

Accountability Report

2016–2017

Public Prosecution Service
July 2017

Table of Contents

Accountability Statement.....	3
Message from the Director of Public Prosecutions.....	4
Financial Results.....	6
Measuring Our Performance	7
Appendix A – Criminal Code Charges by Judicial Centre/Category of Offence	10
Appendix B – Provincial Statute Cases Prosecuted by Judicial Centre/Category of Offence.....	12
Appendix C – Appeals Branch Statistics	13
Appendix D – Public Interest Disclosure of Wrongdoing	14

Accountability Statement

The accountability report of the Nova Scotia Public Prosecution Service for the year ended March 31, 2017 is prepared pursuant to the Finance Act and government policies and guidelines. These authorities require the reporting of outcomes against the Public Prosecution Service's Statement of Mandate for the fiscal year just ended. The reporting of the Public Prosecution Service outcomes necessarily includes estimates, judgments and opinions by the Public Prosecution Service.

We acknowledge that this accountability report is the responsibility of the Nova Scotia Public Prosecution Service. This report is, to the extent possible, a complete and accurate representation of outcomes relative to the goals and priorities set out in the Public Prosecution Service 2016-2017 Statement of Mandate.

In terms of accountability, it should be noted that the Nova Scotia Public Prosecution Service was established in 1990 as the first statutorily-based independent prosecution service in Canada. All prosecutions within the jurisdiction of the Attorney General of Nova Scotia are the responsibility of the Director of Public Prosecutions. Crown Attorneys responsible to the Director conduct prosecutions independently of the Minister. The only limitation on the operational independence of the Director permitted by the Public Prosecutions Act arises when the Attorney General issues written instructions to the Director of Public Prosecutions. These instructions are binding and must be made public. This procedure preserves the ultimate prosecutorial authority of the Attorney General. It is a means of ensuring accountability to the electorate for the manner in which public prosecutions are conducted.

Original signed by

Martin E. Herschorn QC
Director of Public Prosecutions

Message from the Director of Public Prosecutions

I am pleased to present this accountability report of the Nova Scotia Public Prosecution Service for 2016-2017.

This year our 97 Crown Attorneys across the province dealt with 40,686 criminal charges and prosecuted 9,660 provincial statute violations.

The PPS continued work on the implementation, operation and expansion of the e-Disclosure initiative including the implementation of electronic file transfer which allows for the “instant” transmission of e-Disclosure files between parties.

Work continued on the standardization of vetting and redaction processes for identifying sensitive information prior to the Crown providing the defence with disclosure of the Crown’s case. A successful pilot project concluded and a practice guide is almost finalized. A province wide roll-out is expected in the next fiscal year.

Arrangements with the Ontario government to acquire its case management system for Nova Scotia made progress. Cabinet approved the initiative and a memorandum of understanding was signed by both provinces. The province’s office of Information, Communication and Technology Services is assisting the PPS with this endeavor. Software is expected to arrive early in the next fiscal year and the first stage of testing is expected to commence in the fall of 2017.

Education and training was again a major priority for the PPS this year. Crown Attorneys attended the PPS’s annual fall educational conference for three days of education on a variety of criminal law topics. Additionally, a large number of Crown Attorneys attended Ontario Crown School and the National Criminal Law Program. Specialized training was also provided to several Crown Attorneys on discrete subjects.

Funding was received to create two Crown Attorney positions dedicated to internet child exploitation offences. Those Crown Attorneys are now in place and, in addition to their own prosecutorial responsibilities, they are providing support and guidance to Crown Attorneys in other parts of the province who are also prosecuting these cases.

The PPS continued to be an active participant in the province’s Criminal Justice Transformation Group (CJTG). This group, chaired by the Deputy Minister of Justice, is comprised of those who lead the various components of the criminal justice system. The group works collaboratively to improve the effectiveness and efficiency of the justice system in this province. With the Supreme Court of Canada’s Jordan decision in July 2016 establishing time parameters for the completion of cases at both the provincial and superior court levels, the group is focused solely on addressing delay within the court system.

