

**2009 ANNUAL REPORT**

**INVASION OF PRIVACY**

**PART VI of the *CRIMINAL CODE OF CANADA***

This report covers the period January 1, 2009 to December 31, 2009, inclusive.

**Section 487.01 C.C.**

	<u>2007</u>	<u>2008</u>	<u>2009</u>
(a) The number of video warrants obtained	-	-	22

**Section 195(2) C.C**

	<u>2007</u>	<u>2008</u>	<u>2009</u>
(a) The number of applications made for authorizations under:			
(i) s.185	39	29	35
(ii) s.188	0	1	3
(iii) s.184	-	-	7
(b) The number of applications made for renewals of authorization under:			
(i) s.185	0	0	0
(ii) s.188 (renewals are not granted under this section)	n/a	0	0
(c) The number of applications granted:			
(i) s.185	39	29	35
(ii) Original authorizations – s.188	0	1	3
(iii) Renewals of authorizations – s.185	0	0	0
(iv) Original Authorization s.184	0	0	7
The number of applications refused under:			
(i) s.185	0	0	0
(ii) Original authorizations – s.188	0	0	0
The number of applications granted, which were granted with conditions under:			
(i) s.185	0	0	0
(ii) s.188	0	0	0
(ii) s.184	0	0	0
(d) The number of persons identified in an authorization against whom proceedings were commenced at the instance of the Attorney General of British Columbia in respect of:			
(i) an offence specified in the authorization. (Incomplete number, some investigations are still ongoing as of December 31, 2010)	u/k	u/k	u/k

**Section 195(2) C.C**

	<u>2007</u>	<u>2008</u>	<u>2009</u>
(ii) an offence other than an offence specified. (Incomplete number, some investigations are still ongoing as of December 31, 2010)	0	0	0
(iii) an offence in respect of which an authorization may not be given. (Incomplete number, some investigations are still ongoing as of December 31, 2010)	u/k	u/k	u/k
(e) The number of persons not identified in an authorization against whom proceedings were commenced at the instance of the Attorney General of British Columbia in respect of:			
(i) an offence specified in such an authorization. (Incomplete number, some investigations are still ongoing as of December 31, 2010)	u/k	u/k	u/k
(ii) an offence other than an offence specified in such an authorization but in respect of " which an authorization may be given. (Incomplete number, some investigations are still ongoing as of December 31, 2010)	u/k	u/k	u/k
(iii) an offence other than an offence specified in such authorization for which no such authorization may be given. (Incomplete number, some investigations are still ongoing as of December 31, 2010)	u/k	u/k	u/k
and whose commission or alleged commission of the offence became known to a peace officer as a result of an interception of a private communication under an authorization.			
(f) The average period for which authorizations were given and for which renewals were granted:			
(i) s.185	60 days	60 days	60 days
(ii) s.188	0	36 hours	36 hours
(g) The number of authorizations by virtue of one or more renewals were valid:			
(i) for more than 60 days	0	0	0
(ii) for more than 90 days	0	0	0
(iii) for more than 180 days	0	0	0

**Section 195(2) C.C**

	<u>2007</u>	<u>2008</u>	<u>2009</u>
(h) The number of notifications given pursuant to Section 196 (for 2009: 380 delivered, 89 undelivered).	438	174	469

- (i) The offences in respect of which authorizations were given, specifying the number of authorizations given in respect of each such offence:

*Criminal Code of Canada*

<u>Type of Offence</u>	<u>Section</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Using Explosives	81	0	2	6
Weapons Trafficking	99	0	0	4
Possession for Purpose of Weapons Trafficking	100	0	0	2
Obstructing Justice	139	0	0	2
Public Mischief	140	0	0	2
Murder	235	35	18	12
Attempt Murder	239	4	11	2
Accessory After the Fact (Murder)	240	24	5	7
Criminal Harassment	264	0	1	1
Assault with a Weapon	267	6	2	2
Aggravated Assault	268	0	0	1
Sex Assault	272	0	0	4
Kidnapping	279	2	3	8
Robbery	344	4	0	6
Extortion	346	1	0	4
Breaking & Entering	348	5	2	6
Possession of Property Obtained by Crime	354	3	0	0
Mischief (Property)	430	0	0	2
Arson / Disregard for Human Life	433	2	0	1
Arson / Damage to Property	434	2	0	0
Attempts, Accessories	463	4	0	0
Counselling Murder	464	0	0	2
Conspiracy	465	24	15	32
Participation in Activities of Criminal organization	467	0	0	2
Laundering Proceeds of Crime	462		2	0
Abduction	250 (83)		3	0
2008 Conspiracy to use Explosives	423		2	0
Trafficking in Controlled Substances	5(1)CDSA		2	1
Possess Controlled Substances	5(2)CDSA		2	1

