

PUBLIC PROSECUTION SERVICE

Annual Accountability Report for the Fiscal Year 2010-2011

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Accountability Statement

The accountability report of the Nova Scotia Public Prosecution Service for the year ended March 31, 2011 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 2010-2011. 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 Statement of Mandate for the year.

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.

Martin E. Herschorn, Q.C.
Director of Public Prosecutions

Date

Message from the Director of Public Prosecutions

I am pleased to present this accountability report of the Nova Scotia Public Prosecution Service for 2010-2011.

This year our 92 Crown Attorneys across the province dealt with 48,136 criminal charges and prosecuted 9,551 provincial statute violations.

At the same time, the PPS, along with all government departments and agencies, worked to meet budget challenges brought about by the global economy. The PPS exceeded its 2010-2011 budget by about \$400,000 – much less of an overage than originally forecast due to great efforts made by all staff. As a cost saving measure, the PPS cut continuing legal education for Crown Attorneys during the fiscal year. The annual fall educational conference was cancelled and no Crown Attorneys were sponsored to attend the National Criminal Law Conference or Ontario Crown School. However, this is not a sustainable option. Continuing legal education must be a priority and the PPS is reinstating its professional development program for 2011-12. The priority in developing cost reduction strategies for 2011-2012 will be to maintain support for the in-court responsibilities of Crown Attorneys.

Over the past year the PPS continued to grapple with the increasing complexity of criminal cases. The PPS also continued to refine its practices respecting disclosure to accused persons and their counsel. This builds on the disclosure agreement with Nova Scotia police agencies and responds to the expanded disclosure obligations respecting misconduct of police officers as mandated by the Supreme Court of Canada in the McNeil decision (2009).

I am pleased to report that our Crown Attorney recruitment efforts have been successful. We are attracting qualified, enthusiastic young Crown Attorneys. To assist these new Crown Attorneys in performing their prosecutorial duties the PPS instituted a mentoring program.

The PPS continues to enhance its Prosecutorial Information Composite System (PICS) to develop more information to assist with the management of the Service and its caseload.

The PPS continued 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 with regard to many ongoing high profile cases.

The PPS also continued to develop its business continuity plan – a plan which will allow the PPS to continue critical business functions in the event of an emergency or disaster.

The PPS continues to do an important job for Nova Scotians as it fulfills its crucial role in the criminal justice system.

Martin E. Herschorn, Q.C.

Director of Public Prosecutions

Financial Results

Program & Service Area	2010–2011 Estimate	2010–2011 Actuals
	(\$ thousands)	(\$ thousands)
Program Expenses:		
Head Office	2,693	2,216
Cape Breton Region	2,589	2,696
Central Region	2,655	2,849
Halifax Region	6,420	6,802
Western Region	2,451	2,659
Special Prosecutions	1,411	1,450
Appeals	1,113	1,007
Total Program Expenses	19,332	19,680
Provincial Funded Staff (FTEs)	169.8	157.5

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 as funding permits. 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. Continuing legal education should be a mainstay.</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 as funding permits. 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. Continuing legal education should be a mainstay.</p>
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<p>Provide 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 is in the final stages of developing a policy requiring Crown Attorneys to record all advice given to police so that the PPS may measure both quality and quantity of advice.</p> <p>This policy and accompanying logistics will be communicated to all Crown Attorneys at the Fall Educational Conference with full implementation by 2012.</p>
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<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>
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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 2010-2011

OFFENCE CATEGORIES	HALIFAX	DARTMOUTH	AMHERST	KENTVILLE	BRIDGEWATER	NEW GLASGOW
Homicide & Related	7	5	1	8	1	1
Attempted Murder	20	4	0	0	3	1
Robbery	127	53	12	9	6	3
Sex Assault	59	74	12	34	31	15
Sexual Abuse	27	42	30	18	7	6
Kidnapping	48	37	8	10	4	10
Abduction	0	0	0	2	1	0
B&E	307	260	106	72	40	47
Weapons	1,013	922	90	101	88	53
Fraud & Identity Theft	976	593	23	98	41	52
Major Assault	530	296	50	79	72	58
Simple Assault	758	628	158	288	226	170
Theft	1,247	672	124	331	113	174
Stolen Property	1,231	611	35	78	63	49
Arson	27	8	1	1	6	3
PD - Mischief	433	330	112	185	144	74
Morals - Sex	85	56	2	14	3	6
Public Order	76	97	39	31	10	20
CC Traffic	129	171	36	81	37	25
Admin Justice	5,067	4,075	492	777	534	561
Impaired Driving	836	782	228	393	233	182
Other CC	334	244	37	61	35	22
Uttering threats	474	320	84	114	120	106
Unknown	0	4	1	3	3	0
TOTAL	13,811	10,284	1,681	2,788	1,821	1,638

Continued. . .

