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September 2010

Mr. President:

The co-chairs of the Law Amendments Committee (LAC) are pleased to present to you the annual report of the LAC for the year 2009-2010.

The Law Amendments Committee remains extremely busy and engaged in a range of activities on behalf of the membership of the CACP.

Over the years the prime focus of the LAC has been to advise and represent the CACP in respect of the changes to Federal legislation, primarily concerning the *Criminal Code of Canada*. This involves consultation and liaison with *Justice Canada* and *Public Safety Canada* as well as with other stakeholders. While the LAC remains fully engaged with the very full legislative agenda of the Government of Canada, the Committee is expanding the other aspects of its work. For example, the Committee continues its work in relation to the *Re-Inventing Criminal Justice Symposium* in Montreal in January 2010 with both LAC co-chairs sitting on the Organizing Committee. Planning is well underway for the third symposium to be held in Toronto in January 2011.

Deputy Chief Chris McNeil and Assistant Director Sylvain Brouillette were the co-chairs of the CACP *Canadian Criminal Justice System: "The Times They Are A-Changin"* Conference in Toronto in April 2010. The speakers list for this conference may have been the finest in many years. Committee members were directly involved in the organization and presentation of this very successful conference.

The LAC also made yet another appearance before the Supreme Court of Canada in the case of *Vancouver (city) v Ward*. The hearing took place in January 2010 with the court decision being rendered later in July. This case marks the tenth time the CACP has appeared in over 10 years.

In February of 2010, the LAC co-chairs attended a meeting of the Justice Efficiencies and Access to Justice Steering Group. This represents the very first time police in Canada were invited to be members in this important Committee which reports to the Federal/Provincial/Territorial Ministers responsible for Justice and Criminal law. Attendance represents another opportunity for the CACP to participate in evolution of Criminal law in Canada.

Meeting these tasks is taxing the resources of the LAC. It is for that reason that the Co-chairs wish to thank the Committee members for their contribution and support. The Committee would also like to sincerely thank Ms Vicky Nelson of the Ottawa Police Service for all her considerable efforts in supporting the LAC and its co-chairs.

Sincerely,

Vincent Westwick

Murray Stooke

## **Major Activities for the Year 2009/2010**

### ***Justice Efficiencies and Access to Justice Steering Group***

In 2003, this work group was developed by the Deputy Minister of Justice Canada at the request of Federal/Provincial/Territorial Ministers responsible for Justice and Criminal law. The thinking at the time was to create a group of senior members of the system who could meet to develop proposal to make the Canadian Criminal justice more efficient and to increase access to the system for all Canadians. The original design called for a small number of judges, crowns, defence counsel and senior officials from both the provincial and Federal levels to be members of the Steering Group.

Initially police were not included but thanks to the intervention of Chief Justice Wyant of the Provincial Court of Manitoba and Senior Ontario Crown John Pearson, an invitation was made for the CACP to participate as members of the Steering Committee. The CACP President asked the LAC co-chairs to represent the CACP on this important Committee.

It is also important to acknowledge the extensive work of LAC member Francis Brabant of the Sûreté du Québec who has represented policing in the Justice Efficiencies Sub-Committee on Disclosure. Its report is due later in 2010.

Please consult the Justice Efficiencies website for a full list of its members, mandate and its past reports. [www.justice.gc.ca/eng/esc-cde/index.html](http://www.justice.gc.ca/eng/esc-cde/index.html)

### ***Symposium: Re-inventing Criminal Justice: A Continuing Conversation***

January 2010 marked the second in our series of symposia aimed at the critical examination of our criminal justice system, titled “Re-Inventing Criminal Justice: A Continuing Conversation” This year’s symposium once again brought together representatives of the:

- Judiciary
- Crown Prosecutors
- Defence Counsel
- Senior Government officials
- Police

The original meeting in Vancouver (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 January 2010 meeting again generated much discussion and even more good will amongst the participants.

