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July 2009

Mr. President:

The co-chairs of the LAC are pleased to present to you the annual report of the LAC for the years 2008 - 2009.

This report outlines activities that the LAC has been involved with over the past year. The work of the Committee continues to increase and could not be accomplished without a full slate of interested and involved committee members.

The mandate of the Committee is to improve the laws affecting policing, exploring both legislative and non-legislative options for change. LAC members accomplish this by participation in the legislative process both formally and informally, by consultation with Government and formal presentations to Parliament. The LAC is also responsible for identifying and recommending opportunities for the CACP to intervene in court or other formal legal processes.

The LAC has taken a leadership position in respect to the *Re-Inventing Criminal Justice Symposium*, a process that began in Vancouver in January 2009 and will continue in Montreal in January 2010.

The work of the Committee also could not be accomplished without the hard work of Vicky Nelson of the Ottawa Police Service who acts most efficiently as the Administrative Support for the Committee.

The LAC welcomes the comments and feedback of members of the CACP.

Sincerely,

Vince Westwick

Clayton Pecknold

Major Activities for the Year 2008/09

Re-Inventing Criminal Justice: Beginning the Conversation

Re-Inventing Criminal Justice: Beginning the Conversation is an initiative composed of the following:

- The Judiciary
- Crown prosecutors
- Defence Counsel
- Senior Government officials
- The Police

The meeting in Vancouver in January 2009 brought together representatives of each group, in a small group setting, to discuss issues of mutual concern in a closed-door session. The CACP had strong representation and lent its organizational experience through the CACP National office.

The meeting generated much discussion and even more good will amongst the participants. A list of topics was agreed upon and an action plan for the future given to the Steering Group. It is believed that this is the first time all participants in the Criminal Justice System have met together to discuss reform. The CACP is a full partner. All of the attendees saw the meeting as a positive first step.

A further Symposium is being scheduled for Montréal in January 2010.

Lawful Access

In June 2009 the Government of Canada introduced legislation modernizing Canada's electronic interception laws. These Bills are the *Investigative Powers for the 21st Century Act* (Bill C-46), sponsored by the Justice Minister Rob Nicholson and *Technical Assistance for Law Enforcement in the 21st Century Act* (Bill C-47), sponsored by the Public Safety Minister Peter Van Loan.

The Law Amendments Committee (LAC) and the Lawfully Authorized Electronic Surveillance (LAES) sub-committee have held the lead for the CACP over the past ten years as we urged successive governments to enact this type of legislation. We came close in 2005 when the then Liberal Government introduced the *Modernization of Investigative Techniques Act* but this Bill died before becoming law due to the change in government. There is much support across parliament for Bills 46 & 47 and, despite the minority government environment, we are confident the Bills will be passed provided that another election does not intervene; however, there remain some significant critics of the Bills and the LAC and LAES are busy advocating on your behalf to both inform the public and answer criticism.

One criticism directed from civil society and privacy advocates is that the burden by the police to demonstrate the need this for legislation has not been met. While we are confident we have made our case to government, it remains important that we make our case to Canadians as a whole. To that end, the LAC with the assistance of a retained Government Relations firm, is engaged in ensuring answers to the questions of legislators and the Canadian public. Direct briefings to legislators, committee appearances, OP Editorials and meetings with key officials are planned. All Chiefs of Police are encouraged to educate themselves on the contents of the legislation.

CACP Intervention Program

Recognizing that changes to the law do not occur exclusively through legislation, the CACP has over the last few years sought intervener status before the Supreme Court of Canada and different Inquiry Processes. The purpose of such intervention is to provide to decision makers a perspective from the police and where appropriate provide submissions on the impact which might flow from a change in the law. The views of the CACP in this regard have been welcomed. The CACP intervened in the following;

1. *Her Majesty the Queen v. Bobby Singh Virk*: This is a case from British Columbia where it was expected that the Court would be called upon to delve into informer privilege. The case was heard in April 2009 and the Supreme Court of Canada has reserved. The CACP was represented by members from the Legal Services Section of the Edmonton Police Service.
2. *Air India*: The CACP received intervener status, and both gave evidence and made submissions to the Commission. The Report of the Commission is expected in the fall of 2009.

R. v. McNeil

The LAC is closely tracking the implications of the Supreme Court of Canada decision in *McNeil*, dealing with the disclosure of police conduct matters in the criminal trial process. The LAC is acting as an advisory and “best practices” body with the goal of ensuring consistent application of the decision across the country. As the implications of the decision are not yet fully known, lower court decisions and rulings will be monitored to examine how *McNeil* will be applied.

Outstanding Criminal Legislation

There are a number of Bills before the Canadian Parliament that touch on the criminal justice issues. Attached to this Report is a list of those Bills. The LAC will provide submissions to Parliament as the Bills move to the Committee stage. CACP members are invited to provide their views on these pieces of proposed legislation to members of the Committee.

To facilitate this dialogue a list of Committee members is attached to the Report.

Joint Meeting with Organized Crime Committee

The LAC continues its close working association with the Organized Crime Committee ensuring alignment of activities in the area of law reform. A joint meeting is planned for Charlottetown, and all Committee Chairs frequently consult one another on a number of Bills and initiatives.

Meetings

The LAC met in person in August and October 2008, March 2009 and by videoconference in May 2009.

LIST OF ACTIVE BILLS

As of August 2009

- C-14** An Act to amend the Criminal Code (organized crime and protection of justice system participants)
- C-15** An Act to amend the Controlled Drugs and Substances Act and to make related and consequential amendments to other Acts
- C-19** An Act to amend the Criminal Code (investigative hearing and recognizance with conditions)
- C-25** An Act to amend the Criminal Code (limiting credit for time spent in pre-sentencing custody)
- C-26** An Act to amend the Criminal Code (auto theft and trafficking in property obtained by crime)
- C-31** An Act to amend the Criminal Code, the Corruption of Foreign Public Officials Act and the Identification of Criminals Act and to make a consequential amendment to another Act
- C-34** An Act to amend the Criminal Code and other Acts
Sex Offender Registry
- C-35** An Act to deter terrorism, and to amend the State Immunity Act
- C-36** An Act to amend the Criminal Code
Serious Time for the Most Serious Crime Act
- C-42** An Act to amend the Criminal Code
Ending Conditional Sentences for Property and Other Serious Crimes Act
- C-43** An Act to amend the Corrections and Conditional Release Act and the Criminal Code
- C-46** An Act to amend the Criminal Code, the Competition Act and the Mutual Legal Assistance in Criminal Matters Act
- C-47** An Act regulating telecommunications facilities to support investigations
- C-285** An Act regulating telecommunications facilities to facilitate the lawful

interception of information transmitted by means of those facilities and respecting the provision of telecommunications subscriber information

S-4 An Act to amend the Criminal Code (identity theft and related misconduct)

S-5 An Act to amend the Criminal Code and another Act
The Long-Gun Registry Repeal Act

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