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CANADIAN ASSOCIATION OF CHIEFS OF POLICE

Leading progressive change in policing

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Table of Contents

2005-01
Integrated Policing Policy Framework……...3

2005-02
Enhancement of Services to Young Persons Necessary to Support
the Youth Criminal Justice Act (YCJA).....8

2005-03
Amendments to Youth Criminal Justice Act (YCJA)……..11

2005-04
Pipeline/Convoy Jetway Program Training……....15

2005-05
Radio Communications Interoperability……..21

2005-06
Information Sharing Implementation……...23

2005-07
BCACP Resolution on Telemarketing….…….26

2005-08
Marihuana Grow Operations…….28

2005-09
Methamphetamine……...……31

2005-10
CACP Position on Harm Reduction……..…34

2005-11
Standardized Drug Awareness Training for Police Officers…….37

2005-12
Witness Protection……...……40

2005-13
Forfeiture of Proceeds of Crime Reversal of the Burden of Proof……..…..42

2005-14
To Amend the General Warrant Sections of the Criminal Code…….…46

2005-15
Identification of Criminals……..49

Resolution #01-2005

INTEGRATED POLICING POLICY FRAMEWORK

Submitted by: *Chief Frank Beazley, Halifax Regional Police Service*
Chief Jim Cessford, Delta Police Department
Chief Cal Johnston, Regina Police Service
Chief Constable Paul Shrive, Port Moody Police Department
Chief Glenn Stannard, Windsor Police Service

WHEREAS the Canadian Association of Chiefs of Police is dedicated to serving the public through excellence in policing, and;

WHEREAS a policy review of policing arrangements has not been conducted during the past two decades in Canada, and;

WHEREAS the current system of policing creates inefficiencies, duplication and fragmentation at a time when many serious threats to public safety are multi-jurisdictional and global in nature, and;

WHEREAS Canadian police services are embracing "integrated policing" as a concept to guide collaborative operational work across jurisdictional and agency boundaries, to meet the expectations of citizens and orders of government, and;

WHEREAS Canadian police agencies, governance bodies, municipal representatives, independent research and government officials have agreed that a definition of integrated policing is required so that there is no ambiguity about respective roles and responsibilities and how this concept applies at the tactical, operational and especially strategic levels, and;

WHEREAS an integrated policing policy framework is required to be developed by governments, in their role in providing the legislative and policy structure to elucidate and support police governance and operations, and;

WHEREAS orders of government have an opportunity to shape policing for Canada's future in a way that reflects a greater voice for communities in the national conversation about safety and security.

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police calls upon the federal and provincial governments to:

1) *pursue studies and analyses* on the costs, and operational and strategic implications of current policing arrangements;

2) *confirm roles and responsibilities of each order of government* consistent with Canada's constitution and governments' stated commitment to municipal engagement on public safety issues;

3) jointly, with representatives of the municipal order of government, *establish a policy framework* to support police agencies in operating within Canada's multi-jurisdictional policing environment, and;

4) *define integrated policing* as a concept and analyze the implications of this concept applied respectively at the tactical, operational and strategic levels.

Resolution #01-2005

INTEGRATED POLICING POLICY FRAMEWORK

Commentary:

This resolution builds upon Resolution #11-2004 "Police Governance" passed unanimously by the Canadian Association of Chiefs of Police.

While respecting the constitutional division of powers and the responsibilities of the provinces, the federal government has committed to offering a "place at the table" to municipalities, which have emerged as strong and active players on national public policy issues. This acknowledges governments' shared responsibility for public policy. The Government of Canada last conducted a public policy review of policing more than twenty years ago. All orders of government share responsibility for policing.

In the global context of public safety and security threats, coherent and seamless policing responses across domestic and international boundaries are deemed necessary in order to gather and share intelligence, investigate and apprehend suspects, prevent crime and keep communities safe. Governments and tax-payers expect police services to be cost-effective, responsive to community needs, and accountable.

Police in Canada have embraced "integrated policing" as a concept to guide the current and future efforts of police agencies working together at the ascending tactical, operational and strategic levels. There have been notable successes in ad hoc integrated policing efforts at the tactical and operational levels; however, integrated policing at the strategic level poses a policy challenge in Canada's tri-government environment.

A policy framework, designed by governments to clarify roles and responsibilities and to establish governance and accountability, is required to guide the application of the integrated policing concept at each of these respective levels, with the objectives that citizens have comprehensive public safety coverage and that national, provincial, regional and local concerns are met.

The Auditor General of Canada has commented in the past that "it is time for a clear agreement among all of the players in the law enforcement community – in the federal, provincial and municipal governments – on level of service, funding arrangements, user input, management and accountability". (*Report of the Auditor General of Canada*, Chapter 7.3, 2000). More recently, in assessing national security arrangements of which police are a part, the Auditor General has cautioned on the risks to national security if governance structures and the legislative and infrastructure frameworks remain uncompleted (*Report of the Auditor General of Canada*, Chapter 2, April 2005).

The CACP resolution on police governance called upon "all orders of government in Canada to join with police and governance associations in a public policy discussion on policing in the 21st century" (CACP Resolution #11-2004). Other national stakeholder associations have requested, through successive resolutions, municipal input into policing arrangements. This discussion is required so that the national agenda, which calls for an integrated response to organized crime and terrorism, can be reconciled with the agenda of local communities' policing needs.

Responding to these calls and joint representations by the CACP, the Canadian Association of Police Boards and the Federation of Canadian Municipalities, federal-provincial-territorial officials have agreed to consider the issue of an integrated policing policy framework (FPT ADM Committee on Policing Issues, December 1, 2004; FPT Deputy Ministers Responsible for Justice, June 20, 2005).

The federal government commissioned research by Sussex Circle in February 2005 to determine the feasibility of an integrated policing policy framework. This study concludes that the development of a framework is "not only feasible, but imperative in today's environment". It sets out possible next steps that include defining the concept, setting out the principles to be reflected in such a framework, launching a cost accounting exercise to identify the full costs of policing services in Canada, and identifying the barriers to integration.

Adoption, by the federal-provincial-territorial governments, of the recommendations of the Sussex Circle feasibility assessment, represents a forward step in clarifying accountability and responsibility—which remain critical themes in public and private sector governance—for policing.

In the absence of an existing formal structure within which key policy makers from all orders of government might address the issue of the future of policing in Canada, the Canadian Association of Chiefs of Police urges the federal-provincial-territorial governments to seek ways to engage representatives of the municipal order of government and municipal police governance authorities in a process or forum.

The Canadian Association of Chiefs of Police is committed to maintaining momentum on the issue of an integrated policing policy framework, to assisting governments in this public policy discussion, and to contributing its leadership to the work ahead.

Resolution #01-2005

INTEGRATED POLICING POLICY FRAMEWORK

Media Lines

- Canadians are increasingly aware of the impact of organized crime and the threat of international terrorism in their communities.

- Canadian police – in national, provincial, regional and municipal police services – are integrating their efforts across jurisdictions, to prevent and respond to these threats.

- At the same time, police continue to respond to the daily public safety concerns and priorities of their local communities.

- National priorities have an impact on the budgets and level of policing services at the municipal level.

- The Canadian Association of Chiefs of Police (CACP) proposes that current policing arrangements be reviewed comprehensively by governments.

- The CACP is urging the federal-provincial-territorial governments to engage with the municipal order of government to clarify who is responsible for what and who pays for what.

- The CACP's prime concern is public safety and security.