The PPS initiated an early resolution pilot project in Halifax to help free up time for the provincial court to hear more serious and complex matters. Crown Attorneys prepare early resolution positions in minor offences. An initial sentencing position is provided to defence counsel and the accused has a limited time to determine whether to accept the Crown's position.

The PPS continued to focus on the prosecution of regulatory offences especially those under the Occupational Health and Safety Act. Prosecutors dedicated to the prosecution of such offences provided training programs for police and investigators. Notably, the first criminal charge under the so-called Westray law was laid in connection with a workplace fatality. That prosecution is ongoing.

The PPS continues to provide communications designed to enhance community understanding of the role of the Crown Attorney and of the prosecutorial process. As was the case last year, issues management required significant resources regarding many ongoing high profile cases.

Original signed by

Martin E. Herschorn QC
Director of Public Prosecutions

Financial Results

	2016-2017 Estimate	2016-2017 Actual
Program and Service Area	(\$ thousands)	(\$ thousands)
GROSS DEPARTMENTAL EXPENSES		
Head Office	2,728	2,856
Cape Breton Region	3,524	3,446
Central Region	3,040	3,009
Halifax Region	7,518	7,775
Western Region	3,122	3,179
Special Prosecutions	1,943	1,879
Appeals	1,140	1,059
Total Gross Departmental Expenses	23,015	23,203
ADDITIONAL INFORMATION:		
Fees and Other Charges		
Ordinary Recoveries	262.	277.
TCA Purchase Requirements		
Provincial Funded Staff (FTEs)	167.8	165.5

Measuring Our Performance

OUTCOME DESCRIPTION	WHAT DOES THIS MEASURE TELL US?	WHERE ARE WE NOW?	WHERE DO WE WANT TO BE?
<p>High quality trial work</p>	<p>That the PPS is delivering high quality trial work by Crown Attorneys who attain a performance evaluation of competent or higher; are provided with adequate preparation time for in-court work; are supported by continuing legal education; and, where applicable, are mentored by senior colleagues. These elements ensure the delivery of high quality trial work in presenting the evidence thoroughly and fairly to ensure the proper verdict is reached.</p>	<p>All Nova Scotia Crown Attorneys have achieved a performance rating of competent or higher. They are generally given adequate time to prepare cases for court. They are provided with continuing legal education. A mentoring program has been developed and is in place.</p>	<p>Crown Attorney performance evaluations would be enhanced by in-court monitoring. A case management information system would maximize efficiencies as Crowns prepare for and deliver their cases in court.</p>
<p>High quality appeal work</p>	<p>That the PPS is delivering high quality appeals work by Crown Attorneys who attain a performance evaluation of competent or higher; are provided with adequate preparation time for in-court work; are supported by continuing legal education; and, where applicable, are mentored by senior colleagues. These elements ensure the delivery of high quality appeal work in presenting the evidence thoroughly and fairly to ensure the proper decision is reached.</p>	<p>All Appeals Crown Attorneys have achieved a performance rating of competent or higher. They are always given adequate time to prepare cases for court. They are provided with continuing legal education. A mentoring program has been developed and is in place.</p>	<p>Crown Attorney performance evaluations would be enhanced by in-court monitoring. A case management information system would maximize efficiencies as Crowns prepare for and deliver their cases in court.</p>

