Ontario

2011
Annual Report
On the Use of Electronic Surveillance

As Required Under Section 195
of the *Criminal Code of Canada*

Prepared by the
Ministry of the Attorney General of Ontario

TABLE OF CONTENTS

I. INTRODUCTION 1

II. SECTION 195 OF THE *CRIMINAL CODE* 2

III. OVERVIEW TO PART VI OF THE *CRIMINAL CODE* 6

IV. VIDEO-WARRANTS: SECTION 487.01 of the *CRIMINAL CODE* 10

V. STATISTICS 11

VI. ASSESSMENT OF THE UTILITY OF INTERCEPTING PRIVATE COMMUNICATIONS 18

I. Introduction

This Report, prepared pursuant to the provisions of s. 195 of the *Criminal Code of Canada* ("*Code*"), sets out statistical data in respect of the following three forms of judicially authorized interceptions:

(a) authorizations issued by a judge of the Ontario Superior Court of Justice pursuant to s. 186 of the *Code* for the interception of private communications;

(b) warrants issued by a judge of the Ontario Superior Court of Justice pursuant to s. 487.01(1) of the *Code,* authorizing peace officers to observe by means of a television camera or other similar electronic device any person engaged in activity in circumstances in which the person has a reasonable expectation of privacy;[1] and

(c) authorizations issued by a specially appointed judge of the Superior Court of Justice, upon application of a designated peace officer, pursuant to s. 188 of the *Code*, for the interception of private communications in urgent circumstances.

Bearing in mind the requirements of s. 195 of the *Code,* this Report does not address the frequency of interceptions pursuant to ss. 184.1 (Interception to Prevent Bodily Harm), 184.2 (Interception with Consent), or 184.4 (Interception in Exceptional Circumstances) of the *Code*. In respect to the latter provision, Interception in Exceptional Circumstances, the absence of a reporting (as opposed to notification) requirement has been challenged and found to meet constitutional requirements.[2]

[1] By virtue of sections 487.01(5) and 195 of the *Criminal Code*, reporting requirements only relate to video-warrants that do not involve consenting parties.

[2] *R. v. Tse,* [2012] 1 SCJ 531 at pp. 87 – 90. While s. 184.4 of the *Criminal Code* was found constitutionally infirm in *R. v. Tse,* the s. 8 *Charter* breach arose out of the failure to require that those intercepted be notified of that fact pursuant to s. 196 of the *Criminal Code.* As such, s. 184.4 was declared unconstitutional and the declaration of invalidity was suspended for 12 months to permit Parliament the opportunity to respond with new legislation. At the time of publication of this report, new legislation has yet to be enacted.

Ontario
ANNUAL REPORT ON THE USE OF ELECTRONIC SURVEILLANCE – 2011

II. Section 195 of the *Criminal Code*

For ease of reference, s. 195 of the *Code* is set out in full below.

- **Section 195 of the *Criminal Code of Canada***

Annual report

195. (1) The Minister of Public Safety and Emergency Preparedness shall, as soon as possible after the end of each year, prepare a report relating to

(a) authorizations for which he and agents to be named in the report who were specially designated in writing by him for the purposes of section 185 made application, and

(b) authorizations given under section 188 for which peace officers to be named in the report who were specially designated by him for the purposes of that section made application,

and interceptions made thereunder in the immediately preceding year.

Information respecting authorizations

(2) The report referred to in subsection (1) shall, in relation to authorizations and interceptions made thereunder, set out

(a) the number of applications made for authorizations;

(b) the number of applications made for renewal of authorizations;

(c) the number of applications referred to in paragraphs (a) and (b) that were granted, the number of those applications that were refused and the number of applications referred to in paragraph (a) that were granted subject to terms and conditions;

(d) the number of persons identified in an authorization against whom proceedings were commenced at the instance of the Attorney General of Canada in respect of

(i) an offence specified in the authorization,

(ii) an offence other than an offence specified in the authorization but in respect of which an authorization may be given, and