Resolution #02-2005

ENHANCEMENT OF SERVICES TO YOUNG PERSONS NECESSARY TO SUPPORT THE YOUTH CRIMINAL JUSTICE ACT (YCJA)

Submitted by Nova Scotia Chiefs of Police Association

WHEREAS the implementation of the YCJA has reduced the incarceration of young persons and increased the number of young persons serving dispositions in the community, and;

WHEREAS the principles in the YCJA cannot be achieved without the services in the community to support young people, and;

WHEREAS services and supports in the community such as, mental health, child welfare, and addiction services were not enhanced in preparation for enactment of the YCJA., and;

WHEREAS to date the promise of a more meaningful youth justice system has been empty for many, as young people remain in the community without the necessary support to overcome the very social conditions that brought them in conflict with the law, and;

WHEREAS the result is an increasing number of young persons in the community without a social safety net, which will only lead to an increase in criminal activity, and;

WHEREAS Canadian Association of Chiefs of Police believe that Federal, Provincial and Territorial Governments share responsibility to provide services to youth.

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police urges the Federal, Provincial and Territorial Governments to ensure adequate funding for services to assist children and youth with their underlying problems in the community.

Resolution #02-2005

ENHANCEMENT OF SERVICES TO YOUNG PERSONS NECESSARY TO SUPPORT THE YOUTH CRIMINAL JUSTICE ACT (YCJA)

Submitted by Nova Scotia Chiefs of Police Association

Commentary:

One of the goals expressed in the preamble of the YCJA is for a youth criminal justice system which "reduces the over-reliance on incarceration for non-violent young persons". While there may have been an over-reliance on incarceration under the Young Offenders Act (YOA), it is simplistic to assume that the problem will be solved by requiring more young persons to remain in the community Front line police officers understand that one of the underlying reasons for the incarceration of youth under the YOA was the lack of services in the community. The YCJA has compounded the problem by adding more young persons, requiring services, to the community, with no corresponding enhancement of services. Although new funding accompanied the implementation of the YCJA, it appears most of it was directed to enhancing "youth justice" programs and services. Therefore, services and supports such as, mental health, child welfare, and addiction services were not enhanced in preparation for enactment of the YCJA.

To date the promise of a more meaningful youth justice system has been empty for many. Young people remain in the community without the necessary support to overcome the very social conditions that brought them into conflict with the law.

It seems there was an assumption that this legislation would be successful without any new investment for the very services required to abate the underlying causes of delinquency. It is not sufficient to simply mandate a better system and abdicate the cost to fund the necessary services to other levels of government.

Not every young person who is charged with an offence has only a justice problem. Many young persons in the criminal justice system are also in the child welfare system. The residential care facilities for youth have been under stress for a number of years. The additional pressure on the system caused by the YCJA has simply overwhelmed these facilities. These facilities need new investment immediately. We also need better coordination of services for young people. A young person in need may be involved in the child welfare, mental health, education, and justice systems with no coordination of those services.

There are long waits for publicly funded mental health services for young persons. The capacity of other services such as addiction services, special education, family support, and other such therapeutic services is not sufficient to meet the needs of troubled young persons in the community. Once again this lack of services has been made worse because the YCJA has increased the number of young persons in the community requiring access to such services.

If we do not address the chronic under funding of the services these young people require, we fail the very young people this system was designed to help. We will end up with young persons in the community without a social safety net, which will only lead to an increase in criminal activity. The principles in the YCJA cannot be achieved without the services in the community to support young people.

Resolution #03-2005

AMENDMENTS TO YOUTH CRIMINAL JUSTICE ACT (YCJA)

Submitted by Nova Scotia Chiefs of Police Association

WHEREAS the primary purpose of Criminal Law is the protection of the public, and;

WHEREAS the YCJA is first and foremost Criminal law, and;

WHEREAS the YCJA gives protection of the public a lower priority, and;

WHEREAS the YCJA is premised on the belief that the all young people, with proper guidance and support, can overcome past criminal behaviour and develop into law-abiding citizens, and;

WHEREAS the YCJA fails to recognize that there are a small group of incorrigible young people whose activities pose a risk, and that the criminal law must provide mechanisms to protect society from their behaviour, and;

WHEREAS the YCJA contains a clear bias against detention of young people in all but the most extreme cases restricting the use of detention to violent offences or where there has been a history of non-compliance with non-custodial sentences, and;

WHEREAS courts have found that the provision in the YCJA which allows the use of custody in cases where a young person has failed to comply with previous non-custodial sentences does not include breaches of undertakings, repeatedly failing to comply with the same sentence, or for previous breaches of the YOA, and;

WHEREAS the current definition of violent offence does not include offences which fall short of causing or attempting to cause bodily harm regardless of how dangerous the offence is to the public, and;

WHEREAS the failure to address the fundamental concern of protection of the public will risk undermining the entire legislation, and;

WHEREAS the YCJA is substantially good legislation and could be enhanced with limited changes which could improve public safety.

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police calls upon the Minister of Justice to respond to the concerns for public safety in the YCJA by:

- Amending the Declaration of Principles and the Purpose and Principles of sentencing of the YJCA to make it clear that the protection and safety of the public is the primary principle in interpreting the legislation, and;

- Amending s.39(1)(a) of the YCJA to allow custody for offences or young persons posing a danger to the public, and;

- Amending s.39(1)(b) of the YCJA to allow for detention for failing to comply with undertakings or YOA dispositions, or repeated breaches of a sentence.

Resolution #03-2005

AMENDMENTS TO YOUTH CRIMINAL JUSTICE ACT (YCJA)

Submitted by Nova Scotia Chiefs of Police Association

Commentary:

The Canadian Association of Chiefs of Police has long supported a more meaningful approach to youth justice and efforts to reduce the number of youth who come in contact with formal system.

The YCJA is premised on the belief that the vast majority of young offenders, with proper guidance and support, can overcome past criminal behaviour and develop into law-abiding citizens. This is true for the vast majority of young people. However, the YCJA is ineffective in dealing with the small percentage of young people from whom the public needs protection.

The YCJA fails to recognize that there is a small group of incorrigible young people whose activities pose a risk, and that the criminal law must provide mechanisms to protect society from their behaviour. The YCJA is highly prescriptive legislation and restrictions on the use of custody in the YCJA have been interpreted as a virtual bar to detention or custody in certain cases. These restrictions pose a risk to public safety.

It is well accepted that the primary purpose of Criminal Law is the protection of the public. The YCJA steps away from this principle and gives protection of the public a lower priority. This has resulted in a narrow analysis focusing on the individual offence rather than on the circumstances of the offence, the young person and the risk posed to the public.

Under the YOA protection of the public was a primary principle. The YOA made it clear that when interpreting that legislation protection of the public was a primary consideration. In fact the original legislation was amended by subsection 3(1) (a.1) and 3(1)(c.1) to reinforce protection of the public as the overriding consideration.

Consider the Declaration of Principle contained s. 3 of the YCJA. Its lone reference to public safety in the principles governing the entire legislation emphasizes the diminished role for public safety in comparison to the YOA. A review of earlier versions of the YCJA shows consideration was given to protection of the public having greater priority, but it appears in the final version of YCJA the drafters moved away from making the protection of the public the principal goal of the youth criminal justice system.

The concern for public safety does not end with the Declaration of Principle. Other provisions limit the ability to protect the public. The YCJA contains a clear bias against detention of young people in all but the most extreme cases. It is noteworthy that the Purpose and Principles of sentencing contained in section 38 of the YCJA provides for a similar role for the protection of the public as to that in Declaration of Principle.

The YCJA includes specific provisions to limit the use of custody both at the pre-trial and the sentencing stage which exposes the community to considerable risk in some cases. The YCJA presumes that pre-trial detention is not necessary for protection of the public. The effect of these sections, along with the purpose and principles of the YCJA lead to an absolute bar to custody in some cases.