A report summarizing the major issues issued identified as well as the common ground was produced. The top themes are as follows:

1. Joint police and prosecution teams should be formed to provide early legal and strategic advice and to review, vet and disclose both major and routine case files.
2. Standardized prosecution briefs and electronic disclosure should be utilized in both major and routine cases.
3. The criminal justice system should make greater and more effective use of information technology.
4. Judicial powers at the front end of the process should be increased to better manage adjournments and determine *Charter* issues.
5. Active judicial case management and more effective judicial pre-trials should be supported through enhanced case management proceedings.
6. There should be mechanisms developed for “carrying-over” judicial decisions made in earlier proceedings.
7. All the relevant parties at the local and regional level should be brought together to identify and implement a series of specific reforms that are then evaluated against agreed upon, measurable and transparent goals.
8. Interdisciplinary education should be used as a tool to foster collaboration.
9. Local and provincial criminal justice committees should be established as collaborative management tools.
10. A number of common themes emerged that demonstrate the linkages between various non-traditional approaches to criminal justice.
11. There was broad support for “problem-solving” approaches, both through special Courts and the adoption of a problem-solving focus within the regular criminal process.
12. There was strong interest in exploring how the concept of proportionality might be better utilized in the criminal process. For example, the use of a somewhat different process to expedite the resolution of less serious offences or offences in particular circumstances (e.g. where the prosecution declares it is not seeking a custodial sentence).]. It was agreed that there is value in exploring this and other ideas without determining at this point what kinds of approaches are most promising.
13. It was agreed that consideration must be given to innovative approaches to the problems posed by “chronic offenders.”

The symposium saw strong CACP in attendance from across Canada, and it remains a unique forum wherein all major sectors of the criminal justice system collectively and critically examine issues and solutions within the system. There is a strong consensus that this initiative is important, and that it should continue.

Once again, the CACP lent its organizational experience to this important endeavor through the CACP's National office. From this meeting a further Symposium is scheduled for Toronto in January 2011, and planning meetings are well underway.

### ***CACP Criminal Justice System Conference "The Times They are A-Changin"***

The CACP executive requested the Law Amendments Committee to also organize a second Criminal Justice related conference, which resulted in "The Times They are A-Changin" meeting 2010 April 18-20 in Toronto.

The audience for this meeting were members of the CACP, criminal justice officials, and academics. The objectives were to engage both members of the CACP with other participants of the criminal justice system in an interactive and facilitated discussion focused on progressive change.

Keynote speakers included Allan Rock, CACP President Bill Blair, Justice Michael Moldaver, the Alberta Minister of Justice Alison Redford, and many more. Discussions focused not only on the themes identified in the "Re-inventing Criminal Justice Symposium, but also on electronic disclosure, chronic offenders, mega trials, the role of legal aid in a strong criminal justice system, and the complexity of the law.

### ***Air India***

The Air India Inquiry Report was released by former Supreme Court Justice Major on 2010 June 17. Titled "Air India Flight 182: A Canadian Tragedy". The report consists of five volumes:

- Volume 1 – Overview;
- Volume 2 – Pre-Bombing Investigation and Response;
- Volume 3 – Relationship between Intelligence and Evidence and Challenges of Terrorism Prosecutions;
- Volume 4 – Aviation Security;
- Volume 5 – Terrorism Financing.

Recognizing the potential importance of this Inquiry, the CACP applied for and received full standing at the Air India Inquiry. Working behind the scenes with the Inquiry's team of counsel and experts, the CACP lent its experience and expertise to the Inquiry's work. A CACP delegation appeared as a panel answering question and testifying.

In its final written submissions, the CACP recommended the work of the Inquiry continue in the form of a University based academic centre, one which would have meaningful police participation. Several other groups including the Victims and family

members made similar submission. Justice Major in his final report commented favourably on this proposal. With the approval of the CACP Board of Directors, the LAC continues to explore this idea.

### ***Parliamentary Review of the DNA Act***

The Final Report on the Statutory Review of the *DNA Identification Act* was published June 2010, and the Honourable Joan Fraser was the Chair. Members of the Committee are reviewing the findings of this report, with a view to possible improvements and amendments to Canada's DNA regime in the future.

### ***CACP Intervention Program***

Recognizing that changes to the law do not occur exclusively through legislation, the CACP has over a number of 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.

During the course of this last year the CACP supported an intervention in the case of *Vancouver (City) v. Ward*, 2010 SCC 27 (CanLII), this decision has been released as of 2010-07-23. This case was supported by the Ottawa Police Service, and the CACP was represented by Vincent Westwick.

Additionally, at the annual August meeting in Edmonton, the LAC sought and received approval for intervention in the Alberta case of *R. v. Barros*, 2010 ABCA 116 (CanLII). The Edmonton Police Service will be taking the lead in respect of this matter.

### ***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.

Lawful Access remains a priority of the CACP. Bills C-46 & C-47 died on the Order Paper when Parliament was prorogued in December 2009. The LAC continues to meet with Justice Canada and Public Safety Canada to assist in the re-introduction of this important legislation.

### ***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 was held in August in Edmonton, and all Committee Chairs frequently consult one another on a number of Bills and initiatives.

