing and proposing updates to the Partnership Act. Despite making significant progress, the project suffered when key players became unavailable to continue their work. As a result, the project was in abeyance after the work done in 2006 and 2010. Professor Maya Cachecho has taken on the leadership of this project, and is in the process of reviewing the existing work in order to prepare a proposal for how the project might move forward. How much of the existing work can be used is an important issue in that review?

### **Project Suggestion and Selection**

[8] At the 2020 meeting the section reviewed a number of project proposals, and voted specifically on the individual topics. Those votes provided the advisory committee with a measure of what topics were most relevant. However, it was suggested that the process of topic suggestion and review should be moved much earlier in time. By doing so, it was hoped the jurisdictional representatives could canvas within their legal community to gauge those topics which are ripe for uniform action.

[9] As a result, as Chair of the Advisory Committee, I canvassed jurisdictional representatives in May of this year, with a June 30 deadline for response. Despite reminders at various committee meetings and again in June, only one suggestion was received. The anticipated review of the suggestions by the Advisory Committee could not take place. We are now back in the old position of hoping for suggestions at the annual meeting. Whatever suggestions there are and the accompanying discussion will be taken into consideration by the Advisory Committee.

[10] The section also faces two other challenges when attempting to amplify suggested topics. Suggested members for working groups have been light – that is not in any way intended to deprecate the volunteers who have come forward, but the numbers are limited. The more consequential challenge is where to find leadership in project management and subject matter expertise. Last year, several projects defaulted to the chair of the Advisory Committee. This year, as we go through the crucial scoping process for some projects, we face the same challenges.

[11] It would be useful if delegates thought about their involvement in past projects and were able to come forward with suggestions for how we might address and even overcome these challenges. Perhaps delegates could think of those projects which they regard as being successful and highlight the elements or aspects which led to that success.

[12] Finally, I want to acknowledge the support the ACPDM has received during the year. Kathleen Cunningham has arranged all of our ZOOM meetings, while Clark Dalton has expertly looked after agendas and minutes. I also want to thank all the members of the committee for their time, attention and focus on our work. Circumstances have meant an increase in the number of conference calls and ZOOM meetings, but attendance has been steady despite the increased meeting load in this and other areas. The members of the ACPDM are set out in the attached list<sup>1</sup>. If you have an opportunity to thank them for their service please do so.

[13] If we receive substantial suggestions for projects, perhaps we will be in a position to hold an in-person meeting, where traditionally we have made substantial progress in project selection and management.

[14] It has been my pleasure to serve as chair of this committee and to submit this report on its behalf.

**Respectfully submitted:** Peter J M Lown QC

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<sup>1</sup> Members of the ACPDM for 2020 – 2021 were:

Peter JM Lown, QC, Edmonton (AB) Chair; Sarah Dafoe, Alberta Justice, Edmonton (AB); Arthur Close, QC (Retired), New Westminster, (BC); Russell Getz, BC Ministry of Justice and Attorney General, Victoria, (BC); Kathleen Cunningham, ULCC Executive Director, Vancouver, (BC); Manon Dostie, Justice Canada, Ottawa, (ON); Kathryn Sabo, Justice Canada, Ottawa, (ON); Valérie Simard, Justice Canada, Ottawa, (ON); Laura Pitcairn, Public Prosecution Service of Canada, Ottawa, (ON); Elizabeth Strange, Office of the Attorney General, Fredericton, (NB); John Lee, Ontario Ministry of the Attorney General, Toronto, (ON); Catherine Boily, Chambre des notaires du Québec, Montréal (QC); Laurence Bergeron, Ministère de la Justice du Québec, Québec, (QC); Michel Deschamps, McCarthy Tetrault, Montréal (QC); Darcy McGovern, QC, Saskatchewan Justice, Regina, (SK); Clark Dalton, QC, ULCC Projects Coordinator, Edmonton AB.