Resolution #04-2005

PIPELINE/CONVOY JETWAY PROGRAM TRAINING

Submitted by the Traffic Committee

WHEREAS regardless of how contraband enters Canada, at one time or another it must utilize Canada's transportation system in order to be distributed, and;

WHEREAS all traveling criminals must at one time or another utilize Canada's transportation system, and;

WHEREAS all front line, uniformed police officers are in a position, through legal traffic stops, to identify and intercept travelling criminals and contraband, and;

WHEREAS since the National Pipeline/Convoy/Jetway Program currently under the stewardship of the RCMP was established in 1994, more than 25,000 law enforcement officers from different agencies across North America have been trained in criminal interdiction techniques, and;

WHEREAS since the National Pipeline/Convoy/Jetway Program was established in 1994, law enforcement officers trained in criminal interdiction techniques have contributed to the seizure of more than $2 billion in contraband from our Canadian transportation system, and;

WHEREAS the current National Pipeline/Convoy Jetway Program has a tri-agency instructor certification program with the US Department of Transportation (DOT) and the US Drug Enforcement Administration (DEA), in that only those instructors certified by the DEA, DOT or RCMP Programs are recognized by the RCMP in Canada or the US Federal Government, and;

WHEREAS currently the National Pipeline/Convoy Jetway Program has 46 certified instructors across Canada representing 7 different Canadian law enforcement agencies, and;

WHEREAS the current National Pipeline/Convoy Jetway Program has a semi-annual 'Instructor Quality Assurance Review 'to ensure that all instructors remain current and are instructing according to the proper training guidelines, and;

WHEREAS the National Pipeline/Convoy Jetway Program conducts various training courses which include: Basic Pipeline/Convoy Training; Basic Jetway Training; Advanced Commercial Vehicle Training; Trucks and Terrorism Training; and Pipeline/Convoy Instructor Certification training, and;

WHEREAS the National Pipeline/Convoy Jetway Program training has been reviewed and endorsed by the Federal Department of Justice Working Group on Criminal Interdiction, and;

WHEREAS the National Pipeline/Convoy Training has been reviewed by the RCMP bias-free policing coordinator, who found that:

- "At no time did the Pipeline/Convoy trainer indicate race as a motivating factor in relation to ongoing investigation during a vehicle stop."
- "The focus of the training is road safety. Race, religion, color, and culture were not identified as indicators or interdiction clues.", and;

WHEREAS the current National Pipeline/Convoy/Jetway Program has an ongoing national 'Quality Assurance' review process to review seizures made and to ensure the technique employed are following the training guidelines, and;

WHEREAS the National Pipeline/Convoy/Jetway Program has formed partnerships with more than 100 agencies within Canada and the US law enforcement community as well as within the transportation industry, and;

WHEREAS the National Pipeline/Convoy/Jetway Program has received in excess of 100 awards, certificates and commendations from throughout North America, and;

WHEREAS the National Pipeline/Convoy/Jetway Program has been recognized by the RCMP as a 'Best Practise' to combat organized crime, and;

WHEREAS the National Pipeline/Convoy/Jetway Program has published a program newsletter for the previous 11 years that is distributed across the law enforcement community throughout North America and some countries overseas, and;

WHEREAS to ensure positive results within the judicial system, and to minimize risk through improper application of the interdiction technique, or accusations of racial profiling, a single consistent training /message must be delivered throughout Canada.

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police recognize the current training utilized by the National Pipeline/Convoy/Jetway Program currently under the stewardship of the RCMP as being the sole approved training in domestic interdiction techniques involving the transportation system (highway interdiction, domestic air travel interdiction, bus and train interdiction; and freight forwarders interdiction), and;

BE IT BE FURTHER RESOLVED that the Canadian Association of Chiefs of Police recognize only those law enforcement officials certified and monitored by the National Pipeline/Convoy Jetway Program currently under the stewardship of the RCMP to conduct training in domestic interdiction techniques involving the transportation system (highway interdiction, domestic air travel interdiction, bus and train interdiction; and freight forwarders interdiction).

Resolution #04-2005

PIPELINE/ CONVOY JETWAY PROGRAM TRAINING

Submitted by the Traffic Committee

Commentary:

This National Pipeline/Convoy Jetway Program currently under the stewardship of the RCMP is dedicated to the apprehension of contraband and travelling criminals from passenger vehicles, commercial vehicles, domestic air travel, buses, trains and freight forwarding companies. The program enhances police officer observational, conversational, and investigative skills, heightening their ability to detect the abnormal activity of travellers, and take action. The concept is based on the premise that no matter how contraband enters this country and no matter where criminals are, at one time or another they will utilize our Canadian transportation system. Simply by increasing our awareness skills we will be in a better position to apprehend these criminals and seize their contraband. This truly national program has been evolving across this country since its Canadian inception in Gimli, Manitoba, in 1994. The RCMP has recognized this program as a best practice in combating organized crime. It has proven popular amongst front-line policing as it serves as an excellent way for front line policing to contribute to our efforts to combat organized crime and enhance National Security.

PARTNERSHIPS:

From the beginning this program was founded on a strong partnership with other law enforcement agencies. This program exists today because of its strong partnerships with the Drug Enforcement Administration/ El Paso Intelligence Center (EPIC) and the US DOT/ Drug Interdiction Assistance Program (DIAP). These agencies coordinate the US national PCJ program. Besides these partnerships, we enjoy excellent partnerships with US Federal/State and Local Police as well as Canada Customs, and many other Canadian federal, provincial and municipal enforcement agencies. In total, partnerships exist within the program with well in excess of 100 law enforcement agencies. These partnerships have led to our National Program certifying approximately 70 Canadian and 50 US law enforcement officers as Instructors in Pipeline/Convoy. The National Program currently has 46 certified Canadian instructors from 7 different Canadian enforcement agencies. We enjoy a tri-agency certification program with EPIC and DIAP to ensure quality control of the delivery of this program throughout North America. The friendship between DIAP and our National Program enabled us to respond quickly to the terrorist attacks of 01-09-11 by co-developing the Trucks and Terrorism training session. This ½ day course was created for both law enforcement and commercial industry personnel to heighten awareness and develop more ‘eyes and ears’ to national security concerns pertaining to

commercial vehicles. We have been involved with Illinois, Georgia, and Texas State Police Agencies in conducting Criminal Interdiction exchanges. Future exchanges are being planned with Louisiana State Police, Niagara Regional Police, and Peel Regional Police services. These are but a few examples of many.

SUCCESSES TO DATE:

This truly international, integrated front line policing program has proven to be cost effective while contributing to the successful apprehension of over $2 billion in cash and contraband seized. In addition to this, many criminals (involved in murder, child abduction, of interest in national security matters, etc...) have been apprehended as well as a great deal of stolen property recovered. In doing so, many new partnerships have been developed and existing partnerships maintained within the law enforcement community. With continued support/ growth the potential is unlimited. To ensure the continued success in our fight against organized crime and terrorism, it is imperative for the entire law enforcement community in Canada to have access to standardized criminal interdiction training that conforms to Canadian law.

Resolution #04-2005

PIPELINE/ CONVOY JETWAY PROGRAM TRAINING

Submitted by the Traffic Committee

Media Lines

- Canada's Operation *Pipeline/Convoy/Jetway* Program is a common sense policing approach to detecting travelling criminals throughout Canada.

- This successful, motivating and cost effective program has contributed to the seizure of over $2 billion worth of contraband and is a recognized 'Best Practice' and effective tool to enhance police efforts against organized crime.

- Canada's front line 'men and women' in law enforcement are valuable resources in our combined efforts towards 'Safe Homes and Safe Communities'. By increasing their investigative skills and raising their awareness and observation skills, they can detect travelling criminals and assist in national security efforts.

- More than 25,000 law enforcement officers from different agencies across North America have already been trained in criminal interdiction techniques.

- It is also important to build partnerships within the transportation industry and to provide industry with information that enables them to improve safety to the travelling public.

- The National Pipeline/Convoy Jetway Program training has been reviewed and endorsed by the Federal Department of Justice Working Group on Criminal Interdiction.