### ***Meetings***

This years activities included LAC meeting in November 2009 (Calgary), April 2010 (Toronto) and August 2010 (Edmonton).

Additionally, meeting attended included:

- IPC (ONT)Commissioner (Toronto Aug 25, 2009)
- Federal Privacy Commissioner (Ottawa Sept 1, 2009)
- Meeting with Justice Minister Baird (Ottawa Dec 8, 2009)
- National Firearms strategy meeting (RCMP) (Ottawa Jan 7, 2010)
- Firearms subcommittee (Montreal March 30-31, 2010)
- Firearms (Ottawa May 18, 2010)
- Round Table On Responding To The Recommendations Made By The Standing Committee On Public Safety On Its Review Of The DNA Identification Act Ottawa June 2, 2010)

### ***Membership***

The LAC welcomed four new members to the committee this year, following the departure of Pierre Paul Pichette, Tom Grue, and Clayton Pecknold. Our new members are:

- Inspector Greg Preston of EPS;
- Ms. Kalli Chapman of TPS;
- Superintendant Rick Bourassa of RPS; and
- Deputy Chief Bob Downie of Saanich PS
- Assistant Commissioner Doug Lang RCMP

**Legislation**  
**40<sup>th</sup> Parliament 3<sup>rd</sup> Session**  
(Update August 2010)

<b>Bill</b>	<b>Title</b>
<b>1</b>	<b>C-4</b> An Act to amend the Youth Criminal Justice Act and to make consequential and related amendments to other Acts <i>(Sébastien's Law (Protecting the Public from Violent Young Offenders))</i>
<b>2</b>	<b>C-16</b> An Act to amend the Criminal Code (Ending House Arrest for Property and Other Serious Crimes by Serious and Violent Offenders Act)
<b>3</b>	<b>C-17</b> An Act to amend the Criminal Code (investigative hearing and recognizance with conditions) (Combating Terrorism Act)
<b>4</b>	<b>C-21</b> An Act to amend the Criminal Code (sentencing for fraud) (Standing up for Victims of White Collar Crime Act)
<b>5</b>	<b>C-22</b> An Act respecting the mandatory reporting of Internet child pornography by persons who provide an Internet service (Protecting Children from Online Sexual Exploitation Act)
<b>6</b>	<b>C-23A</b> An Act to amend the Criminal Records Act
<b>7</b>	<b>C-23B</b> An Act to amend the Criminal Records Act and to make consequential amendments to other Acts (Eliminating Pardons for Serious Crimes Act)
<b>8</b>	<b>C-29</b> An Act to amend the Personal Information Protection and Electronic Documents Act (Safeguarding Canadians' Personal Information Act)
<b>9</b>	<b>C-30</b> An Act to amend the Criminal Code (Response to the Supreme Court of Canada Decision in R. V. Shoker Act)
<b>10</b>	<b>C-39</b> An Act to amend the Corrections and Conditional Release Act and to make consequential amendments to other Acts (Ending Early Release for Criminals and Increasing Offender Accountability Act)
<b>11</b>	<b>C-209</b> An Act to prevent the use of the Internet to distribute pornographic material involving children



- 12 **C-221** An Act to amend the Criminal Code (peace officers)
- 13 **C-229** An Act to amend the Criminal Code (cruelty to animals)
- 14 **C-230** An Act to amend the Criminal Code (cruelty to animals)
- 15 **C-231** An Act to amend the Criminal Code and the Corrections and Condition Release Act (consecutive sentences)
- 16 **C-237** An Act to amend the Criminal Code (motor vehicle theft)
- 17 **C-246** An Act to amend the Criminal Code (child sexual predators)
- 18 **C-247** Act to amend the Criminal Code (bail for persons charged with violent offences), the Extradition Act and the Youth Criminal Justice Act
- 19 **C-260** An Act to amend the Criminal Code (legal duty outside Canada)
- 20 **C-261** An Act to amend the Criminal Code (failure to stop at scene of accident)
- 21 **C-268** An Act to amend the Criminal Code (minimum sentence for offences involving trafficking of persons under the age of eighteen years)
- 22 **C-293** An Act to amend the Criminal Code (means of communication for child luring)
- 23 **C-294** An Act to amend the Criminal Code (luring a child outside Canada)
- 24 **C-314** An Act to amend the Criminal Code (public transportation workers)
- 25 **C-315** An Act to amend the Criminal Code (leaving province to avoid warrant of arrest or committal)
- 26 **C-331** An Act to amend the Criminal Code (arrest without a warrant)
- 27 **C-332** An Act to amend the Criminal Code (review of parole ineligibility) and to amend other Acts in consequence

