



**Resolutions Adopted
at the
107th Annual Conference**

**August, 2012
Sydney, Nova Scotia**

CANADIAN ASSOCIATION OF CHIEFS OF POLICE
Leading progressive change in policing

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PREVENTION OF WRONGFUL CONVICTIONS

Submitted by the Law Amendments Committee

- WHEREAS** it is recognized that any wrongful conviction of an innocent person in Canada is a miscarriage of justice and a fundamental failure of the criminal justice system, and;
- WHEREAS** the police in Canada recognize their responsibilities in providing strong leadership to combat instances of wrongful convictions and to support policing partners within the criminal justice system in a coordinated effort to prevent future instances of miscarriages of justice, and;
- WHEREAS** in 2002, in response to a number of reports of wrongful convictions across Canada the Federal, Provincial and Territorial Heads of Prosecution Committee established a Working Group, which included trial and appellate prosecutors and also benefited from extensive representative participation in its work by members of the CACP Law Amendments Committee, to identify the root causes of wrongful convictions and to provide recommendations on the Prevention of Miscarriages of Justice, and;
- WHEREAS** in September 2004 the Working Group presented a comprehensive report to the FPT Heads of Prosecution which identified several key factors that have contributed to past instances of wrongful convictions. The report specifies how these factors have affected the proper administration of justice in Canada and provides recommendations to combat these issues and to avoid wrongful convictions, and;
- WHEREAS** the Report on the Prevention of Miscarriages of Justice was released to the public by Federal, Provincial and Territorial Ministers Responsible for Justice in January 2005 and received widespread approval from both the policing and prosecution communities in Canada for its value in providing significant guidance to prevent wrongful convictions, including endorsement in a resolution unanimously passed by the CACP in 2006, and;
- WHEREAS** the FPT Heads of Prosecution Working Group in 2011 completed an extensive update to the 2004 report entitled *The Path to Justice: Preventing Wrongful Convictions*, which was released to the public by Federal, Provincial and Territorial Ministers Responsible for Justice in September 2011 and which describes the progress made on the 2004 recommendations and makes several new recommendations of importance to the policing community.

THEREFORE BE IT RESOLVED that the Canadian Association of the Chiefs of Police recommends that the new report, *The Path to Justice: Preventing Wrongful Convictions*, be adopted by all CACP member police agencies in Canada and that the recommendations specific to law enforcement be endorsed and implemented, and;

BE IT FURTHER RESOLVED that the Canadian Association of Chiefs of Police recommends that all police agencies conduct an examination of relevant policies to ensure that current procedures and practices are consistent, where applicable, with the recommendations in the 2011 update report, *The Path to Justice: Preventing Wrongful Convictions*.

PREVENTION OF WRONGFUL CONVICTIONS

Commentary:

The specter of the wrongful conviction of an innocent person erodes the fundamental trust that the public values in the criminal justice system. Although Canada has traditionally enjoyed a high level of confidence in the proper administration of criminal justice, it has not been immune to specific instances of miscarriages of justice.

There have been public inquiries into the aftermath of wrongful convictions across the country, including the *Royal Commission on the Donald Marshall Jr. Prosecution* (Nova Scotia: 1989); *The Commission on Proceedings Involving Guy Paul Morin* (Toronto, Ontario: 1998); *The Inquiry Regarding Thomas Sophonow* (Winnipeg, Manitoba: 2001); the *Report of the Commission of Inquiry into Certain Aspects of the Trial and Conviction of James Driskell* (Winnipeg, Manitoba: 2007); the *Report of the Commission of Inquiry into the Wrongful Conviction of David Milgaard* (Saskatoon, Saskatchewan: 2008); and several others. These inquiries have all provided great insight into the root causes that contribute to eventual miscarriages of justice. In isolation, any one instance of the wrongful conviction of an innocent person would spark the need for correction and redress. However, where a number of such instances are reviewed and common factors found, it is important to globally address these factors and learn from the past.