- The Pipeline/Convoy Training has been reviewed by the RCMP bias-free policing coordinator, who found that: "At no time did the Pipeline/Convoy trainer indicate race as a motivating factor in relation to ongoing investigation during a vehicle stop." and "The focus of the training is road safety. Race, religion, color, and culture were not identified as indicators or interdiction clues."

- To assist police in our fight against organized crime and terrorism it is imperative for the entire law enforcement community in Canada to have access to standardized criminal interdiction training that conforms to Canadian law.

Resolution #05-2005

RADIO COMMUNICATIONS INTEROPERABILITY

Submitted by the Informatics Committee

WHEREAS the safety of Canadians, police officers and other public safety personnel is directly dependent upon the ability of our first responders to communicate by radio with each other as part of their day-to-day activities and during major disasters and special events, and;

WHEREAS there have been many instances where the lack of radio interoperability amongst first responders has hindered their work, resulting in loss of life or other tragic consequences, and;

WHEREAS the ability of first responders to communicate with each other is being hampered by the lack of planning and coordination, the lack of spectrum availability, the fragmentation of the spectrum, aging radio communication equipment, limited equipment standards and limited funding.

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police requests the establishment of a national coordinating body, representative of the public safety community, that is able to provide advice to various levels of government and public safety agencies regarding policy, standards, protocols, procedures and regulatory requirements, and;

BE IT FURTHER RESOLVED that the Canadian Association of Chiefs of Police recommends that public safety spectrum be treated as a national priority and be exempted from payment of licensing fees, and;

BE IT FURTHER RESOLVED that the Canadian Association of Chiefs of Police requests the Minister of Industry Canada to designate sufficient spectrum, in all major bands, for public safety use only, and;

BE IT FURTHER RESOLVED that the Canadian Association of Chiefs of Police urges the Minister of Industry Canada to allocate radio frequencies in the VHF band for land and radio systems for the first responders' community involved in search and rescue operations, and;

BE IT FURTHER RESOLVED that the Canadian Association of Chiefs of Police encourages Public Safety and Emergency Preparedness Canada to continue the development of a national radio interoperability strategy.

Resolution #05-2005

RADIO COMMUNICATIONS INTEROPERABILITY

Commentary:

Over the past years, a significant number of major incidents and/or various studies have demonstrated the need for enhanced Radio Interoperability (R.I.) amongst the public safety community. One of those studies commissioned by Industry Canada and produced in 2003, recommended the development of a new national body mandated with coordinating discussions on key issues such as R.I. and spectrum allocations for public safety resources.

R.I. can be defined as the ability for all first responders to exchange both voice and data communications efficiently and transparently, when and where required and as authorized.

Radio Interoperability difficulties can be attributed to the following factors:

- Lack / fragmented spectrum availability;
- Aging radio communication equipment;
- Lack of agreed upon communication equipment standards;
- Lack of planning and coordination;
- Limited funding

As part of the PSEPC-led Interoperability Initiative, in January 2005 Public Safety Interoperability Directorate (PSID) put together a team mandated with the development, by October 2005, of a plan to create a national strategy that will enable the implementation of a fully interoperable radio communications environment in Canada in 10 years.

Resolution #06- 2005

INFORMATION SHARING IMPLEMENTATION

Submitted by the informatics Committee

WHEREAS the sharing of operational information amongst all police and public safety organizations is necessary for effective response to crime, social disorder and safety and security of our communities, and;

WHEREAS effective sharing of information can only be accomplished through the development and broad implementation of national standards for public safety information, and;

WHEREAS effective sharing of information can best be accomplished through a national system which is accessible to all police agencies and approved public safety organizations, and;

WHEREAS previous Canadian Association of Chiefs of Police Resolutions such as 1999-13, 2002-10 and 2003-09 have supported both the importance and the objective of national information sharing, and;

WHEREAS a technology platform to accomplish national sharing has been implemented and its effectiveness proven at a significant number of police agencies in Canada, and;

WHEREAS the Canadian Association of Chiefs of Police Informatics Committee has developed a national Memorandum of Understanding (MOU) to facilitate national information sharing, and;

WHEREAS the RCMP has a mandate to implement national sharing under the N-III project.

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police endorses the Police Information Portal (PIP) as the national information sharing standard for police agencies, and;

BE IT FURTHER RESOLVED that the Canadian Association of Chiefs of Police adopts the proposed PIP Governance Model, and assign five Chiefs, Deputy Chiefs or regional police representatives to serve a two year term as regional representatives on the National Executive, it being noted that regional representatives will be elected from the Chiefs for subsequent terms on the National Executive, and;

BE IT FURTHER RESOLVED that the Canadian Association of Chiefs of Police endorses the position of an Executive Director for an interim period of 24 months to support the start-up efforts for this project, and;

BE IT FURTHER RESOLVED that the Canadian Association of Chiefs of Police endorses the PIP Memorandum of Understanding (MOU) as a document that would be signed and agreed to by each police agency that participates in PIP, and;

BE IT FURTHER RESOLVED that the Canadian Association of Chiefs of Police requests governing authorities, such as the Federal Provincial Territorial Ministers, to provide a budget for 24 months to cover reasonable meeting and travel expenses to support the work of the PIP National Executive, the PIP Executive Director, and the Operations Committee in PIP start-up activities and the establishment of Regional Committees that will assume responsibility for electing representatives to serve on the National Executive, and;

BE IT FURTHER RESOLVED that the Canadian Association of Chiefs of Police mandates the development and maintenance of PIP training materials in both official languages as well as a newsletter relating to the status of the information sharing (N-III) project.

Resolution#06-2005

INFORMATION SHARING IMPLEMENTATION

Submitted by the informatics Committee

Commentary

The sharing of operational information amongst police agencies in countering inter-jurisdictional crime such as organized crime, drug trafficking and terrorism has been a priority of the Canadian Association of Chiefs of Police. Police are most effective when a collective approach is taken in dealing with problems of this nature. Sharing of information has become an accepted way of doing business for police but until now there was no standard way to share operational information across jurisdictional lines for all police agencies. Such a system now exists and has been proven in a significant number of police agencies across Canada.

The goal of the N-III project is to make national police sharing a reality in a short period of time and the structure is now in place to support that. The main strengths of this project are:

- It is built on a technology platform that has been proven in a significant number of Canadian police agencies over the past three years.

- The endorsement of this platform by the PRIME police agency in the Province of British Columbia and by the Common Police Environment Group (CPEG) in the province of Ontario.

- A Memorandum of Understanding has been developed that would allow each participating agency to understand the benefits and responsibilities of sharing operational information. It takes into account the various Freedom of Information Acts across the country.

- The ability to allow police agencies across the country to share information regardless of their choice of a Records Management System.

- IQT remains as a platform for other law enforcement agencies and will be interconnected with PIP.

Resolution#07-2005

BCACP RESOLUTION ON TELEMARKETING

Submitted by Chief Constable Paul Shrive

WHEREAS the practice of fundraising by solicitation to *private homes* by persons representing themselves as a supporter of police and youth is occurring in every province of Canada, and;

WHEREAS this practice is viewed by the public as disturbing, invasive and unprofessional.

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police (CACP) supports the British Columbia Association of Chiefs of Police (BCACP) in strongly opposing fundraising on behalf of police through unsolicited telemarketing to private residences.

Resolution#07-2005

BCAP RESOLUTION ON TELEMARKETING

Submitted by Chief Constable Paul Shrive

Commentary:

The police practice of fundraising in support of a wide variety of charitable causes is common in Canada. Many communities join with the police in everything from car washes to marathons in an effort to raise money within their respective communities that will aid those less fortunate.

The methods of fundraising have become more sophisticated in many areas and now often involve contacts between persons representing the police and local business operators. This technique most often involves a business transaction in which the police representatives sell a product i.e. advertising. The local business operators see their business advertised in the police produced magazine.