(iii) an offence in respect of which an authorization may not be given;

(e) the number of persons not identified in an authorization against whom proceedings were commenced at the instance of the Attorney General of Canada in respect of

(i) an offence specified in such an authorization,

(ii) an offence other than an offence specified in such an authorization but in respect of which an authorization may be given, and

(iii) an offence other than an offence specified in such an authorization and for which no such authorization may be given,

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 thereof were granted;

(g) the number of authorizations that, by virtue of one or more renewals thereof, were valid for more than sixty days, for more than one hundred and twenty days, for more than one hundred and eighty days and for more than two hundred and forty days;

(h) the number of notifications given pursuant to section 196;

(i) the offences in respect of which authorizations were given, specifying the number of authorizations given in respect of each of those offences;

(j) a description of all classes of places specified in authorizations and the number of authorizations in which each of those classes of places was specified;

(k) a general description of the methods of interception involved in each interception under an authorization;

(l) the number of persons arrested whose identity became known to a peace officer as a result of an interception under an authorization;

(m) the number of criminal proceedings commenced at the instance of the Attorney General of Canada in which private communications obtained by

interception under an authorization were adduced in evidence and the number of those proceedings that resulted in a conviction; and

(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 Canada as a result of the investigations.

Other information

(3) The report referred to in subsection (1) shall, in addition to the information referred to in subsection (2), set out

(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 193; and

(b) a general assessment of the importance of interception of private communications for the investigation, detection, prevention and prosecution of offences in Canada.

Report to be laid before Parliament

(4) The Minister of Public Safety and Emergency Preparedness shall cause a copy of each report prepared by him under subsection (1) to be laid before Parliament forthwith on completion thereof, or if Parliament is not then sitting, on any of the first fifteen days next thereafter that Parliament is sitting.

Report by Attorneys General

(5) The Attorney General of each province shall, as soon as possible after the end of each year, prepare and publish or otherwise make available to the public a report relating to

(a) authorizations for which he and agents specially designated in writing by him for the purposes of section 185 made application, and

(b) authorizations given under section 188 for which peace officers specially designated by him for the purposes of that section made application,

and interceptions made thereunder in the immediately preceding year setting out, with such modifications as the circumstances require, the information described in subsections (2) and (3).

Note that s. 195(4) does not apply to provincial Attorneys General. Only the federal Minister of Public Safety and Emergency Preparedness shall cause a copy of the annual report to be laid before Parliament. Nonetheless, pursuant to s. 195(5), the Attorney General for each province shall prepare and publish "or otherwise make available to the public" the information required by virtue of s. 195 of the *Code,* with such modifications as required. The Attorney General of Ontario's Report is distributed annually to various locations, people, organizations, and entities. It is also made available upon request:

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Crown Law Office – Criminal
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III. Overview to Part VI of the *Criminal Code*

Part VI of the *Criminal Code*, "Invasion of Privacy", represents an almost entirely self-contained statutory scheme that governs the use by law enforcement of electronic surveillance. It sets out the means by which authorizations for electronic surveillance may be obtained and the circumstances in which this investigative technique may be used without resort to judicial authorization. Among other provisions, Part VI also includes a definitional section,[3] offence provision related to interception,[4] reference to procedural matters, such as the sealing of application materials,[5] notice,[6] and disclosure and disclosure related offence provisions.[7]

As it relates to the actual interception of private communications, barring urgent circumstances (as governed by s. 184.4 of the *Code*) or safety concerns (as governed by s. 184.1 of the *Code*), the police must seek judicial authorization before intercepting private communications. The term "private communication" is defined in s. 183 of the *Criminal Code* as follows:

> "private communication" means any oral communication, or any telecommunication, that is made by an originator who is in Canada or is intended by the originator to be received by a person who is in Canada and that is made under circumstances in which it is reasonable for the originator to expect that it will not be intercepted by any person other than the person intended by the originator to receive it, and includes any radio-based telephone communication that is treated electronically or otherwise for the purpose of preventing intelligible reception by any person other than the person intended by the originator to receive it.