(j) A description of all classes and places specified in authorizations and the number of authorizations in which each such class of place was specified:

	<u>2007</u>	<u>2008</u>	<u>2009</u>
(i) Residence: Permanent temporary	28	18	18
Temporary	9	6	9
(ii) Commercial premises	13	14	4
(iii) Vehicles	14	15	9
(iv) Other	13	7	13

(k) A general description of the methods of interception involved in each interception under an authorization:

	<u>2007</u>	<u>2008</u>	<u>2009</u>
(i) Telecommunications	331	74	205
(ii) Microphone	135	46	91
(iii) Other	168	72	147

(l) The number of persons arrested whose identity became known to a peace officer as a result of an interception under an authorization.  
(Incomplete number, some investigations are still ongoing as of December 31, 2010)

	<u>2007</u>	<u>2008</u>	<u>2009</u>
	u/k	u/k	u/k

(m) The number of criminal proceedings commenced at the instance of the Attorney General of British Columbia in which private communications obtained by interception under an authorization were adduced in evidence and the number of such proceedings that resulted in a conviction:

	<u>2007</u>	<u>2008</u>	<u>2009</u>
(i) Criminal Proceedings adduced in evidence. (Incomplete number, most cases are still before the courts as of December 31, 2010)	u/k	u/k	u/k
(ii) Resultant Convictions (Incomplete number, most cases are still before the courts as of December 31, 2010)	u/k	u/k	u/k

(n) The number of criminal investigations in which information obtained as a result of the interception of a private communication under an authorization was used although the private communication was not adduced in evidence in Criminal proceedings commenced at the instance of the Attorney General of British Columbia as a result of the investigation:

	<u>2007</u>	<u>2008</u>	<u>2009</u>
(i) Intercepted information used but not adduced. (Incomplete number, most cases are still before the courts as of December 31, 2010)	u/k	u/k	u/k
(ii) Resultant convictions (Incomplete number, most cases are still before the courts as of December 31, 2010)	u/k	u/k	u/k

### Section 195(3) C.C.

#### Other information

(a) The number of prosecutions commenced against officers or Servants of Her Majesty in right of Canada or members of the Canadian Forces for offences under Section 184 or Section 193:

	<u>2007</u>	<u>2008</u>	<u>2009</u>
(i) Number of Prosecutions	0	0	0

#### General Assessment

Interception of private communications pursuant to the provisions of Part VI of the *Criminal Code of Canada* is still proving to be an essential element in combating serious crime. Often, the police obtain information via wiretapping that they could not have received by any other means. New information may also trigger additional investigations. Due to the serious nature of invasions of privacy, there are statutory safeguards to ensure that abuses do not take place. Generally, the interception of private communications must only be done with the authorization of a Justice of the Supreme Court. When the police require an authorization, a designated Crown Counsel reviews the application to ensure it complies with the appropriate laws. (Designated senior police officers may in cases of emergencies directly apply to the Courts for an authorization.) The application is then brought before a Justice or Judge, who will grant the authorization if it is in the best interests of the administration of justice and the application meets other criteria, set out in Part VI of the *Criminal Code of Canada*. The authorizations are valid for a specific amount of time, and must be renewed by a Justice if they are required for a longer period of time. The application process is complex and time-consuming, but is necessary to ensure that an individual's right to privacy is not breached without cause or appropriate authorization.

Appendix A

Section 195(1)(a) requires that the agents who made applications for purposes of s.185 and s. 487.01 of the *Code* be named in the Annual Report. They are as follows for 2009:

Wendy Dawson  
Craig Dykes  
Lorne Fisher  
Melissa Gillespie  
William Hilderman  
Peter Hogg  
Oleh Kuzma  
Teresa Mitchell-Banks  
Marion Paruk  
Terence A. Schultes  
Colleen Smith  
Norman Yates

Appendix B

Section 195(1)(a) requires that the peace officers who made application under urgent circumstances for an authorization pursuant to s. 188 of the *Code*, be named in the Annual Report. They are as follows for 2009:

Thomas McCluskie, Vancouver Police Department  
Brodie Haupt, Vancouver Police Department  
Ranjit Hayre, Royal Canadian Mounted Police