



# Accountability Report 2021–22

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Public Prosecution Service

  
**NOVA SCOTIA**

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Accountability Report 2021–2022

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## 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, 2022 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 2021-2022 Business Plan.

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:

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Linda Lee Oland, QC  
A/Director of Public Prosecutions

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Date

## Message from the A/Director of Public Prosecutions

I am pleased to present this accountability report of the Nova Scotia Public Prosecution Service for 2021-2022.

The Nova Scotia Public Prosecution Service experienced another challenging year in the delivery of prosecutorial services amid the global pandemic. Most court appearances remained virtual until late in the fiscal year when in-person court appearances began to resume.

Our Crown Attorneys and support staff deserve commendation for their remarkable commitment and outstanding performance in the delivery of prosecutorial services throughout yet another year of extraordinarily difficult circumstances

This year Nova Scotia Crown Attorneys handled 37,924 new Criminal Code charges and 3,562 new provincial statute charges. These are in addition to older charges still winding their way through the prosecutorial process.

This was the second year for the PPS to have a dedicated human trafficking Crown Attorney. This Crown Attorney focused on prosecuting human trafficking offences across the province and on developing training materials. Significantly, a video package was produced to supplement Crown and police training. Subject matter experts were interviewed for the videos and a specific case study was featured.

This year the PPS was able to fill a long-standing gap in its head office structure when the Regional Crown Attorney for Halifax was reassigned new duties becoming the Director of Policy Development and Education.

Work on digital evidence management is a significant PPS initiative but progress has been slow due to funding issues. This year a needs assessment involving all justice stakeholders was conducted by an outside consultant. The results will provide clarity on direction going forward. Digital evidence management, including the ability to address the increasing use of body worn cameras by police along with the continuing evolution of e-disclosure, is critical to the future of a smoothly operating criminal justice system.

The PPS's Equity & Diversity Committee, now led by two co-chairs, continues to make progress with PPS equity and diversity initiatives. Among the accomplishments:

- Development of a comprehensive policy for *Fair Treatment of African Nova Scotians and People of African Descent in Criminal Prosecutions* continued. The policy is ready to move on to community consultation in the coming months.
- Updates were made to prosecutorial core policies to reflect the content in the policy: *Fair Treatment of Indigenous People Involved in a Prosecution* and the anticipated policy: *Fair Treatment of African Nova Scotians and People of African Descent in Criminal Prosecutions*.
- An internal cultural competency survey is in development for distribution to all staff. The results will be valuable in the development of future staff training.

Further to progress on the equity and diversity front, the director mandated that ALL PPS staff take a specific slate of online equity courses offered by the Public Service Commission. The completion rate is at almost 100%. Also, the PPS was again able to secure funding to hire an articulated clerk from Dalhousie Schulich School of Law's Indigenous Blacks & Mi'kmaq program.

Lastly, after a distinguished 50-year career with the Nova Scotia government -- the last 21 years as Director of Public Prosecutions -- Martin E. Herschorn, QC retired on February 4. An acting Director of Public Prosecutions was appointed while government initiated the search for a new Director.

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Linda Lee Oland, QC  
A/Director of Public Prosecutions