- 28 **C-333** An Act to amend the Criminal Code (mass transit operators)
- 29 **C-334** An Act to prohibiting the commission, abetting or exploitation of torture by Canadian officials and ensuring freedom from torture for all Canadians at home and abroad and making consequential amendments to other Acts
- 30 **C-340** An Act to amend the Youth Criminal Justice Act (publication of information)
- 31 **C-349** An Act to amend the Criminal Code (body armour)
- 32 **C-355** An Act to amend the Criminal Code (cyberbullying)
- 33 **C-359** An Act to amend the Contraventions Act and the Controlled Drugs and Substances Act (marihuana)
- 34 **C-362** An Act to amend the Criminal Code (personal identity theft)
- 35 **C-372** An Act to amend the Criminal Code (victim restitution)
- 36 **C-376** An Act to amend the Criminal Code (addition to order of prohibition)
- 37 **C-380** An Act to amend the Criminal Code (hate propaganda)
- 38 **C-381** An Act to amend the Criminal Code (trafficking and transplanting human organs and other body parts)
- 39 **C-384** An Act to amend the Criminal Code (right to die with dignity)
- 40 **C-385** An Act to amend the Criminal Code (computer virus programs)
- 41 **C-388** An Act to amend the Criminal Code (judicial discretion)
- 42 **C-389** An Act to amend the Canadian Human Rights Act and the Criminal Code (gender identity and gender expression)
- 43 **C-391** Act to amend the Criminal Code and the Firearms Act (repeal of long-gun registry)

- 44     **C-404** An Act to amend the Criminal Code (failure to prevent access to child pornography)
- 45     **C-405** An Act to amend the Criminal Code (firefighters)
- 46     **C-407** An Act to eliminate racial and religious profiling
- 47     **C-408** An Act to amend the State Immunity Act and the Criminal Code (deterring terrorism by providing a civil right of action against perpetrators and sponsors of terrorism)
- 48     **C-424** An Act to amend the Youth Criminal Justice Act (protection of the public)
- 49     **C-434** An Act to amend the Corrections and Conditional Release Act (day parole – six months or one sixth of the sentence rule)
- 50     **C-451** An Act to amend the Criminal Code (mischief)
- 51     **C-461** An Act to amend the Criminal Code (use of hand-held telecommunications device while operating a motor vehicle)
- 52     **C-464** An Act to amend the Criminal Code (justification for detention in custody)
- 53     **C-475** Act to amend the Controlled Drugs and Substances Act (methamphetamine and ecstasy)
- 54     **C-484** An Act to amend the Criminal Code (cracking down on child pornography)
- 55     **C-498** An Act prohibiting the commission, abetting or exploitation of torture by Canadian officials and ensuring freedom from torture for all Canadians at home and abroad and making consequential amendments to other Acts (Prevention of Torture Act)
- 56     **C-510** Act to amend the Criminal Code (coercion) (An Act to Prevent Coercion of Pregnant Women to Abort (Roxanne's Law))
- 57     **C-520** Act to amend the Criminal Code (luring a child outside Canada)

- 58     **C-521** Act to amend the Criminal Code (means of communication for child luring)
- 59     **C-522** An Act to amend the Criminal Code and respecting the Motor Vehicle Safety Regulations (student transport)
- 60     **C-531** An Act to amend the Criminal Code (hate propaganda)
- 61     **C-537** Act to amend the Criminal Code (judicial interim release for offences involving firearms)
- 62     **C-547** Act to amend the Criminal Code (arrest by owner)
- 63     **C-558** Act to amend the Criminal Code (social condition)
- 64     **C-560** Act respecting the locking of cellular telephones (Cell Phone Freedom Act)
- 65     **S-2**     An Act to amend the Criminal Code and other Acts
- 66     **S-6**     An Act to amend the Criminal Code and another Act (Serious Time for the Most Serious Crime Act)
- 67     **S-7**     An Act to deter terrorism and to amend the State Immunity Act (Justice for Victims of Terrorism Act)
- 68     **S-9**     An Act to amend the Criminal Code (auto theft and trafficking in property obtained by crime) (Tackling Auto Theft and Property Crime Act)
- 69     **S-10**    An Act to amend the Controlled Drugs and Substances Act and to make related and consequential amendments to other Acts (Penalties for Organized Drug Crime Act)
- 70     **S-204** An Act to amend the Criminal Code (protection of children)
- 71     **S-215** An Act to amend the Criminal Code (suicide bombings)
- 72     **S-220** An Act to amend the Official Languages Act (communications with and services to the public).
- 73             Summary of Acts

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