

# CACP Law Amendments Committee

## 2014-2015 Annual Report

President Weighill:

As co-chairs of the Law Amendments Committee (LAC), we are pleased to present to you the annual report of the LAC for the year 2014-2015.

### Legislative Issues

During the past year the LAC continued to focus on the following legislative priorities:

- *Electronic Counter Measures*
- *Amendments to the CC and DNA Identification Act*
- *Unexecuted DNA Orders*
- *Bill C-13*
- *“Bedford Decision” on Prostitution*
- *“Spencer” Decision on warrants for IP/CNI information*

During the coming year the LAC will be focusing on the following legislative priorities:

- *“Spencer” Decision on warrants for IP/CNI information – working on a legislative response*
- *Bill C-13*
- *Encryption concerns – legislative reform to be sought*
- *Amendments to the Criminal Code to expand offences provided for within s.183 (wiretapping)*
- *Amendment to the Canada Post Corporation Act to allow for seizures for more crimes*
- *Amendments to Criminal Records Act to provide for fingerprinting on arrest*
- *Amendments to the Criminal Code to “shut-down” dial-a-doper phone numbers*

Each of the above priorities has a champion assigned to it and resolutions have been forwarded where felt necessary. An updated “responsibilities list” is attached outlining the various responsibilities and tasks assigned to each member of the LAC.

During the year legislation was passed addressing the issue of “jammers, previously raised as a concern by the LAC (LAC Resolution: 2011-02). Possession of jammers is now an offence. However, the legislation did not provide an express exemption for law enforcement. As such, LAC is working directly with Industry Canada to formulate a workable process to seek such exemptions by police services, on reasonable terms. Process has already occurred on this front, and it is expected to be completed by the end of 2015.

The LAC continued to have significant discussions around Bill C-13, monitoring how the courts are interpreting the new sections, particularly around the myriad of new Production Orders. It is anticipated that amendments may need to be sought, or clarification from the Supreme Court on some of the new Orders. LAC will continue its work on this matter throughout the year.

## **Meetings & Partnerships**

The 7<sup>th</sup> in a series of Criminal Justice Symposiums took place in Montreal in January 2015. As in past, the 2015 Symposium included representatives of the: Judiciary, Crown Prosecutors, Defence Counsel, Senior Government officials and Police. The LAC assisted in organizing this event and several members attended to participate. The topic was performance measurements of the criminal justice system (CJS). The discussion centred on what aspects of the CJS should be measured, what goals should be set (and by whom), and how will success be measured. LAC members in attendance, as well as other law enforcement officials contributed greatly to the discussion. It was clear that police services / law enforcement are significantly ahead than other CJS partners on all fronts relating to measuring performance. It is anticipated that another symposium will be held in early 2016, and LAC will once again be heavily involved.

Through the LAC the CACP retains two seats on the Justice Efficiencies and Access to Justice Steering Committee. These positions have been held by former LAC members Murray Stooke and Vince Westwick (recently retired). We are looking to replace our representatives with others from LAC, as this is a very important Committee which is closely linked with the development of criminal law and public policy in Canada.

Additionally, the LAC hosted a number of partners, or developed new ones, including:

- The Federal Director of Public Prosecutions and the British-Columbia Assistant Deputy Attorney General (criminal prosecutions) attended at our Victoria meeting to discuss the aftermath of the *Spencer* decision, and this discussion continued in Calgary with the LAES and the DOJ (Karen Audcent);
- We have developed a fruitful relationship with Public Safety Canada and have the benefit of legislative updates by a senior representative at our committee meetings;
- We have teamed with the Cybercrime committee on the question of encryption;
- In Calgary the executive from the Canadian Centre for Child Protection attended and provided a presentation on their work. A subsequent meeting in Winnipeg by Kevin Brosseau and Greg Preston with the Centre occurred to work on areas of mutual interest, particularly lawful access;
- We have developed a working relationship with Industry Canada on jammers, and
- We have sent a representative to a new FPT WG on early and forced marriage.

## **CACP Supreme Court of Canada Intervention Program**

The CACP continues to intervene in cases before the Supreme Court of Canada. The purpose of such intervention is to provide to the Court a police perspective and, where appropriate, provide submissions on the impact that might flow from a change in the law. The views of the CACP in this regard have been welcomed.

The LAC coordinated an intervention on behalf of the CACP before the Supreme Court of Canada in:

- *R. v. Fearon*, SCC File 35298 was supported by the Vancouver Police Department and dealt with search incident to arrest of electronic devices (cell phones). The decision (2014 SCC 77) was released December 11, 2014, and was favourable to police operations, recognizing a modified search incident to lawful arrest of electronic devices.

The LAC is coordinating an intervention application on behalf of the CACP before the Supreme Court of Canada in:

- *R. v. Saeed*, SCC File 36328 is being supported by the Edmonton Police Service and deals with search incident to lawful arrest of complainant DNA on the body of a suspect. The decision could have broader implications on the doctrine of search incident to lawful arrest.

### **Other 2014-2015 Work**

- LAC review and / or development, and presentation of the 2015 resolutions to the CACP
- Ongoing work on the ticketing option for marijuana and potentially other offences
- Liaison role in the *Spencer* aftermath
- Support given to government on C-13
- Advising Tim Smith with regard to media statements on both C-13 and Bedford, as well as other requests by journalists

The LAC also continues to seek opportunities, both formal and informal, to consult with Government to contribute to the development of policy related to law enforcement and especially legislative initiatives.

### **Federal Bills Update**

*See attachment*

### **LAC Meetings Held**

August 2014, Victoria

November 2014, Calgary

April 2015, Halifax

### **LAC Membership**

*See attachment*

Sincerely,

Greg Preston

Francis Brabant