A newer fundraising technique has followed the above format but with one significant difference. The police contact is now made between a professional company and the private homes of citizens in Canada. The homeowners find themselves talking to a person who claims to represent the police and is raising funds in support of youth in their community.

The practice of calling citizens in their homes has resulted in numerous complaints and comments from citizens across Canada. The British Columbia Association of Chiefs of Police views this practice as disturbing, invasive and unprofessional and seeks the support of the Canadian Association of Chiefs of Police in condemning this unsolicited form of fundraising.

Resolution #08-2005

MARIHUANA GROW OPERATIONS

Submitted by the Drug Abuse Committee

WHEREAS Marihuana Grow Operations are surfacing in almost every community in Canada. Police forces are seeing a dramatic increase in the number of Marihuana Grow Operations being reported, and;

WHEREAS Marihuana Grow Operations are often controlled by Criminal Organizations operating locally, nationally or internationally, and;

WHEREAS profits generated from Marihuana Grow Operations are used by these Criminal Organizations to finance other criminal activity such as the manufacturing or importation of other drugs (including methamphetamine and cocaine) and the trading marihuana for guns, and;

WHEREAS police across Canada have seen a dramatic increase in violent offences related to the presence of Marihuana Grow Operations in communities, including violent home invasions or "grow rips", serious assaults, murders etc, and;

WHEREAS the presence of Marihuana Grow Operations poses particular risks to home occupants (including children), first responders, neighbours and the environment due to the presence of booby traps, firearms and other weapons, nutrients, pesticides, herbicides and other toxic chemicals and the use of electrical bypasses used to steal electricity, and in some areas, there is a high percentage of house fires caused by Marihuana Grow Operations, and;

WHEREAS the presence of a Marihuana Grow Operations can seriously damage a private residence, in that once the residence is sold by the grower, an innocent, unsuspecting buyer will have to spend thousands of dollars to repair the damage to the house, and;

WHEREAS individuals charged in relation to Marihuana Grow Operations may face charges of: Production of Cannabis (Sec. 7 CDSA), Possession of Cannabis for the purpose of Trafficking (Sec. 5.2 CDSA) and/or Exportation of Cannabis Marihuana (Sec. 6.1 CDSA), and;

WHEREAS the above listed offences carry maximum penalties ranging from 7 years imprisonment to life imprisonment, and;

WHEREAS sentences being given in relation to Marihuana Grow Operations will often fail to include a term of incarceration, creating a situation where there is little or no deterrent available to stop individuals and Organized Crime Groups from continuing to be involved in this criminal activity.

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police calls upon the Minister of Justice, to enact legislation providing minimum jail sentences for convictions involving Marihuana Grow Operations. These minimum jail sentences would increase in length depending on the number of criminal convictions for similar offences, committed by the accused.

Resolution #08-2005

MARIHUANA GROW OPERATIONS

Submitted by the Drug Abuse Committee

Commentary:

Marihuana Grow Operations are surfacing in almost every community in Canada. Police forces are seeing a dramatic increase in the number of Marihuana Grow Operations being reported. Profits generated from Marihuana Grow Operations are used by these Criminal Organizations to finance other criminal activity such as the manufacturing or importation of other drugs (including methamphetamine and cocaine) and the trading marihuana for guns.

Individuals charged in relation to Marihuana Grow Operations may face charges of: Production of Cannabis (Sec. 7 CDSA), Possession of Cannabis for the purpose of Trafficking (Sec. 5.2 CDSA) and/or Exportation of Cannabis Marihuana (Sec. 6.1 CDSA). These offences carry maximum penalties ranging from 7 years imprisonment to life imprisonment.

Sentences being given in relation to Marihuana Grow Operations will often fail to include a term of incarceration. This has created a situation where there is little or no deterrent available to stop individuals and Organized Crime Groups from continuing to be involved in this criminal activity.

Resolution #09-2005

METHAMPHETAMINE

Submitted by the Drug Abuse Committee

WHEREAS methamphetamine (MA) is a drug which acts on the central nervous system and has a high potential for chronic use which can lead to the development of a strong psychological dependence, and;

WHEREAS MA use has been shown to be more prevalent with street involved youth and young adults, and;

WHEREAS MA poses particular health risks due to the long-term effects of chronic use on the heart and brain, as well as the associated mental health problems (mood disturbances, psychosis, paranoia and hallucinations), and;

WHEREAS police in numerous communities have seen a dramatic increase in the production and use of MA, and attendant crime and social problems, and;

WHEREAS MA poses particular public health risks due to potential spread of blood-borne pathogens such as HIV/AIDS and hepatitis C (HCV) through injection drug use and the propensity to engage in high-risk sexual behaviours while under the influence, and;

WHEREAS the control of MA is difficult due to the fact that it can be produced within a day in makeshift laboratories using easily accessible chemicals and over-the-counter medications, and;

WHEREAS the production of MA poses particular risk to home occupants (including children), first responders, neighbours and the environment due to the use of corrosive, explosive, flammable and toxic chemicals, and;

WHEREAS there is a need for better data concerning MA use to identify the scope of this issue, the characteristics of the users (including gender and cultural differences), patterns and context of use, as well as best practices in the prevention and treatment of MA use along a continuum of care, and;

WHEREAS MA is a Schedule III offence in the Controlled Drugs and Substances Act and sentences for major (multi-kilo) MA offences for trafficking or possession for the purpose of trafficking are therefore limited to a maximum of 10 years, and;

WHEREAS the 10-year maximum sentence does not reflect the seriousness of the harm caused to individuals and communities by this crime, and;

WHEREAS WHEREAS MA is largely produced domestically in clandestine laboratories using ephedrine and pseudoephedrine and other chemicals that are commonly available to the public, and;

WHEREAS Health Canada is mandated to fund the destruction of controlled substances, but the definition of a controlled substance in the *Act* does not include Schedule VI, where class A precursors used in the production of methamphetamine are found, leaving inadequately resourced police agencies and municipalities with the financial costs associated with the destruction of Schedule VI controlled substances.

THEREFORE BE IT RESOLVED that the CACP urges the Minister of Health, in consultation with the Minister of Justice, to move MA from Schedule III to Schedule I of the Controlled Drugs and Substances Act, thereby increasing the maximum penalty for trafficking or possession for the purpose of trafficking to life imprisonment, consistent with the maximum sentence for offences involving drugs such as heroin and cocaine, and;

BE IT FURTHER RESOLVED that the CACP calls upon the Minister of Health to work with Provincial counterparts to enact appropriate legislation to restrict the sale of ephedrine, pseudoephedrine and other chemicals typically used in the manufacture of MA to ensure it is not sold for illegitimate purposes, and;

BE IT FURTHER RESOLVED that the CACP calls upon the Minister of Health, in consultation with the Minister of Justice, to amend the Controlled Drugs and Substances Act to include Class A precursors found in Schedule VI within the list of substances that are the responsibility of Health Canada to destroy, and;

BE IT FURTHER RESOLVED that the CACP calls upon the Ministers of Health, Justice, PSEPC and their appropriate provincial counterparts to conduct further research to identify the scope of the problems associated with MA production, the characteristics of the users (including gender and cultural differences), patterns and context of use, as well as best practices in the prevention and treatment of MA use along a continuum of care.

Resolution #09-2005

SENTENCING FOR METHAMPHETAMINE OFFENCES

Submitted by the Drug Abuse Committee

Commentary:[1]

Police in numerous communities have seen a dramatic increase in the production and use of methamphetamine (MA), and attendant crime and social problems associate to this activity. The production of MA poses particular risk to home occupants (including children), first responders, neighbours and the environment due to the use of corrosive, explosive, flammable and toxic chemicals. MA use is associated with episodes of violent behaviour, paranoia, anxiety, confusion and insomnia. Long term use has also been associated with psychotic behaviour including paranoia, auditory hallucinations, mood disturbances and delusions. MA is a highly addictive substance with a high potential for abuse. It poses particular public health risks due to potential spread of blood-borne pathogens such as HIV/AIDS and hepatitis C (HCV) through injection drug use.