The policing community in Canada is recognized as a leading partner in the criminal justice system. In conjunction with the prosecution, the police carry the burden of responsibility for ensuring the proper credibility of the case for the Crown. The police recognize public expectations that their investigations meet accepted standards and the police strive to keep current with progressive changes in that regard.

In furtherance of this continual learning process, the policing community recognized the important recommendations put forth in the FPT Heads of Prosecution Report on the Prevention of Miscarriages of Justice in 2004, and the CACP formally endorsed these recommendations in unanimously passing a resolution in 2006 recommending they be adopted by all CACP member agencies. These recommendations were expected to provide a strong foundation with which the policing community is able to use to combat and avoid further instances of miscarriages of justice.

In fact, the Working Group of the FPT Heads of Prosecution Committee, in 2011, produced an “update” report entitled *Preventing Wrongful Convictions: The Path to Justice*, and this report shows that considerable progress has been made by police and Crown in addressing the causes of wrongful conviction.

However, there is further work to be done, and the new report points out the importance of maintaining constant vigilance to ensure progress made so far is maintained, and that work continues to be made in improving police practices to reduce the possibility of a wrongful conviction.

In its role as providing leadership to the policing community, the Canadian Association of Chiefs of Police have a responsibility to promote the prevention of wrongful convictions. The adoption of *Preventing Wrongful Convictions: The Path to Justice* is an important step in the fulfillment of this responsibility.

The Canadian Association of Chiefs of Police recommends that all police agencies examine the 2011 report to ensure their current procedures and practices are consistent, where applicable, with the recommendations from 2005 (which are reviewed in the update report), and with the additional recommendations made in the 2011 report (available in English and French at <http://www.ppsc-sppc.gc.ca/eng/pub/ptj-spj/index.html> and <http://www.ppsc-sppc.gc.ca/fra/pub/spj-ptj/index.html>).

**INTRODUCTION OF LEGISLATIVE MEASURES INTENDED TO
COMPLETELY BLOCK THE AIRWAVES OF STOLEN
CELLULAR TELEPHONES**

Submitted by the Law Amendments Committee

WHEREAS the theft of cellular telephones constitutes a constantly growing problem in Canada, and;

WHEREAS this type of crime is a source of gratuitous violence and of severe psychological and physical consequences for victims, and;

WHEREAS violence perpetrated on victims has increased by 71% (142 thefts in 2010 vs 243 in 2011) in downtown Montreal alone. In Vancouver, there were 195 cell phone robberies last year (2011), a 37% increase from 2010, and in all cases a form of violence was used in the commission of the crime, and;

WHEREAS legislative measures have been enacted by other jurisdictions, such as France and the USA, to completely block the airwaves of stolen cellular telephones, and;

WHEREAS the Canadian Radio-television and Telecommunications Commission (CRTC) was considering holding consultations on portable telephones, which would allow the various stakeholders to be heard on how existing regulations should be amended.

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police press the federal government to introduce a legislative measure:

requiring that the airwaves of stolen cellular telephones be completely blocked and requiring that information regarding stolen cellular phones be gathered in a shared database, thus rendering reactivation impossible by any cellular telephone company.

INTRODUCTION OF LEGISLATIVE MEASURES INTENDED TO COMPLETELY BLOCK THE AIRWAVES OF STOLEN CELLULAR TELEPHONES

Submitted by the Law Amendments Committee

Commentary:

While the theft of cellular telephones may seem trivial at first glance, the consequences of this type of crime on victims far exceed the simple material loss they encounter. These are not simple thefts, but rather robberies involving violence and having severe impacts on victims.

The theft of cellular telephones on the street and on public transit systems constitutes a growing phenomenon across Canada. All Canadian police forces are conscious of this new form of crime, which can open the door to the marginalisation and criminal involvement of young people who commonly commit these crimes and, ultimately to their joining a street gang.

A number of prevention programs intended for the users of portable equipment have been developed to counteract the negative consequences of this phenomenon. Despite repeated prevention messages and multiple enforcement actions, the violence perpetrated on victims has increased drastically in the last year alone.