Criminal Code Charges in Provincial Court by Offence Category and Judicial Centre 2010-2011

OFFENSE CATEGORIES	SYDNEY	TRURO	ANTIGONISH	PORT HAWKESBURY	YARMOUTH	DIGBY	TOTAL
Homicide & Related	2	10	1	0	0	0	36
Attempted Murder	1	1	0	0	0	4	34
Robbery	43	22	1	0	1	1	278
Sex Assault	55	27	8	10	68	31	424
Sexual Abuse	31	24	6	3	18	18	230
Kidnapping	26	7	5	2	7	6	170
Abduction	1	0	0	0	0	0	4
B&E	147	89	17	63	63	59	1,270
Weapons	127	353	8	22	46	141	2,964
Fraud & Identity Theft	100	97	10	6	13	30	2,039
Major Assault	251	107	32	31	72	31	1,609
Simple Assault	664	208	91	95	183	137	3,606
Theft	511	376	81	50	157	91	3,927
Stolen Property	196	333	16	20	31	86	2,749
Arson	22	11	4	0	3	6	92
PD - Mischief	347	107	37	52	105	57	1,983
Morals - Sex	3	1	11	6	6	8	201
Public Order	12	24	13	14	24	18	378
CC Traffic	58	41	18	18	22	23	659
Admin Justice	4,071	863	422	280	699	369	18,210
Impaired Driving	467	387	173	166	164	143	4,154
Other CC	163	47	15	14	32	26	1,030
Uttering Threats	501	114	28	53	91	67	2,072
Unknown	3	1	0	0	2	0	17
TOTAL	7,802	3,250	997	905	1,807	1, 352	48,136

APPENDIX B**Provincial Statute Cases by Judicial Centre 2010-2011**

	MOTOR VEHICLE ACT	LIQUOR CONTROL ACT	OTHER PROVINCIAL STATUTES	TOTAL
Halifax	3,315	225	205	3,745
Dartmouth	2,014	26	107	2,147
Amherst	167	20	62	249
Kentville	493	29	59	581
Bridgewater	474	36	113	623
New Glasgow	237	34	44	315
Sydney	297	27	53	377
Truro	350	54	65	469
Antigonish	168	21	15	204
Port Hawkesbury	190	20	31	241
Yarmouth	257	28	32	317
Digby	211	17	55	283
TOTAL	8,173	537	841	9,551

APPENDIX C Appeals Branch Statistics

The following are statistics related to the operations of the Appeals Branch covering the period April 1, 2010 to March 31, 2011.

The Branch participated in 27 appeals heard by the Court of Appeal. Of this number:

- 6 were initiated by the Crown
- 21 were initiated by offenders

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

Of the 21 appeals initiated by offenders:

- 11 dealt with conviction
- 9 dealt with sentence
- 1 involved a motion to adduce fresh evidence

The Appeals Branch also participated in seven appeals which were abandoned, quashed or dismissed without a full hearing in the Court of Appeal, or were ordered transferred to the summary conviction appeal court (Supreme Court of Nova Scotia). All seven appeals had been initiated by offenders.

The Appeals Branch participated in 136 Chambers motions – applications heard by a single judge of the Court of Appeal. Chambers motions include applications for hearing dates, adjournments, bail pending appeal, extension of time for appeal, directions and 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 the decision in an application for leave to appeal by the Crown to the Supreme Court of Canada. The Branch received one application for leave to appeal from an offender. The Branch filed two notices of appeal to the Supreme Court of Canada decisions of the Court of Appeal. One of those appeals was argued in the Supreme Court of Canada in February, 2011.

Counsel in the Appeals Branch were involved in a number of cases of interest this past year. In the Court of Appeal there were at least four cases of note.

In *Hawkins v. R.*, the Court dealt with an appeal from conviction and parole ineligibility in a second degree murder case. The killing was particularly heinous to cover up a robbery. The court dismissed the appeal from conviction but reduced the period of parole ineligibility from 20 to 15 years.

In *R. v. Adams*, the Crown appealed the sentence imposed on an offender who had

been involved in a major theft ring. The court substantially increased the sentence and, in doing so, instructed judges on the proper approach to imposing consecutive sentences in cases of multiple offences.

In *R. v. Ryan*, the Crown appealed the acquittal of an accused who had arranged with a “hit man,” who was actually an undercover RCMP officer, to kill her husband. The Court upheld the trial judge’s decision to acquit the accused on the basis of the defence of duress. (The Crown has filed an application for leave to appeal to the Supreme Court of Canada in this case.)

In *R. v. R.E.W.*, the Crown appealed the order of the trial judge to stay proceedings against an accused charged with historic sex offences. The stay of proceedings was based on delay in bringing the charges on for trial as a breach of the Charter right to trial within a reasonable time. The Crown’s appeal was dismissed.