There are three types of applications contained in Part VI of the *Code* that may be brought for judicial authorization. They are sub-categorized below.

- **Interception With the Consent of One of the Parties to the Communication**

The first type of application falls under s. 184.2 of the *Code*. It allows a peace officer to apply to a judge of either the provincial or superior court to authorize the interception of private communications where at least one of the people involved in the communication consents to its interception. An affidavit must be sworn in support of the application and

[3] Section 183 of the *Code*.
[4] Sections 184 and 191 of the *Code*.
[5] Section 187 of the *Code*.
[6] Sections 189 and 196 of the *Code*.
[7] Sections193 and 193.1 of the *Code*.

a number of statutory criteria, as set out in s. 184.2, met. Section 195 does not require the Attorney General to report on these consent authorizations.

- **Applications to Specially Appointed Judges in Urgent Circumstances**

The second type of application falls under s. 188 of the *Code*. It is an application that is brought in urgent circumstances. This type of application to intercept private communications may only be made by a peace officer who is specially designated in writing, by name or otherwise, by the Minister of Public Safety and Emergency Preparedness (in the case of offences that may be instituted by the Government of Canada) or the Attorney General of a province (in the case of offences that may be prosecuted by a provincial Attorney General, typically criminal offences). Moreover, the application must be made to a specially designated judge, appointed from time-to-time by the Chief Justice. In Ontario, the "Chief Justice" is defined under s. 188(4)(a) as the "Chief Justice of the Ontario Court".

In order to obtain a s. 188 authorization, the urgency of the situation must be such that an authorization could not be obtained, with reasonable diligence, pursuant to s. 186 of the *Code*. Nonetheless, s. 188 contemplates that a s. 186 authorization "could" issue, but for the urgency of the situation. This type of authorization may only issue for a period up to thirty-six hours.

Pursuant to s. 195(1)(b), information about these authorizations must be contained in the Annual Report of the respective Attorneys General and Minister of Public Safety and Emergency Preparedness.

- **Applications for Third-Party Authorizations**

The final type of application under Part VI of the *Code* is governed by s. 185. Authorizations granted in response to these applications issue pursuant to s. 186 of the *Code*. Section 185 allows an application to be made, in the case of Ontario, to a judge of the Superior Court of Justice. The application may only be brought by the Attorney General of the province or the Minister of Public Safety and Emergency Preparedness or an agent specially designated in accordance with s. 185(1)(a) or (b) of the *Code*. In Ontario, a number of Crown Counsel are designated in writing by the Attorney General or Deputy Attorney General to bring s. 185 wiretap applications.

Agents may bring an application for an authorization to intercept private communications where the offence under investigation is a s. 183 designated offence. The applicant is determined by who has prosecutorial authority over the s. 183 offence. In Ontario, the Attorney General has prosecutorial authority in relation to all criminal matters and, in the result, most s. 185 applications relating to criminal offences contained in s. 183, are the subject of provincial applications. The Minister of Public Safety and

Emergency Preparedness (or an agent on the Minister's behalf) brings applications in respect of offences over which the Attorney General of Canada has prosecutorial authority. Sometimes applications for authorizations include offences that involve both federal and provincial matters and, thereby, engage the authority of both governments. In these situations, dual applications for a single authorization are brought by agents of both the federal and provincial governments.

An application for an authorization under s. 186 must be accompanied by an affidavit, sworn by a peace officer or public officer. It must depose to a number of factors set out in s. 185(1) (c-h). These factors include, but are not limited to, reference to the facts relied on to justify the belief that an authorization should be granted, the types of communications sought to be intercepted, the names, addresses and occupations of the people whose private communications there are reasonable grounds to believe may assist in the investigation of the offence, the period of time for which the authorization is requested, and whether "investigative necessity" has been met. In respect of this latter requirement, the affiant must depose to the following:

> s. 185(1)(h) - whether other investigative procedures have been tried and have failed or why it appears they are unlikely to succeed or that the urgency of the matter is such that it would be impractical to carry out the investigation of the offence using only other investigative procedures.