<p>Provide police with high quality legal advice and assistance</p>	<p>That the PPS is providing police with high quality legal advice and assistance when requested during the course of police investigations. This helps police in collecting evidence and laying appropriate charges. Ultimately, high quality legal advice to police helps to ensure quality trial work when the case goes to court.</p>	<p>The PPS continues to provide timely responses to requests from police and provincial enforcement officers for legal advice on particular cases or direction on matters of criminal law.</p> <p>The PPS requires Crown Attorneys to record all advice given to police so that the PPS may measure both quality and quantity of advice.</p>	<p>All advice to police should be examined and evaluated to make a determination on volume and Crown workload. As well, a quality assessment analysis should be undertaken.</p>
<p>Provide Crown representation in the development of criminal law and criminal prosecution policy</p>	<p>That the PPS provides input into the development of criminal law and criminal prosecution policy from both an administrative and a frontline perspective.</p>	<p>The PPS participates in joint meetings, including Federal/Provincial/Territorial (FPT) Ministers and Deputy Ministers meetings, Coordinating Committee of Senior Justice Officials and FPT Heads of Prosecutions, meetings of the Provincial Justice Partners Committee and the International Association of Prosecutors. Crown Attorneys also participate in provincial policy initiatives. The PPS continues to liaise with other prosecution services to maintain awareness of best practices for delivery of prosecution services.</p>	<p>To maintain or enhance the existing level of contribution to policy development.</p>

APPENDICES

*All statistics with the exception of appeals received
through the kind co-operation of the Nova Scotia Department of Justice*

APPENDIX A
Criminal Code Charges in Provincial Court
by Offence Category and Judicial Centre 2016-2017

OFFENCE CATEGORIES	HALIFAX	DARTMOUTH	AMHERST	KENTVILLE	BRIDGEWATER	PICTOU
Homicide	5	7	0	0	0	0
Attempted Murder	5	6	0	3	0	1
Robbery	124	60	2	14	3	5
Sexual Assault	67	43	36	87	28	14
Other Sexual Offences	72	69	46	88	41	15
Major Assault	433	333	71	113	71	58
Common Assault	652	561	152	230	152	175
Uttering Threats	426	306	90	148	98	106
Criminal Harassment	44	26	8	18	10	5
Other Crimes Against a Person	120	82	27	32	11	8
Theft of Motor Vehicle	86	19	13	20	7	8
Theft	1,206	462	70	167	85	107
Break and Enter	178	148	261	53	35	33
Fraud	653	283	47	41	40	153
Mischief	358	243	319	115	73	77
Possession Stolen Property	1,324	523	45	94	68	42
Other Property Crimes	32	41	9	19	5	7
Failure to Attend Court	189	147	9	14	9	18
Breach of Probation	1,783	1,066	129	184	119	87
Unlawfully at Large	50	154	2	6	2	4
Failure to Comply with Order	2,644	1,537	311	425	233	276
Other Administration of Justice	250	130	41	34	28	15
Weapons Offences	805	1,334	107	61	84	30
Prostitution	22	1	0	2	0	1
Disturbing the Peace	45	17	17	12	12	4
Residual Criminal Code	180	27	49	32	8	16
Impaired Driving	618	703	143	301	141	172
Other Criminal Code Traffic	153	129	28	42	43	35
TOTAL	12,524	8,457	2,032	2,355	1,406	1,472

Continued...

APPENDIX A
Criminal Code Charges in Provincial Court
by Offence Category and Judicial Centre 2016-2017