## Financial Table and Variance Explanation

	2021-22 Estimate	2021-22 Actuals	2021-22 Variance
<b>Public Prosecution Service</b>	<i>(\$thousands)</i>		
<b>Departmental Expenses:</b>			
Head Office	3,987	4,625	638
Cape Breton Region	3,864	4,031	167
Central Region	3,326	3,486	160
Halifax Region	8,747	9,219	472
Western Region	3,186	3,516	330
Appeals	1,194	1,231	37
Special Prosecutions	2,329	2,728	399
<b>Total: Departmental Expenses</b>	<b>26,633</b>	<b>28,836</b>	<b>2,203</b>
<b>Additional Information:</b>			
Ordinary Revenue	0	0	0
Fees and Other Charges	0	0	0
Ordinary Recoveries	403	233	(170)
<b>Total: Revenue, Fees and Recoveries</b>	<b>403</b>	<b>233</b>	<b>(170)</b>
TCA Purchase Requirements	0	0	0
Provincial Funded Staff (FTEs)	176.8	182.1	5.3
<p><b><u>Departmental Expenses Variance Explanation:</u></b>            Pressure due to higher than anticipated salary and operating costs. Operating cost increases mainly due to increased expenditures for office lease costs, transcription costs, per diem Crown Attorney fees, witness and expert witness fees, membership dues and appeal costs.</p> <p><b><u>Revenue, Fees and Recoveries Variance Explanation:</u></b>            Decrease in municipal recoveries related to the prosecution of summary offence tickets mainly due to Covid-19 pandemic restrictions.</p> <p><b><u>Provincial Funded Staff (FTEs) Variance Explanation:</u></b>            FTEs from Youth Opportunity Initiative Program within the PSC.</p>			

## Measuring Our Performance

OUTCOME DESCRIPTION	WHAT DOES THIS MEASURE TELL US?	WHERE ARE WE NOW?	WHERE DO WE WANT TO BE?
High quality trial work	<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.</p> <p>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>
High quality appeal work	<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.</p> <p>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><b>Provide police with high quality legal advice and assistance</b></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><b>Provide Crown representation in the development of criminal law and criminal prosecution policy</b></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 except for 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 2021-2022

OFFENCE CATEGORIES	HALIFAX	DARTMOUTH	AMHERST	KENTVILLE	BRIDGEWATER	PICTOU
Homicide	3	8	1	2	1	1
Attempted Murder	8	5	3	0	0	4
Robbery	150	90	3	15	0	1
Sexual Assault	89	54	12	67	29	39
Other Sexual Offences	113	78	16	68	25	31
Major Assault	650	474	65	129	87	130
Common Assault	736	477	108	282	155	229
Uttering Threats	506	340	74	155	86	162
Criminal Harassment	52	45	12	13	20	17
Other Crimes Against a Person	117	72	19	26	23	26
Theft of Motor Vehicle	45	41	11	10	1	12
Theft	794	438	64	142	59	94
Break and Enter	251	201	46	48	24	59
Fraud	251	115	24	74	13	25
Mischief	388	280	92	140	56	115
Possession Stolen Property	954	512	29	49	37	69
Other Property Crimes	74	64	6	11	3	24
Failure to Attend Court	240	159	14	22	4	27
Breach of Probation	739	467	25	60	20	82
Unlawfully at Large	6	18	0	0	0	3
<sup>5</sup> Failure to Comply with Order	1,994	1,503	225	296	165	395
Other Administration of Justice	258	120	36	36	32	46
Weapons Offences	937	1,829	84	119	95	244
Prostitution/Sexual Services	17	0	0	1	0	0
Disturbing the Peace	42	7	3	12	15	16
Residual Criminal Code	120	71	20	46	9	4
Impaired Driving	510	585	90	192	153	130
Other Criminal Code Traffic	229	171	32	60	24	61
<b>TOTAL</b>	<b>10,273</b>	<b>8,224</b>	<b>1,114</b>	<b>2,075</b>	<b>1,136</b>	<b>2,046</b>