The approach recommended for cellular telephone companies to reduce this crime would be to completely block the airwaves of stolen cellular telephones, by way of a sharing of International Mobile Equipment Identity or IMEI information (IP address) of stolen phones between telephone service providers.

Totally blocking the airwaves would make it impossible to reactivate these telephones, rendering them useless, hence of no interest for thieves.

Currently, all a thief needs to do is to go to an electronic device retailer to reactivate a telephone and resell it via a parallel market. Since cellular telephone companies do not share IMEI information, a thief can easily reactivate a stolen telephone by turning to another mobile telephone service provider.

NATIONAL CYBERCRIME STRATEGY

Submitted by the E-Crime Committee

- WHEREAS** the problem of Cybercrime (i.e. criminal activity committed using a computer or targeting a computer) is causing significant concern in Canada, and;
- WHEREAS** the Canadian federal government, in *Bill C-30, 1st Session, 41st Parliament, 60-61 Elizabeth II, 2011-2012* is planning to ratify the Council of Europe's Cybercrime Convention (aka Budapest Convention), and;
- WHEREAS** Cybercrime has emerged as persistent criminal activity in Canada, causing severe harm to the confidence of Canadians in their public safety, the resilience of the critical infrastructure systems they depend on and the integrity of their online identities, and;
- WHEREAS** Cybercrime erodes consumer confidence in the marketplace, directs harm at legitimate business, endangers consumer privacy and impacts the growth of our digital economy, and;
- WHEREAS** the ability of government and law enforcement officials to prevent, disrupt, or respond decisively to the evolving threat of cybercrime, is considered one of the most challenging priorities facing the policing of our nation today, and;
- WHEREAS** a strategic approach to cybercrime will compliment the work already undertaken via Resolution #09-2006 for a Mass Marketing Fraud Strategy, and;
- WHEREAS** there is a need for a coordinated and collaborative national strategy to disrupt, prevent and reduce the harm resulting from cybercrime and to apprehend, and prosecute, Canadian-based operators.

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police calls upon the Government of Canada, together with its provincial and territorial partners through the federal-provincial, territorial process, law enforcement, the private sector and other partners to:

Develop a National Cybercrime Strategy to disrupt and neutralize Canadian-based cybercrime, through means centered around:

- The development of interagency capacity for increased coordination and collaboration;
- The identification of interprovincial and international operational plans to increase the effectiveness of law enforcement initiatives;
- A national harmonized data collection point for Cybercrime complaints/incidents. This could include the existing Canadian Anti-fraud Centre (CAFC) as a strategic partner in this endeavor.

NATIONAL CYBERCRIME STRATEGY

Submitted by the E-Crime Committee

Commentary:

Internet commerce and a complex array of computing devices have become essential to the way Canadians live and conduct business. Private and public sectors, critical infrastructure operators and the digital economy, in some way, now depend on cyber systems 24/7.

Unfortunately, crime goes hand-in-hand with this dependence and evidence of the harm caused is seen daily in media reports. Criminals, activists, hacktivists and Organized Crime, now use computers to commit a multitude of technological crimes, (e.g. service disruption, data or identity theft, hacking, intercept of communications, financial fraud, drug dealing, terrorist planning and more). Some of these incidents have resulted in arrests both domestically and internationally. These cyber threats quickly and easily target individuals or groups on a global scale.

In line with proposed new legislation, Canada's Cyber Security Strategy and the Council of Europe's Convention on Cybercrime, Canada must now articulate a comprehensive National Cybercrime Strategy in order to detect and disrupt this new wave of crime. The public's confidence in policing, critical infrastructure protection and public safety is paramount.

This strategic approach requires priority attention and a committed alliance of Canadian law enforcement agencies. Canada will need to look at maximizing the efficiencies of existing resources in order to ensure a more effective response in the continued effort to combat cyber crime both domestically and internationally. As technology evolves, so too must law enforcement's capabilities, training, labs and tools.

Adopting a collaborative approach Law Enforcement Agencies across Canada will deploy this strategy to effectively disrupt Cybercrime in their respective jurisdiction, and enhance Canada's reputation as a safe and secure nation within the global community.