MA is a Schedule III offence in the Controlled Drugs and Substances Act and sentences for major (multi-kilo) MA offences for trafficking or possession for the purpose of trafficking are therefore limited to a maximum of 10 years. The 10-year maximum sentence does not reflect the seriousness of the harm caused to individuals and communities by this crime.

MA is largely produced domestically in clandestine laboratories using chemicals that are commonly available to the public such as ephedrine and pseudoephedrine. This makes production of MA relatively easy.

The full scope of the MA problem remains difficult to determine and there is a need for better data concerning MA use and prevention and treatment activities.

[1] Information for this backgrounder provided by Health Canada's DSCS Science Update, May 2005, Special Issue on Methamphetamine.

Resolution #10-2005

CACP POSITION ON HARM REDUCTION

Submitted by the Drug Abuse Committee

WHEREAS individuals and organizations endorsing the legalization of drugs are using the term “harm reduction” to garner sympathy and support from both the general public and government officials, and;

WHEREAS harm reduction policies mislead people into thinking they can use drugs “safely” and “responsibly”, as opposed to encouraging them not to use drugs at all, and;

WHEREAS harm reduction promotes the misconception that total abstinence is not a realistic goal for some people, and therefore, that drug use should be accommodated and accepted as an inevitable aspect of human condition, and;

WHEREAS many harm reduction initiatives reject drug abstinence as the ultimate goal of drug treatment, and;

WHEREAS it is unethical to provide drug addicts with assistance in conducting behaviour that is harmful to themselves, and potentially to others (e.g. needle exchange programs, crack pipe kits etc.), and;

WHEREAS implementing harm reduction policies sends a message to drug addicts that society has given up on them, choosing to maintain their addiction in order to “reduce the harm”, as opposed to pursuing treatment and rehabilitation options, and;

WHEREAS the adoption of harm reduction policies sends a message, particularly to youth, that drug use is “normal” behaviour that is condoned by the public, health institutions and governments, and;

WHEREAS the adoption of "harm reduction" policies has proven to increase drug problems and related crime. In 1987, Zurich permitted drug use and sales in a part of the city called Platzpitz, dubbed "Needle Park." By 1992, the number of regular drug users at the park had reportedly swelled from a few hundred in 1987 to 20,000. The area around the park became crime-ridden to the point that the park had to be shut down, and the experiment has since been terminated. *(Cohen, Roger, "Amid Growing Crime, Zurich Closes a Park it Reserved for Drug Addicts," The New York Times, 11 February 1992),* and;

WHEREAS "Needle Exchange Programs" (NEP) do not require addicts to return used needles prior to being given a fresh supply, therefore eliminating the "exchange" element of the program, designed in part to keep contaminated needles off the streets, and;

WHEREAS the distribution of crack pipes implies there is a "safe" way of using crack cocaine, a highly addictive and equally as dangerous drug regardless of one's method of use, and;

WHEREAS some Harm Reduction activities have not been adequately evaluated as to their effectiveness and/or impact on the addicts and communities alike.

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police calls on the Federal Minister of Health to ensure that strategies designed/intended to reduce harm are based on evidence and that they be equally supported with treatment, prevention, education and services.

CACP POSITION ON HARM REDUCTION

Submitted by the Drug Abuse Committee

Commentary:

The purpose of this resolution is to ensure Canadian harm reduction policies are adequately evaluated, and that resulting initiatives and/or practices are implemented effectively.

Supporting the implementation of "harm reduction" initiatives in Canada continues to be an issue for law enforcement. The use of temporary measures to reduce harm throughout the treatment process is agreed to be constructive, provided abstinence remains the ultimate goal of the program. Policies that accept and accommodate illegal drug use on the other hand, send messages of leniency and tolerance. While harm reduction was initially perceived by law enforcement to be a rational approach, the Canadian Association of Chiefs of Police (CACP) is expressing concerns that certain policies in place are in fact perpetuating illegal drug use. These policies lack treatment services and have yet to undergo the necessary evaluations. Providing services geared towards "safer" use of illegal substances undermines the risks associated to drug use and falsely promotes the concept that not all drug use is drug abuse.

Resolution #11-2005

STANDARDIZED DRUG AWARENESS TRAINING FOR POLICE OFFICERS

Submitted by the Drug Abuse Committee

WHEREAS police in numerous communities have seen a dramatic increase in the production and use of methamphetamine, and attendant crime and social problems, and;

WHEREAS a recent survey poll has confirmed that the Canadian public is confused about the legal implications of decriminalization of marihuana possession, with almost half of the respondents (49.3%) believing that the decriminalization of personal possession of marihuana would make cannabis possession legal. *(SES Research Poll – February 2005),* and;

WHEREAS among the Canadian population of 15 years and older, it has been reported that lifetime cannabis use (at least once in their lifetime) has significantly increased from 23.2% in 1989 to 44.5% in 2004. *(Canadian Addiction Survey 2004),* and;

WHEREAS the police community is increasingly concerned with impaired driving by drugs other than alcohol, and;

WHEREAS results of recent Student Drug Use Surveys conducted in various jurisdictions across the country clearly indicate that the number of students who drink and drive is consistently lower than the number who use drugs, particularly cannabis, and drive, and;

WHEREAS students generally have a strong negative attitude towards drinking and driving, but 19.2% indicated that they didn't see anything wrong with "toking and driving". *(Student Drug Use Survey in Manitoba 2001),* and;

WHEREAS drug education and awareness must be intelligence-led and evidence-based in order to help the public make informed decisions, and;

WHEREAS the public is increasingly becoming dependent on the police to provide them with factual information related to drugs, and;

WHEREAS a PSEPC Demand Reduction Workshop outcome has identified the police as often being responsible for mobilizing the community around a specific issue and consequently should develop a standardized training to adequately prepare its officers.

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police will advocate that standardized drug awareness training be developed by Public Safety and Emergency Preparedness and provided for all police officers in Canada.

Resolution #11-2005

STANDARDIZED DRUG AWARENESS TRAINING FOR POLICE OFFICERS

Submitted by the Drug Abuse Committee

Commentary:

Currently, several changes are occurring within the country in the field of substance use and abuse, more precisely in regards to prevalence of drug use and policy matters. For instance, it has been reported that lifetime cannabis use has significantly increased and numerous police communities have noticed an escalation in production and use of methamphetamine. In addition, an area that is increasingly raising concern from the police community is drug-impaired driving since findings from provincial Student Drug Use Surveys indicate that the number of students who drink and drive is consistently lower than those who use drugs and drive. Regarding policy matters, a disquieting fact is the Canadian public's confusion about the legal implications of the proposed bill on decriminalization of marihuana possession.

Given that police are often identified as being responsible for community mobilization around a specific problem, the public is becoming increasingly dependent on us to provide them with factual information related to drugs. Therefore, in order to adequately respond to the public's need and help them make informed decisions, we must ensure that drug education and awareness is intelligence-led and evidence-based. Hence, it has become apparent that implementing standardized drug awareness training for police officers in Canada delivering drug presentations should become a vital component of training.

Resolution #12-2005

WITNESS PROTECTION

Submitted by the Law Amendments Committee

WHEREAS as a result of increased organized crime activity in Canada, police agencies are more frequently being required to utilize processes established under the National Witness Protection Program to protect prosecution witnesses, and;

WHEREAS the cost of placing an individual into this program can be substantial and beyond the means of most, if not all, police agencies in Canada, and;

WHEREAS the National *Witness Protection Act* clearly contemplates police agencies as the only organizations who can submit applications to the RCMP who in turn facilitate, approve and control the programs operation, subsequently invoicing the costs back to the originating agency, and;

WHEREAS this costing back causes police agencies either to avoid the use of witness protection legislation, or to seek financial assistance, usually through their respective provincial justice representatives, and;

WHEREAS the costs to all involved are substantial and cannot possibly be sustained without some assistance from the federal government, and;

WHEREAS over the past number of years witness protection applications have risen substantially and there is no indication that this trend will stop.

THERFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police urges the Minister of Justice and Attorney General to take a lead role in establishing a national witness protection funding regime that is in keeping with an integrated response to organized and serious crime and is consistent with the desire to provide equal access to the processes of witness protection to all levels of police in Canada.

Resolution #12-2005

WITNESS PROTECTION

Submitted by the Law Amendments Committee

Commentary:

Organized crime activity in Canada is continuing to rise and with that comes the responsibility, when necessary, of protecting prosecution witnesses. In furtherance of that protection, police agencies are being required to utilize processes established under the National Witness Protection Program.

The cost of placing an individual into this program is substantial and beyond the means of most, if not all, municipal police agencies. At the same time, the *National Witness Protection Act* clearly contemplates police agencies as the only organizations who can submit applications to the RCMP who then appropriately, facilitate, approve and control the programs operation, subsequently billing back the cost of the program to the requesting agency. In almost all cases, this requirement causes municipal police agencies to seek financial assistance through Provincial Justice Representatives.

The costs to all involved are substantial and cannot be sustained without some assistance from the federal government. Over the past number of years we have seen witness protection applications rise substantially and there is no indication that this trend will stop. We need to act now to create a solution that will be available to all police agencies across Canada.

Resolution #13-2005

FORFEITURE OF PROCEEDS OF CRIME
REVERSAL OF THE BURDEN OF PROOF

Submitted by the Law Amendments Committee

WHEREAS organized crime launders billions of dollars each year in Canada, and;

WHEREAS the recycling of criminal proceeds is critical to the success of pernicious criminal organization activities, including drug trafficking, and;

WHEREAS money laundering is a major threat to the economic interests of the state and of individuals, and;

WHEREAS criminal organizations have adopted circumventing strategies, such as the use of facilitators and third parties, and the efficiency of the provisions of the *Criminal Code* relating to the forfeiture of criminal proceeds continues to be significantly reduced despite amendments introduced in 2001 by Bill C-24 to mitigate the difficulties in enforcing this legislation, and;

WHEREAS the obligation for the prosecutor as required under Subsection 462.37(1) of the Criminal Code to demonstrate that the offender's property includes criminal proceeds gained from the designated offence for which he was found guilty, constitutes a major obstacle to the efficient suppression of money laundering, and;

WHEREAS this burden should be shifted to the offender following his conviction for a designated offence, and;

WHEREAS this provision would be respectful of the constitutional rights of the people involved, as this burden is not concerned with guilt, and the offender should reasonably be able to establish the origin of the property, and;

WHEREAS Bill C-53, *An Act to amend the Criminal Code (proceeds of crime) and the Controlled Drugs and Substances Act and to make consequential amendments to another Act*, tabled by the Minister of Justice on May 30, 2005, provides for the reversal of the burden of proof when an offender is found guilty of a criminal organization offence or of violating ss. 5, 6 or 7 of the *Controlled Drugs and Substances Act*, and;

WHEREAS the guiding principle of this Bill should be extended to all designated offences, and;

WHEREAS Bill C-53 requires that the prosecutor demonstrate that the offender has engaged, during the last ten years, in a pattern of criminal activity to gain material advantages and that these other offences constitute at least two serious offences or a criminal organization offence, or that he has an income unrelated to crime that cannot reasonably account for all of his property, and;

WHEREAS this legislation will be of no concern to criminals who are sufficiently clever or organized to have evaded justice in the recent past and have concealed or transferred the proceeds of their crimes.

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police urges the Government of Canada, through the Department of Justice, to take the necessary steps to amend Bill C-53 so that the reversal of the burden of proof applies to all cases where the accused is found guilty of a designated offence, and;

BE IT FURTHER RESOLVED that Bill C-53 be amended so as to remove the requirement for a judge to first be satisfied that the offender has engaged, during the last ten years, in a pattern of criminal activity to gain material advantages and these other offences constitute at least two serious offences or a criminal organization offence, or that he has an income unrelated to crime that cannot reasonably account for all of his property.

Resolution #13-2005

FORFEITURE OF PROCEEDS OF CRIME
REVERSAL OF THE BURDEN OF PROOF

Submitted by the Law Amendments Committee

Commentary:

Organized crime launders billions of dollars every year. The economic impact of money laundering, which is estimated by the United Nations at 2% of the GDP, is a growing concern for governments. Drug dealing alone generates 50% to 70% of the money being laundered.

The purpose of Part XII.2 of the *Criminal Code*, which came into force in 1989, is to seize the property of individuals who benefit from unlawful activities and who are convicted of a designated offence. The intent is to destabilize the strategies of these criminals and deprive them of the ultimate objective of their crimes.

However, restrictions relating to the interpretation of the law and the evolution of criminal organizations have emerged. In fact, criminal organizations have refined their strategies to circumvent the law. By using facilitators, “straw men” and other third parties, and by investing and legitimizing the proceeds of their crimes, criminals manage to cover the tracks of their profits and conceal most of their assets.

Because of the new methods used by criminal organizations and the problems encountered in interpreting the law, its efficiency is greatly reduced. Today, police organizations no longer get the results they expect in terms of criminal proceeds. The burden of proof is largely responsible for this situation. For the time being, this burden is totally incumbent upon the prosecutor.

The inadequacy of the current system has forced certain provinces to adopt legislation on the civil forfeiture of criminal proceeds or to resort to fiscal provisions. MP Richard Marceau recently tabled a Bill (C-242) requiring that the burden of proof for forfeitures be reversed in cases where people are found guilty of participating in the activities of criminal organizations. The time has come for the government to act and correct the situation.

On May 30, 2005, the Minister of Justice of Canada tabled Bill C-53 for first reading (*An Act to amend the Criminal Code (proceeds of crime) and the Controlled Drugs and Substances Act and to make consequential amendments to another Act*).

This Bill amends the *Criminal Code* to provide a reverse onus of proof in proceeds of crime forfeiture applications involving offenders who have been convicted of a criminal organization offence or certain offences under the *Controlled Drugs and Substances Act*.

It provides that a court shall make an order of forfeiture against any property of an offender that is identified in the application if the court is satisfied (by the prosecutor) that the offender has engaged, during the last ten years, in a pattern of criminal activity to gain material advantages and that these other offences constitute at least two serious offences or a criminal organization offence, or that the offender has an income unrelated to crime that cannot reasonably account for all of his property. A court may not, however, make an order of forfeiture against a property that the offender has shown, on a balance of probabilities, not to be proceeds of crime.

It should first be noted that the onus of proof is only incumbent upon the accused if the prosecutor demonstrates that he has a pattern of criminal activity or that his legitimate income is inconsistent with the value of his property. It should be made clear that this legislation will not trouble criminals who are sufficiently clever or organized to have evaded justice in the recent past and concealed or transferred the proceeds of their crimes.

Convicting the accused of the offence he is charged with should be sufficient reason to require that the offender then demonstrate that the forfeited or frozen property is not the proceeds of the offence, something he is the one who is best positioned to establish. This reversal, which is reasonable in terms of its purpose and the nature of the evidence to provide, is respectful of the *Canadian Charter of Rights and Freedoms*.

Secondly, it would seem arbitrary that the reversal of the onus of proof be restricted to a conviction on criminal organization or drug offences. The thief, receiver of stolen goods, or defrauder, who was not convicted of a criminal organization offence will continue to benefit from the current system, even though he has had a pattern of serious criminal activity during the last ten years, or if the value of his property is not consistent with his legitimate income.

