



**Nova Scotia**

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# Public Prosecution Service

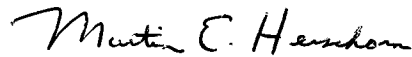
## **ANNUAL REPORT**

*for the period April 1, 2013 to March 31, 2014*

Honourable Kevin Murphy  
Speaker of the Nova Scotia House of Assembly  
Office of the Speaker  
Province House  
Halifax, Nova Scotia B3J 2Y3

Dear Mr. Speaker:

I have the honour of presenting to you, and through you to the Members of the Legislative Assembly, the Annual Report of the Public Prosecution Service of Nova Scotia, as required by Section 13 of the Public Prosecutions Act. This report covers the period from April 1, 2013 to March 31, 2014.



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

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## **THE MANDATE OF THE PUBLIC PROSECUTION SERVICE**

In Nova Scotia all prosecutions for criminal and provincial offences are brought in the name of the Crown because the Crown is responsible for bringing before the courts those accused of prohibited conduct that adversely affects the safety and well-being of the community.

The mandate of this prosecution service is to ensure fair and equal treatment in the prosecution of offences.

All prosecutions within the jurisdiction of the Attorney General of Nova Scotia are the responsibility of the Director of Public Prosecutions and are conducted by the Crown attorneys of the Public Prosecution Service, independently of the Attorney General. The only limitation on the operational independence of the Director of Public Prosecutions 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.

In support of its mandate, the Public Prosecution Service has adopted the following mission and goals.

### **MISSION**

The mission of the Public Prosecution Service of Nova Scotia is to seek justice and serve the public interest by performing prosecution duties with fairness, professionalism, and integrity.

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## GOALS

In accomplishing its mission, the Public Prosecution Service contributes to the Government's priority of fulfilling its social responsibility of providing for public safety.

In order to accomplish its mission, the Public Prosecution Service has set the following goals:

1. provide a Public Prosecution Service that reflects excellence, dedication to public service, and high ethical standards;
2. provide a Public Prosecution Service that identifies and manages the resources required to carry out its mission;
3. provide a Public Prosecution Service that reflects the application of best business practices consistent with providing a high-quality service;
4. provide within the Public Prosecution Service an environment that allows for the independent exercise of prosecutorial discretion;
5. provide a Public Prosecution Service that is reflective of the community it serves.

## CORE BUSINESS FUNCTIONS

The Public Prosecution Service's core business functions are:

- represent the Crown in the conduct of criminal matters and quasi-criminal matters before all levels of court.
  - represent the Crown in the conduct of criminal and quasi-criminal appeals before all levels of court.
  - provide legal advice and assistance to the police and provincial law enforcement officers at their request.
  - participate in the development of criminal law policy and criminal prosecutions policy.
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## REVIEW OF THE ERNEST FENWICK MACINTOSH PROSECUTION

In July 2013 the Public Prosecution Service (PPS) completed and published a thorough review of this very high-profile case.

This was a historical sexual assault case involving nine complainants. The offences dated back to the 1970s, with the first complaint made in 1995. By that time Mr. MacIntosh had left the country for employment in India. As police continued to investigate, more complainants came forward and more charges were laid. By 2002 all charges had been laid – 43 in total – and the extradition process could begin. Mr. MacIntosh was extradited back to Canada in 2007. Over the course of two trials he was convicted of 17 sex offences, but those convictions were overturned in 2011 by the Nova Scotia Court of Appeal. The Court found that undue delay violated Mr. MacIntosh’s Charter rights to be tried within a reasonable time. The Crown appealed to the Supreme Court of Canada but the appeal was dismissed.

In its review of the case the PPS found seven significant causes of delay in getting Mr. MacIntosh back to Canada:

- the extradition principle of specialty
  - issues with the renewals of Mr. MacIntosh’s passport
  - the pursuit of sworn affidavits from the complainants
  - a year-long delay in contact from the federal Department of Justice’s International Assistance Group
  - a two-year interval to draft and forward the lead investigator’s affidavit
  - an 11-month wait for the Indian government to act
  - the Crown attorney’s failure to follow up promptly
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At a news conference held to release the report and answer any follow-up questions, both the Nova Scotia Attorney General and the Director of Public Prosecutions apologized to the victims of Ernest Fenwick MacIntosh for any delay attributable to the Crown. Three months later, as a result of a review by the federal government, the federal minister of justice also issued an apology for delay caused by federal agencies.

The PPS identified and implemented five immediate actions to address delay:

- Establish an electronic alert system.
- Establish a PPS Executive Committee standing agenda item.
- Provide annual training to Crown attorneys on delay.
- Develop and implement an extradition policy.
- Provide training on extradition processes and principles.

Three longer term actions to address systemic delay were also identified.

### **Electronic Disclosure**

An effective tool to help reduce delay and increase efficiency, e-disclosure is an initiative that ensures disclosure from all police agencies across Nova Scotia is received by the Crown in a format that is accessible, organized, and standardized.