Note that pursuant to s. 185(1.1), the investigative necessity requirement need not be met in relation to criminal organization and terrorism offences.

Before granting the application, s. 186 requires that the judge be satisfied of the following:

> 186(1) An authorization under this section may be given if the judge to whom the application is made is satisfied
>
> (a) that it would be in the best interests of the administration of justice to do so; and
>
> (b) that other investigative procedures have been tried and have failed, other investigative procedures are unlikely to succeed or the urgency of the matter is such that it would be impractical to carry out the investigation of the offence using only other investigative procedures.

Like s. 185(1.1), by virtue of s. 186(1.1), investigations into criminal organizations and terrorism offences are exempt from the investigative necessity requirement built into s. 186(1)(b) of the *Code*.

Sections 186(2) and (3) refer to the special circumstances surrounding the interception of private communications that may be the subject of solicitor-client privilege. Section 186(4) sets out a number of statutory requirements as it relates to the contents of the authorization. Importantly, s. 186(4)(e) allows an authorization to be valid for a period up to, but not exceeding, 60 days. Section 186.1 exempts authorizations from the sixty-day rule where the subject of the investigation is a criminal organization or terrorism offence. In these circumstances, an authorization may continue for a period of up to one year in duration.

IV. Video-Warrants: Section 487.01 of the Criminal Code

The jurisdiction for a video-warrant resides in Part XV of the *Criminal Code.* Section 487.01 provides for a "general warrant" to allow a peace officer to "use any device or investigative technique or procedure or do any thing described in the warrant that would, if not authorized, constitute an unreasonable search or seizure in respect of a person or a person's property …".[8] Within the general warrant provision is embedded specific reference to the use of video. For ease of reference, the provision is set out in full below:

> **Section 487.01: Information for General Warrant**
>
> ***Video surveillance***
>
> (4) A warrant issued under subsection (1) that authorizes 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 shall contain such terms and conditions as the judge considers advisable to ensure that the privacy of the person or of any other person is respected as much as possible.
>
> ***Other provisions to apply***
>
> (5) The definition "offence" in section 183 and sections 183.1, 184.2, 184.3 and 185 to 188.2, subsection 189(5), and sections 190, 193 and 194 to 196 apply, with such modifications as the circumstances require, to a warrant referred to in subsection (4) as though references in those provisions to interceptions of private communications were read as references to observations by peace officers by means of television cameras or similar electronic devices of activities in circumstances in which persons had reasonable expectations of privacy.

While the jurisdiction to grant a video-warrant is found in Part XV of the *Code,* by the adoption of significant aspects of Part VI of the *Code,* it operates, for all intents and purposes, as if it were located in Part VI. Significantly, among other provisions, s. 487.01(5) adopts ss. 184.2, 185, 186, 188 and 195. This means that all one-party consent (s. 184.2), third-party (ss. 185-186) and emergency (s. 188) applications for video-warrants are governed by the specific statutory criteria contained within the Part VI provisions. In the result, all video-warrants granted for electronic surveillance, where there is no consenting party, must be reported upon annually, subject to the criteria contained in s. 195 of the *Code.*

[8] Section 487.01(1) of the *Code.*

V. Statistics

From January 1 to December 31, 2011, 43 authorizations and/or video-warrants were issued from the Ontario Superior Court of Justice pursuant to ss. 186, 188, and/or 487.01 of the *Code*.[9] The following table places these 43 authorizations/warrants in the context of previous years:

