

ULCC | CHLC

UNIFORM LAW CONFERENCE OF CANADA

**WORKING GROUP ON THE REVIEW
OF SECTION 487 OF THE *CRIMINAL CODE*
(Search Warrants)**

STATUS REPORT

**Presented by
Lucie Angers**

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 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.

Via Zoom 2021

Presented to the Criminal Section

This document is a publication of
the Uniform Law Conference of Canada.
For more information, please contact
info@ulcc-chlc.ca

[1] At the 2018 meeting of the Uniform Law Conference of Canada (ULCC) in Quebec City, the Criminal Section passed a resolution on the review of section 487 of the *Criminal Code*, at the request of the Canadian Bar Association (Can-CBA2018-05):

A working group should be formed to review section 487 of the *Criminal Code* (information for search warrant) 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 will report back to the Section with either an interim or final report at the next conference. (Carried 28-0-1)

[2] The Working Group (WG) interpreted this broad mandate as best fulfilled by focusing on issues relating to the core nature of the section 487 search warrant, which it saw as an “overt” search power. Section 487 is the only general “overt” search tool in the *Criminal Code*. “Overt” is considered to refer to the non-secretive nature of this investigative tool and the fact that the search warrant provides law enforcement officials with the authority to search and seize property with the knowledge of the search subject. With this in mind, the WG had a number of discussions on what types of open search activities police currently undertake, either pursuant to section 487 or section 487.01 (general warrant), and what the police should be able to do in an “overt” search context. This involved discussions of search of premises, conveyances, computers and people.

[3] Members of the WG currently include: Normand Wong (Chair), Karen Audcent, Glen Boyd, Kenyatta Hawthorne and Stéphanie O’Connor (all Justice Canada), Nadine Nesbitt (Alberta), Paul Pearson (British Columbia), Karen Lee (New Brunswick), Matt Asma (Ontario), Nicolas Abran (Québec), Kevin Westell (Criminal Defence Advocacy Society), and Adam Weisberg (Criminal Lawyers Association).

[4] The WG met via teleconference 6 times since it was established by ULCC in 2018. Due to the exigencies related to the COVID-19 pandemic, the attention of many WG members was directed elsewhere and, as a result, there has not been much progress on the work of the WG. During the 2021-2022 timeframe, the WG will prepare a draft report based on the materials gathered during the initial meetings of the WG for its review, which will be followed by a series of meetings aiming to close any gaps. The WG intends to finalize the report for presentation to ULCC at its August 2022 meeting.