**INTRODUCE LEGISLATION TO CREATE A MISSING PERSONS
AND UNIDENTIFIED HUMAN REMAINS DNA INDEX**

Submitted by Edmonton Police Service

WHEREAS DNA Analysis is an invaluable tool in the investigation of Unidentified Human Remains, and;

WHEREAS the police are responsible for the investigation of missing persons, while provincial coroners are responsible for the identification of unidentified human remains, and;

WHEREAS the DNA Identification Act does not allow for the storage of missing persons, familial, or unidentified human remains DNA samples in the Crime Scenes Index, and;

WHEREAS there continues to be a gap in the process of comparing unidentified human remains to missing persons across the country.

THEREFORE BE IT RESOLVED that the Canadian Association of Chiefs of Police urges the Federal Government of Canada to move forward with the creation of a National Missing Persons and Unidentified Human Remains DNA Index that would:

- Provide for the collection and storage of DNA data for missing persons, voluntary familial, and unidentified human remains.
- Proactively compare data within the index to identify linkages.

**INTRODUCE LEGISLATION TO CREATE A MISSING PERSONS
AND UNIDENTIFIED HUMAN REMAINS DNA INDEX**

Submitted by Edmonton Police Service

Commentary:

Canadian police agencies are responsible for investigating missing person cases. People go missing for numerous reasons such as foul play, accident, or intentional. Intentional cases can include suicide, mental illness, or missing by choice. The vast majority of missing person investigations are concluded relatively quickly, however, RCMP estimate an average increase of around 270 new long term missing persons each year.¹

Provincial coroners have jurisdiction over, and are responsible for cases involving unidentified human remains. In some cases, the human remains are the victim of crimes, but are more often deceased due to natural causes, suicide, or accident. The remains can range from full bodies, to small bones or tissue. In some cases, DNA may be the significant factor in identifying the remains. The unidentified human remains might be the subject of a missing person investigation in another jurisdiction, province, or country.

DNA is universally accepted as a forensic tool for identifying individuals. The DNA Identification Act does not allow for the storage of missing persons or unidentified human remains DNA samples in the Crime Scenes Index. There is currently no consistent way to utilize DNA for comparing unidentified human remain cases to missing person cases in Canada. Mostly, investigative steps involving DNA comparisons are happening on an ad hoc basis, and vary from province to province. British Columbia for example has created a Missing Persons DNA Index, while most other provinces and territories have not.

Current law enforcement practices with respect to collecting DNA in missing person cases vary from agency to agency. A sample of the missing person's DNA can be collected in the form of personal items (e.g. from a toothbrush), or if that is not possible, familial DNA (from blood relatives) can be voluntarily provided. DNA samples are stored in the hopes that in future they can be compared against unidentified human remains.

The creation of a Missing Persons & Unidentified Human Remains DNA Index would enable police to use existing technology to compare missing persons with unidentified human remains across the country, and potentially, internationally.

¹ DNA Missing Persons Index (MPI) A Public Consultation Paper 2005 Public Safety and Emergency Preparedness Canada.¹