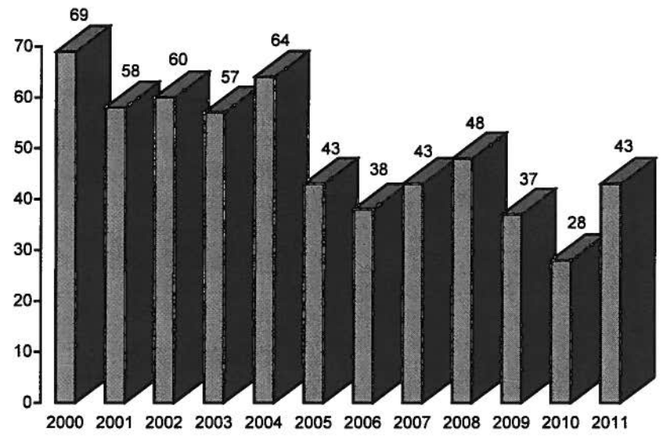
Year	Number of Authorizations Issued
1981	149
1982	171
1983	155
1984	127
1985	132
1986	115
1987	82
1988	51
1989	50
1990	107
1991	03
1992	98
1993	81
1994	51
1995	76
1996	77
1997	73
1998	65
1999	48
2000	69
2001	58
2002	60
2003	57
2004	64
2005	43
2006	38
2007	43
2008	48
2009	37
2010	28
2011	43

From January 1 to December 31, 2011, of these 43 authorizations, there was 1 free-standing video-warrant. There were 7 video-warrants included with an authorization pursuant to s. 186 of the *Code*.

[9] Note that video-warrants are most frequently sought in conjunction with an authorization under s. 186 of the *Code*. Where this occurs, depending on jurisdictional practice, an omnibus order is granted. In Ontario, in addition to granting the authorization to intercept private communications under s. 186 of the *Code* and to surreptitiously record by video under s. 487.01, among other things, omnibus orders often grant authority to install tracking devices (s. 492.1), install, maintain, remove and monitor number recorders (s. 492.2(1)), and seize copies of telephone records (s. 492.2(2)). In this Report, where a video-warrant is included as part of an omnibus order that grants an authorization under s. 186 of the *Code*, it is counted as a single authorization for purposes of the total number of authorizations for the year.

Ontario
ANNUAL REPORT ON THE USE OF
ELECTRONIC SURVEILLANCE – 2011

Number of Authorizations Issued (2000 - 2011)



The 43 authorizations/warrants granted in 2011 relate to 33 separate police investigations. Of the 33 police investigations conducted in 2011, 12 involved more than one authorization/warrant, as set out in the table below:

Number of Authorizations/Warrants obtained *per* investigation	Number of Investigations	Actual Number of Authorizations/Warrants
1	17	17
2	10	20
3	2	6
Total	29	**43**

Often, successive authorizations in respect of the same general matter under investigation are granted on different terms than the original authorization. Such subsequent authorizations typically vary from previous ones as to the named people, the places of interception, the manner in which interceptions are permitted to occur, and the enumerated offences. These changes correspond to the progress of the investigation as new information comes to light and as the focus of the inquiry expands or is narrowed. Where the police seek a subsequent authorization that reflects the changes in the investigation, incorporating, among other things, new parties, locations, terms and conditions, they require a new application under s. 185 and new authorization under s. 186. While s. 186(6)-(7) allows for an application to renew an authorization in the same form, these applications are rarely made, as the required parameters of an authorization will almost inevitably evolve over time.

For the purposes of this Annual Report, where multiple authorizations/warrants have been granted in respect of the same investigation, (even where they are not "renewals" under s. 186(6)-(7)) the relevant statistical data relating to the following areas identified in s. 195(2) has not been "double counted":

s. 195(2)(d): the number of persons identified in an authorization against whom proceedings were commenced

s. 195(2)(e): the number of persons not identified in an authorization against whom proceedings were commenced

s. 195(2)(l): the number of persons arrested whose identity became known to a peace officer as a result of an interception under an authorization.

To understand the following statistical breakdown, it is also important to bear in mind that delay of notification orders may be issued pursuant to s. 196 of the *Code*. Where a delay of notification order is in place, while the existence of an authorization is reported upon for the year it was issued, the number of people notified are only reported upon "as soon as possible" after the delay order expires and notifications are made.