*Continued...*

**APPENDIX A**  
**Criminal Code Charges in Provincial Court**  
**by Offence Category and Judicial Centre 2021-2022**

OFFENCE CATEGORIES	SYDNEY	TRURO	ANTIGONISH	PORT HAWKESBURY	YARMOUTH	DIGBY	TOTAL
Homicide	5	3	0	0	1	0	25
Attempted Murder	0	1	3	1	1	1	27
Robbery	29	20	0	0	6	5	319
Sexual Assault	50	80	14	33	57	19	543
Other Sexual Offences	51	105	22	41	61	28	639
Major Assault	308	163	39	87	129	99	2,360
Common Assault	479	262	62	95	167	152	3,204
Uttering Threats	254	159	52	68	144	119	2,119
Criminal Harassment	8	7	5	0	6	10	195
Other Crimes Against a Person	39	41	10	18	21	22	434
Theft of Motor Vehicle	14	12	3	6	7	8	170
Theft	192	80	23	27	42	39	1,994
Break and Enter	68	49	12	22	67	22	869
Fraud	40	45	14	2	23	5	631
Mischief	316	126	37	49	206	84	1,889
Possession Stolen Property	109	81	16	56	13	26	1,951
Other Property Crimes	11	8	3	8	7	7	226
Failure to Attend Court	251	44	12	6	5	9	793
Breach of Probation	387	133	19	73	54	50	2,109
Unlawfully at Large	2	5	0	1	0	0	35
Failure to Comply with Order	2,576	575	105	166	238	181	8,419
Other Administration of Justice	149	52	20	23	31	30	833
Weapons Offences	178	134	27	61	123	67	3,898
Prostitution/Sexual Services	0	8	1	0	0	0	27
Disturbing the Peace	19	9	3	6	6	2	140
Residual Criminal Code	37	23	13	6	88	24	461
Impaired Driving	294	326	98	98	135	91	2,702
Other Criminal Code Traffic	115	96	24	37	38	25	912
<b>TOTAL</b>	<b>5,981</b>	<b>2,647</b>	<b>637</b>	<b>990</b>	<b>1,676</b>	<b>1,125</b>	<b>37,924</b>

**APPENDIX B**  
**Provincial Statute Cases by Judicial Centre 2021-2022**  
 (only cases with prosecutor assigned)

	MOTOR VEHICLE ACT	LIQUOR CONTROL ACT	EMERGENCY MANAGEMENT ACT	HEALTH PROTECTION ACT	OTHER PROVINCIAL STATUTES	TOTAL
Halifax	1,139	44	2	48	88	1,321
Dartmouth	3	1	0	1	65	70
Amherst	68	0	0	3	30	101
Kentville	81	6	2	41	42	172
Bridgewater	112	1	2	4	27	146
Pictou	135	4	4	27	83	253
Sydney	248	4	0	5	44	301
Truro	296	6	3	12	88	405
Antigonish	109	32	0	5	37	183
Port Hawkesbury	96	7	1	6	14	124
Yarmouth	181	5	0	8	57	251
Digby	156	16	0	6	57	235
<b>TOTAL</b>	<b>2,624</b>	<b>126</b>	<b>14</b>	<b>166</b>	<b>632</b>	<b>3,562</b>

*1. Data includes all charges laid on an Information or Summary Offence Ticket (SOT) between April 1, 2021 and March 31, 2022 with a prosecutor assigned.*

*2. The count for provincial statute offences includes those which were handled by the summary offence court.*

*3. Due to the pandemic there were periods of time when hearings were not being held and courts were not collecting fines. This resulted in a significant reduction in numbers over the previous years.*

**APPENDIX C**  
**Appeals Statistics**  
**2021-2022**

The following are statistics related to appeals covering the period April 1, 2021 to March 31, 2022

The section participated in 24 appeals heard by the Court of Appeal. Of this number:

- 4 were initiated by the Crown
- 20 were initiated by offenders

Of the appeals initiated by the Crown:

- 1 dealt with appeal of an extraordinary remedy
- 3 dealt with sentence

Of the 20 appeals initiated by offenders:

- 18 dealt with conviction
- 2 dealt with sentence

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

The PPS was involved in no appeals that were abandoned, quashed or dismissed without a full hearing in the Court of Appeal.

The PPS participated in 174 Chambers motions heard by a single judge of the Court of Appeal. Chambers motions include motions for a hearing date and the filing of the 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).

Seventeen recommendations for appeal were received from trial Crown Attorneys. Nine were approved for appeal.

With regard to the Supreme Court of Canada, the PPS received one notice of appeal from an offender and one application for leave to appeal. The PPS sought leave to appeal to the SCC on no matters. The PPS participated in four hearings before the SCC.

APPENDIX D

Public Interest Disclosure of Wrongdoing

INFORMATION REQUIRED UNDER SECTION 18 OF THE ACT	FISCAL YEAR 2021-2022
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