OFFENCE CATEGORIES	SYDNEY	TRURO	ANTIGONISH	PORT HAWKESBURY	YARMOUTH	DIGBY	TOTAL
Homicide	0	0	0	0	0	0	12
Attempted Murder	7	0	0	0	2	6	30
Robbery	16	12	2	4	4	3	249
Sexual Assault	34	40	3	9	34	29	424
Other Sexual Offences	51	51	10	9	42	52	546
Major Assault	223	122	27	34	78	68	1,631
Common Assault	407	244	72	75	231	143	3,094
Uttering Threats	268	146	47	50	132	62	1,879
Criminal Harassment	19	7	5	3	12	4	161
Other Crimes Against a Person	56	21	8	6	8	12	391
Theft of Motor Vehicle	24	15	3	6	17	10	228
Theft	360	172	36	31	80	50	2,826
Break and Enter	123	70	10	21	39	35	1,006
Fraud	148	96	9	13	23	7	1,513
Mischief	229	104	20	30	95	51	1,714
Possession Stolen Property	154	106	9	35	34	12	2,446
Other Property Crimes	83	4	0	6	0	2	208
Failure to Attend Court	94	31	2	7	9	8	537
Breach of Probation	654	242	39	58	207	81	4,649
Unlawfully at Large	11	4	2	1	4	4	244
Failure to Comply with Order	1,639	552	173	226	404	285	8,705
Other Administration of Justice	83	45	13	11	47	30	727
Weapons Offences	148	135	8	51	77	104	2,944
Prostitution	0	2	0	0	0	0	28
Disturbing the Peace	18	10	5	6	6	10	162
Residual Criminal Code	54	10	2	11	14	9	412
Impaired Driving	329	351	91	101	179	82	3,211
Other Criminal Code Traffic	93	88	9	25	36	28	709
TOTAL	5,325	2,680	605	829	1,814	1,187	40,686

APPENDIX B

Provincial Statute Cases by Judicial Centre 2016- 2017 (only cases with prosecutor assigned)

	MOTOR VEHICLE ACT	LIQUOR CONTROL ACT	OTHER PROVINCIAL STATUTES	TOTAL
Halifax	4,538	115	460	5,113
Dartmouth	1,415	5	120	1,540
Amherst	135	6	67	208
Kentville	273	24	80	377
Bridgewater	202	13	33	248
Pictou	212	8	19	239
Sydney	409	18	62	489
Truro	363	19	139	521
Antigonish	109	55	31	195
Port Hawkesbury	77	5	27	109
Yarmouth	265	11	84	360
Digby	206	12	43	261
TOTAL	8,204	291	1,165	9,660

APPENDIX C
Appeals Statistics
2016-2017

The following are statistics related to the operations of the Appeals Branch covering the period April 1, 2016 to March 31, 2017.

The Branch participated in 32 appeals heard by the Court of Appeal. Of this number:

- 3 were initiated by the Crown
- 29 were initiated by offenders

Of the appeals initiated by the Crown, one dealt with acquittal and two dealt with sentence.

Of the 29 appeals initiated by offenders:

- 15 dealt with conviction
- 8 dealt with sentence
- 1 involved an extraordinary remedy (*certiorari*)
- 5 involved a motion for fresh evidence

Of the appeals initiated by offenders, none fell under the **Youth Criminal Justice Act** and two were argued by self-represented inmates.

The Appeals Branch was involved in 9 appeals which were abandoned, quashed or dismissed without a full hearing in the Court of Appeal. All nine had been initiated by offenders.

The Appeals Branch participated in 129 Chambers motions heard by a single judge of the Court of Appeal. Chambers motions include motions for a hearing date and the filing of appeal books and factums, adjournments, bail pending appeal, extension of time to appeal, directions and status updates in appeals, appointment of counsel in prisoners' appeals, and striking appeals from the Court's docket. Uncontested motions are usually conducted over the telephone (teleconference Chambers), and both contested and uncontested motions are heard in open court (regular Chambers).

The Appeals Branch received seven recommendations for appeal from trial Crown attorneys, of which three were approved for appeal.

In the Supreme Court of Canada, the Appeals Branch filed one notice of appeal. (The notice of appeal was subsequently abandoned and withdrawn because the intended respondent was deceased.) The Branch received decisions in five applications for leave to appeal, one filed by the Branch and four by offenders.

APPENDIX D

Public Interest Disclosure of Wrongdoing

INFORMATION REQUIRED UNDER SECTION 18 OF THE ACT	FISCAL YEAR 2016-2017
The number of disclosures received	0
The number of findings of wrongdoing	0
Details of each wrongdoing	N/A
Recommendations and actions taken on each wrongdoing	N/A