ADDRESSING THE ILLICIT USE OF PHARMACEUTICALS

Submitted by the Drug Abuse Committee

- WHEREAS** the Canadian Association of Chiefs of Police, in Resolution #08-2004, called upon the Federal, Provincial and Territorial Ministers of Health to prioritize the implementation of safeguards, in consultation with Canadian Policing and Pharmaceutical representatives, to prevent the further diversion of prescription drugs to the illicit drug trade.
- WHEREAS** the illicit use and/or misuse of pharmaceuticals, in particular narcotic opioids, has become an issue of increasing concern with impacts on public safety and community well-being, and;
- WHEREAS** trends indicate rising rates of recreational misuse of prescription drugs by youth, the majority of whom obtain these drugs from family medicine cabinets and from friends, and;
- WHEREAS** police in Canada are dealing with an increase in pharmaceutical-related crime including pharmacy robberies, prescription drug diversion and trafficking, and drug-impaired driving, and;
- WHEREAS** Canadian law enforcement were brought together to discuss this issue in June 2011 at Public Safety Canada's "Illicit Use of Pharmaceuticals" workshop in Vancouver, BC, and;
- WHEREAS** there remains a lack of clarity regarding police authorities in relation to prescription drugs, as well as a lack of collaboration and communication with health authorities in addressing prescription drug misuse, and;
- WHEREAS** the Canadian Association of Chiefs of Police is a member in the development of a National Framework on Prescription Drug Misuse being led by the Canadian Centre on Substance Abuse, the Nova Scotia Department of Health and Wellness and the Alberta Coalition on Prescription Drug Misuse, with the participation of federal and provincial departments and agencies, regulatory bodies and non-governmental stakeholders.
- THEREFORE BE IT RESOLVED** that the Canadian Association of Chiefs of Police endorses the need for a National Prescription Drug Misuse Strategy and the importance of enforcement specific actions as part of that work, and;

BE IT FURTHER RESOLVED that the CACP endorses an annual National Prescription Drug Drop-Off Day, to be held in conjunction with National Police Week, to encourage Canadians to drop-off their unused prescription medication to local police and community partners at specified locations, and;

BE IT FURTHER RESOLVED that the CACP commit itself to working with health sector partners, including pharmacists and physicians, to develop formal and informal channels of communication on the issue of prescription drug misuse, undertake joint efforts to increase awareness, and to develop and disseminate tools and training aimed at reducing prescription drug misuse and related criminality, and;

BE IT FURTHER RESOLVED that the CACP urges all members to undertake data collection on pharmaceutical-related incidents, as well as participate in monitoring and surveillance efforts in partnership with health authorities, in order to track trends in illicit pharmaceutical use.

ADDRESSING THE ILLICIT USE OF PHARMACEUTICALS

Submitted by the Drug Abuse Committee

Commentary:

Prescription drug misuse has become a significant and growing public health and safety concern across Canada and the United States. Some jurisdictions have been particularly impacted. In 2008, there were 350 opioid-related deaths in Ontario – roughly equal to motor vehicle fatalities in the province, and in 2010 the Ontario College of Physicians and Surgeons issued a report calling the inappropriate prescribing, dispensing and misuse of opioids a “public health crisis.”¹

Media reports have also focused on some First Nations communities in Northern Ontario which report exceptionally high rates of prescription opioid addiction and abuse.

Globally, Canada is among the highest consumers per capita of pharmaceutical opioids (e.g. oxycodone). In 2010, one in five (20.6%) Canadians aged 15 years and older reported the use of opioid pain relievers in the past 12 months, with 1.1% reporting this use was to get high. Recreational use seems to be most prevalent among youth - according to the Centre for Addiction and Mental Health, in 2009, 20% of students in grades 7-12 reported using at least one prescription drug without a doctor’s prescription.

From an enforcement perspective, the criminality associated with prescription drug misuse includes fraudulent use of the health care system, pharmacy robberies and trafficking; meanwhile, these ‘licit’ drugs challenge traditional supply reduction approaches.

In June 2011, Public Safety Canada hosted a workshop on the “Illicit Use of Pharmaceuticals” in Vancouver. The Workshop brought together 100 participants from across Canada, representing municipal, provincial/territorial and federal law enforcement as well as the health sector including pain management experts, public health agencies, and organizations representing physicians, pharmacists and dentists. The purpose was to promote multi-sectoral dialogue, to share information and local responses related the misuse of pharmaceuticals, and to identify areas for further action.

¹ College of Physicians and Surgeons' (CPSO) report "Avoiding Abuse, Achieving Balance: Tackling the Opioid Public Health Crisis,"

The Canadian Centre on Substance Abuse (CCSA) recently announced the launch of a National Prescription Drug Misuse Strategy which is being co-chaired by CCSA along with the Nova Scotia Department of Health and Wellness and the Alberta Coalition on Prescription Drug Misuse. CACP and Public Safety are the identified leads for the enforcement stream of that work. The Strategy will be finalized by the end of this calendar year and will stipulates specific short, medium and long term actions that can be readily put in place to prevent and reduce prescription drug misuse including those referenced in this resolution.