Moreover, where a wiretap project involves more than one authorization and the authorizations bridge two consecutive years, it may be that the existence of an authorization will be reported upon in the year it issues, but other statistics related to that authorization will be reported upon in previous or subsequent Annual Reports. Given the length of time it takes to commence proceedings and bring them to conclusion, the full results of wiretap investigations will rarely be understood within a single calendar year.

Ontario
ANNUAL REPORT ON THE USE OF
ELECTRONIC SURVEILLANCE – 2011

For instance, pursuant to s. 195(2)(m) of the *Code,* there is a need to report upon the number of criminal proceedings commenced at the instance of the of the Attorney General of Ontario in which private communications obtained by interception under an authorization were adduced in evidence and the number of convictions that resulted from such proceedings. It is exceptionally rare that these facts would crystallize in a single year.

The inferences that may be drawn from the statistics must be understood in this light.

s. 195(2) (a)	The number of applications made for authorizations.	43
(b)	The number of applications made for renewal of authorizations. [10]	0
(c)	(i) The number of applications referred to in paragraphs (a) and (b), above, that were granted.	43
	(ii) The number of applications referred to in paragraphs (a) and (b), above, that were refused. [11]	0
	(iii) The number of applications referred to in paragraphs (a) and (b), above, that were granted subject to terms and conditions.	43
	(iii) The number of applications referred to in paragraphs (a) and (b), above, that were granted subject to terms and conditions.	43

[10] For purposes of the Annual Report, "renewal" is interpreted to mean an application governed by s. 186(6)-(7) of the *Code.*

[11] It should be noted that, for purposes of the Annual Report, a refusal is considered to occur where an application for an authorization is made to a judge, is refused, and is never granted. This is to be distinguished from a situation where an application is made to a judge, refused on the basis that the judge may not be satisfied in relation to an identified matter(s) and it is later remedied, at which point the application is granted.

s. 195(2)(d)	The number of persons identified in an authorization against whom proceedings were commenced at the instance of the Attorney General of Ontario in respect of:	
(i)	An offence specified in the authorization;	**124**
(ii)	An offence other than an offence specified in the authorization but in respect of which an authorization may be given; and	**33**
(iii)	An offence in respect of which an authorization may not be given.	**12**
s. 195(2)(e)	The number of persons not identified in an authorization but whose commission or alleged commission of an offence became known to the police as a result of an interception of private communication under an authorization, and against whom proceedings were commenced at the instance of the Attorney General of Ontario in respect of:	
(i)	An offence specified in such an authorization;	**40**
(ii)	An offence other than an offence specified in such an authorization but in respect of which an authorization may be given; and	**45**
(iii)	An offence other than an offence specified in such an authorization and for which no authorization may be given, 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.	**0**
s. 195(2)(f)	The average period of days for which authorizations were given.	**51**
s. 195(2)(g)	The number of Authorizations that by virtue of one or more renewals thereof were valid:[12]	
	For more than 60 days;	**8**
	For more than 120 days;	**2**
	For more than 180 days;	
	For more than 240 days.	
s. 195(2)(h)	The number of persons given notifications pursuant to s.196.[13]	**314**

[12] These statistics are counted by adding the total number of days wiretap authorization(s) were active in relation to a single investigation.

[13] Often, people named in an authorization cannot be located or evade service. The number of people served with notice, as well as the number where notification has been unsuccessful, must be reported to the Superior Court of Justice. The information regarding s.196 compliance is filed in a sealed packet. Because some people cannot be served, there may be a difference between the total number of people named in an authorization and the total number of people who receive notice. Another factor that may contribute to this disparity is that notification may be delayed by a judge for up to three years.