Resolution #14-2005

TO AMEND THE GENERAL WARRANT SECTIONS OF THE CRIMINAL CODE

Submitted by the Law Amendments Committee

WHEREAS Section 184.1(1) allows an agent of the state to intercept, by means of an electro-magnetic, acoustic, mechanical or other device, a private communication, and;

WHEREAS Section 184.1(a),(b) and (c) allows for this interception if the person who consented is the originator of the private conversation or the recipient, and the agent of the state believes on reasonable grounds there is a risk of bodily harm to the person who consented and the purpose of the intercept is to prevent bodily harm, and;

WHEREAS Section 487.01(4) allows a peace officer to observe by means of a television camera or other similar electronic device, any person who is engaged in activity in circumstances in which the person has a reasonable expectation of privacy, and;

WHEREAS Section 487.01(5) of the *Criminal Code* defines the sections where video interception can be used, namely 183, 183.1, 184.2, 184.3, 185 to 188.2 189(5), 190, 193 and 194 to 196, and;

WHEREAS The *Criminal Code* does not allow for a warrant to be issued to observe by way of television camera or other similar electronic means under section 184.1, and;

WHEREAS This omission of section 184.1 from the sections listed under 487.01(5) places the lives of Peace Officers and other members of the public at risk of bodily harm;

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police urges the Government of Canada through the Federal Minister of Justice and Attorney General to amend section 487.01(5) of the *Criminal Code* to include section 184.1 and the restrictions that apply under sections 184.1(2) and (3).

Resolution #14-2005

INTERCEPTION TO PREVENT BODILY HARM

Commentary:

Section 184.1(1) of the *Criminal Code* allows an agent of the state to intercept a private communication, by means of an electromagnetic, acoustic, mechanical, or other device if

a) either the originator of the private communication or the person intended to receive it has consented,

b) the agent of the state believes on reasonable grounds that there is a risk of bodily harm to the person who consented to the interception; and,

c) the purpose of the interception is to prevent bodily harm.

This section of the *Criminal Code* is referred to as the "Officer Safety" section. It is generally used by undercover operators when they are entering a dangerous situation where they require a greater safety net. There is no requirement for judicial authorization as there is for section 184.2 of the *Criminal Code* which also refers to consent authorizations.

When this section of the *Criminal Code* is used, any evidence obtained through the interception is inadmissible and has to be destroyed unless there is evidence of actual, threatened or attempted bodily harm.

Section 487.01(4) of the *Criminal Code* allows a peace officer to observe by means of a television camera or other similar electronic device, any person who is engaged in activity in circumstances in which the person has a reasonable expectation of privacy.

Section 487.01(5) of the *Criminal Code* defines the sections that video interception can be used. These are 183, 183.1, 184.2, 184.3, 185 to 188.2 189(5), 190, 193 and 194 to 196. As can readily be seen video interception cannot be used under section 184.1, but only pursuant to 184.2, which requires judicial authorization.

On the surface this does not appear to be a concern; a peace officer can consent to the interception of their private communication and a judicial authorization may be obtained. However, it takes time to complete the necessary affidavit to obtain an authorization, meet with a Crown Attorney, deliver the affidavit to a judge and await a reply. In most cases this time period is in excess of 24 hours.

When conducting an undercover operation, and dealing with a Peace Officer's safety or the safety of another person, we cannot operate under a time constraint where we have to wait for an authorization before we can continue. By then, evidence could be lost or a Peace Officer injured.

Technology has changed over the years to the point where video is a standard; it allows us to see what is actually happening in a room so that we do not have to interpret what is being said.

By including section 184.1 in the sections listed under video surveillance we allow a Peace Officer to consent to the interception of their private communication without requiring judicial consent but at the same time placing the same restrictions on when it can be used and on the admissibility of the evidence gathered.

Resolution #15-2005

IDENTIFICATION OF CRIMINALS ACT

Submitted by the Law Amendments Committee

WHEREAS Canadian police, in carrying out their duties to protect life and property and apprehend criminals frequently utilize the powers conferred under the *Identification of Criminals Act* to fingerprint and photograph offenders, and;

WHEREAS securing the identity of offenders through the taking of fingerprints and photographs is vital to the efficient operation of the criminal justice system and the protection of the public, and;

WHEREAS the *Identification of Criminals Act* authorizes the police to compel the taking of fingerprints and photographs from "any person who is in lawful custody charged with or convicted of an indictable offence", and;

WHEREAS a majority of the British Columbia Court of Appeal held in *R. v. Connors*[2], that the meaning of "charged" within the *Identification of Criminals Act* is not broad enough to include the interaction between the arresting officer and the accused prior to Crown counsel approval of charges. As a result, taking fingerprints and photographs of an accused person prior to the swearing of an Information will be a breach of his/her right to be secure against unreasonable search or seizure under s. 8 of the *Charter of Rights and Freedoms*, and;

WHEREAS some Canadian jurisdictions operate under a pre-charge screening regime that requires police submit charge recommendations to crown counsel for approval before a charge is sworn, and;

WHEREAS the court's interpretation of the Act in *Connors* and subsequent lower court rulings mean that police in pre-charge jurisdictions are limited in their ability to properly identify offenders in the manner intended by parliament when the Act was passed;

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police calls upon the Minister of Justice to amend the *Identification of Criminals Act* to provide that police may fingerprint and photograph "any person who is in lawful custody, having been arrested for, charged with, or convicted of an indictable offence".

[2] (1998), 121 C.C.C. (3d) 358

Resolution #15-2005

IDENTIFICATION OF CRIMINALS ACT

Submitted by the Law Amendments Committee

Commentary:

Section 2(1)(a)(i) of the *Identification of Criminals Act* authorizes the taking of fingerprints and photographs from "any person who is in lawful custody charged with or convicted of an indictable offence".

In *R. v. Connors* (1998), 121 C.C.C. (3d) 358, a majority of the British Columbia Court of Appeal held that the meaning of "charged" within the *Identification of Criminals Act* is not broad enough to include the interaction between the arresting officer and the accused prior to Crown counsel approval of charges. As a result, taking fingerprints and photographs of an accused person prior to the swearing of an Information will be a breach of his/her right to be secure against unreasonable search or seizure under s. 8 of the *Charter of Rights and Freedoms*.

In several subsequent cases, the courts in British Columbia adopted the reasoning of the majority in the *Connors* decision and, consequently, there is no question that the practice among many police agencies in British Columbia of taking fingerprints and photographs of a person who has been arrested for an indictable offence and taken to a lockup facility, prior to the swearing of an Information by Crown counsel or the Officer in Charge, is no longer acceptable to the courts.

The other options available to police agencies, short of legislative change, are not workable. The court in the *Connors* case commented favourably on the use of judicial interim release conditions requiring an accused to appear for the taking of fingerprints and photographs after his/her release from custody; however, limited resources in some police jurisdictions make responding effectively to the large volume of people who do not appear for fingerprinting extremely difficult. Some police agencies have developed a practice of seeking an accused person's consent for the taking of fingerprints and photographs pre-charge. If the prisoner does not consent, he or she is held until the Information is sworn, at which time the fingerprints and photographs may be taken lawfully. There are issues arising out of that process, such as the voluntariness of the consent and the propriety of the continued detention of arrested persons who do not consent, solely in order to obtain their fingerprints and photographs. This process has not been tested by the courts and may well be found to be unlawful. None of the options currently available to police adequately address the practical problems of processing numerous prisoners entering a large urban lockup facility in a safe, orderly and efficient manner, and the need to identify those persons properly and promptly, before they enter the facility and interact with other prisoners.

The only effective, long term solution to the problem created by the *Connors* decision, and the decisions following, is to lobby the federal government for an amendment to the *Identification of Criminals Act* which would allow police agencies to fingerprint and photograph “any person who is in lawful custody, having been arrested for, charged with, or convicted of an indictable offence”.