**DRUG EVALUATION & CLASSIFICATION PROGRAM
NATIONAL OVERSIGHT BODY**

Submitted by the Traffic Committee

WHEREAS impaired driving is responsible for over 1000 deaths per year in Canada², and;

WHEREAS drug impaired driving is becoming a serious road safety problem in Canada in terms of its prevalence in fatal and injury collisions; 37 % of tested fatally injured drivers had been using drugs other than alcohol³ and;

WHEREAS noted in resolution 10-2008 that the Drug Evaluation Classification (DEC) program as per Bill C2 is based on the IACP oversight and training standards, and;

WHEREAS as noted in Resolution 10-2008, that the RCMP currently has stewardship of the National Drug Recognition and Evaluation (DRE) program, and;

WHEREAS the Canadian Association of Chiefs of Police (CACP) is concerned with the future sustainability of the Drug Evaluation and Classification program in relation to national accreditation, training standards and the evolution of technology on a national level.

WHEREAS there exists a national Alcohol Test Committee (ATC) to review approved instruments in relation to alcohol impaired provisions of the Criminal Code of Canada.

BE IT RESOLVED that the CACP calls on the Federal Government to establish and maintain a National Oversight Body for the National Drug Evaluation and Classification program, and;

BE IT FURTHER RESOLVED that this National Oversight Body would be responsible for oversight of:

- New scientific technology
- Canadian training
- A system of Canadian Certification and Designation
- Oversight of National data base for evaluations similar to the NHTSA data base in the United States of America
- Issues identified that may impact the DEC program on a national level.

² http://www.madd.ca/madd2/en/impaired_driving/impaired_driving_statistics.html

³ CCMTA Drugs and Driving Framework, May 25, 2012

DRUG EVALUATION & CLASSIFICATION PROGRAM NATIONAL OVERSIGHT BODY

Commentary:

Currently no Canadian governing body exists for the oversight of the Drug Evaluation and Classification Program in Canada.

The Drug Evaluation & Classification (DEC) Program had a project working group that was formed to plan and conduct the various stages of an evaluation that addresses both the quality of implementation of DRE in Canada and its effectiveness in the longer term. They included the Canadian Center for Substance Abuse, Public Safety Canada, Transport Canada and the Royal Canadian Mounted Police.

The Drug Evaluation and Classification Program was governed by a Steering Committee composed of representative stakeholders at the National/Federal, provincial and municipal levels. They include Canadian Association of Chiefs of Police, Canadian Council of Motor Transport Administrators, Transport Canada, Health Canada, Public Safety Canada, Canadian Society of Forensic Science, Canadian Council of Senior Officials and the Royal Canadian Mounted Police.

This Committee is responsible for providing general direction and advice regarding the implementation of the Drug Evaluation & Classification (DEC) Program in Canada and more specifically will include:

- review training needs and contribute to plans for building national capacity in the detection and successful prosecution of drug impaired drivers;
- contribute to the development of drug impaired driving enforcement standards to meet Canadian needs, as may be required;
- make recommendations to the DEC Program manager on legislative and policy changes as may be required to address emerging drug impaired driving issues;
- promote the implementation of DEC Program training in Canada;
- review progress made on the implementation of the DEC Program and provide guidance to the Working Group on future program direction;
- provide comment to the DEC Program manager on the evaluation of DEC Program deliverables.

The Drug Evaluation and Classification Program currently has approximately 101 agencies in Canada with at least one member trained as a DRE. Some of the larger partners include: the Royal Canadian Mounted Police, Ontario Provincial Police, York Regional Police, Toronto Police Service, Vancouver Police Department, Victoria Police Department, Edmonton Police Service, Calgary Police Service, Regina Police Service, Winnipeg Police Service, Saint John Police Force, Fredericton Police Force, Halifax Regional Police, Charlottetown Police Service and the Royal Newfoundland Constabulary.