Ontario

ANNUAL REPORT ON THE USE OF
ELECTRONIC SURVEILLANCE – 2011

s. 195(2)(i)	The offences in respect of which authorizations were granted:		
	s. 83.04	Using or possessing property for terrorist purposes	**2**
	s. 83.18	Participating in activity of terrorist group	**2**
	s. 83.19	Facilitating terrorist activity	**2**
	s. 96	Possession of weapon obtained by commission of offence	**1**
	s. 99	Weapons trafficking	**7**
	s. 100	Possession for purpose of weapons trafficking	**3**
	s. 103	Importing or exporting knowing it is unauthorized	**4**
	s. 104	Unauthorized importing or exporting	**6**
	s. 122	Breach of trust	**2**
	s. 139	Obstructing justice	**2**
	s. 201 (1)	Keeping gaming or betting house	**1**
	s. 202 (1)(e)	Pool-selling, etc.	**1**
	s. 212	Procuring	**2**
	s. 235	Murder	**21**
	s. 244	Discharging firearm	**2**
	s. 267	Assault with a weapon or causing bodily harm	**1**
	s. 279	Kidnapping	**3**
	s. 334	Theft	**1**
	s. 344	Robbery	**8**
	s. 354	Possession of property obtained by crime	**5**
	s. 380	Fraud	**1**
	s. 462.31	Laundering proceeds of crime	**1**
	s. 467.11	Participation in activities of a criminal organization	**2**
	s. 467.12	Commission of offence for criminal organization	**3**
	s. 467.13	Instructing commission of offence for criminal organization	**2**

s. 195(2)(j)	A description of all classes of places and devices specified in the authorization and the number of Authorizations in which each such class of place was specified:	
	Residences	106
	Commercial Establishments	11
	Vehicles	43
	Hotel	2
	Correctional Institutions	18
	Other	3
s. 195(2)(k)	A general description of the methods of interception involved in each interception under an authorization:	
	Telephone	146
	Cell phone	351
	Room Probes	44
	Telecommunications	26
	Body packs	10
	Other	22
s. 195(2)(l)	The number of persons arrested whose identity became known to a peace officer as a result of an interception under an authorization.	89
s. 195(2)(m)	The number of criminal proceedings[14] commenced at the instance of the Attorney General of Ontario in which private communications obtained by interception under an authorization were adduced in evidence.	31
	The number of such proceedings that resulted in a conviction.	16
s. 195(2)(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 by the Attorney General of Ontario as a result of the investigation.	8
s. 195(3)(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 193.	0

[14] To be clear for purposes of this Report, a "proceeding" is defined as a trial and/or a preliminary inquiry. Any given proceeding may include more than one accused.

VI. Assessment of the Utility of Intercepting Private Communications

Pursuant to s. 195(3)(b) of the *Criminal Code,* the Annual Report must provide a "general assessment of the importance of the interception of private communications for the investigation, detection, prevention and prosecution of offences in Canada". The interception of private communications is, undoubtedly, one of the most valuable investigative tools available to law enforcement agencies. This investigative technique is available in only the most serious investigations where detailed statutory criteria have been met. Two of those criteria include that the application judge must be satisfied that it is in the best interests of the administration of justice that the order issue and that investigative necessity has been met.

Where these statutory criteria are met, the interception of private communications can lead to the identification of extremely dangerous people and provide evidence that would not otherwise be available. This is especially true in the case of criminal and terrorist organizations, which are rarely susceptible to penetration by undercover operatives or state agents.

Not only can authorizations to intercept private communications lead to the identification of those who present serious safety risks to the public, but they can also glean invaluable evidence used to prosecute those individuals. They also provide significant information that can be used to advance an investigation, even if that information is not of any evidentiary value. Interceptions of private communications also assist in preventing crime and, indeed, saving lives, as the interception of communications sometimes allow the police to respond to situations before or while they are occurring.

The year 2011 was no different. The interception of private communications was of tremendous assistance. Some murder and other investigations would not have been solved without this investigative technique. In the summary reports prepared for each project, among other things, the investigative technique was described as: "extremely valuable investigative tool", "extremely valuable to the investigation", "instrumental in focusing the investigation", "incredible source of intelligence", and "the interceptions were a vital part of success in this investigation".

Electronic surveillance remains critically important to the public interest and the administration of justice in the Province of Ontario.

Ministry of the Attorney General
Crown Law Office – Criminal
Toronto, Ontario