### **Crown File Ownership**

This concept sees each Crown file handled by only one Crown attorney and the Court scheduling matters to accommodate the schedule of the particular Crown attorney. The initiative places increased emphasis on early resolution, with Crown and defence adhering to established timelines to ensure that prior to the second court appearance all necessary steps are taken to move the case forward.

### **Case Management System**

An electronic case management system will better enable PPS supervisors to fairly distribute work and to track workloads and delay in the processing of cases.

The PPS is working to implement these long-term initiatives.

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## **PRIORITIES AND ACCOMPLISHMENTS FOR 2013–2014**

### **Court Activity**

This year 92 Crown attorneys in 19 offices across the province dealt with 41,719 criminal charges and prosecuted 10,229 Nova Scotia statute matters in both Provincial Court and the Supreme Court of Nova Scotia. (See Appendices A & B)

During 2013–2014, 40 appeals and 223 chambers motions were handled by the Public Prosecution Service (PPS) in the Nova Scotia Court of Appeal. (See Appendix C)

### **Fiscal**

Along with all government departments and agencies, this year the PPS worked to meet budget challenges brought about by the global economy. The PPS exceeded its 2013–2014 budget by \$911,300. This overage was driven by operational pressures in the areas of per diem Crown attorney fees (\$437,500); expert witness/witness fees (\$125,000); disclosure costs (\$118,900); costs for legal research tools (\$50,300); office rentals (\$48,100); appeal costs (\$46,900); and other operational costs (\$84,500).

### **Education and Training**

Education and training is a major priority for the PPS. To accommodate the provincial government's move to new software programs, a three-day training conference was held for support staff. Crown attorneys attended the PPS's annual fall educational conference for three days of education on a variety of criminal law topics, including delay and the extradition process. The conference program allowed Crown attorneys to achieve full compliance with the requirements set by the Nova Scotia Barristers' Society for mandatory professional development for lawyers.

### **E-Disclosure**

The electronic disclosure (e-disclosure) initiative made great strides this year. A successful pilot project of a standardized method of producing and transmitting e-disclosure in routine cases was completed in Cape Breton in co-operation with the Cape Breton Regional Police, and rollout across the province began in fall 2013. Nova Scotia is one of the first provinces to implement a standard that permits all police agencies across the province to produce electronic files for routine cases, which are easily accessible, better organized, and searchable by Crown attorneys.

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### **Crown File Ownership**

Having a file handled by only one Crown attorney from beginning to conclusion continues to be piloted in the PPS Sydney office. Participating Sydney Crown attorneys report reduced trial wait times and an increase in early resolution of cases. Expanding on the Sydney pilot, the Dartmouth office is consulting with justice stakeholders as it explores how to structure a similar project.

### **Case Management**

An internal committee was struck to develop a business plan to acquire a case management system. Criminal cases continue to increase in complexity. Comprehensive case management is essential to address workload balance issues and to ensure efficient and effective prosecutions. The PPS review of the prosecution of Ernest Fenwick MacIntosh identified a case management system as a key tool to address systemic delays.

### **Finding Solutions to Provincial Court Delay**

In co-operation with justice partners, the PPS continued its work to identify the contributing causes of provincial court delay and to streamline the processing of cases. The PPS is represented on several committees tackling the problem. The e-disclosure rollout and the Crown file ownership pilot project in Cape Breton are two initiatives that will help reduce delay. The PPS is also involved in assessing and improving case processing times and, in partnership with Halifax Regional Police and the RCMP, has begun a witness coordination project in its Halifax Region offices. In this project the witness coordinators contact civilian witnesses prior to trial to ensure attendance and to identify and solve problems that would otherwise not present themselves until the day of trial.

### **Information Technology**

The PPS continues to enhance its Prosecutorial Information Composite System (PICS), developing more information to assist with the management of the PPS and its caseload. An alert system was implemented to notify chief Crown attorneys of cases in which eight months or more has elapsed since the first court appearance. These alerts result in follow-up with the Crown attorney on the file. Causes of the delay are identified and immediate steps are taken to remedy the delay.

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**Communications**

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 related to ongoing and high-profile cases required significant resources.

**Pre-Charge Advice**

The PPS is monitoring compliance with its policy requiring Crown attorneys to record all legal advice provided to police. The PPS continues to explore ways to accurately capture both quantitative and qualitative data from this core business function.

**Criminal Law and Criminal Prosecutions Policy**

The PPS contributes to the development of criminal law policies and procedures through participation in meetings with federal/provincial/territorial (FPT) ministers and deputy ministers responsible for Justice; CCSO (Coordinating Committee of Senior Justice Officials) and FPT heads of prosecutions.

**Succession Planning**

Several senior managers retired this year and the PPS has been successful in recruiting well-qualified candidates to these positions.

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## MEASURING OUR PERFORMANCE

OUTCOME DESCRIPTION	WHAT DOES THIS MEASURE TELL US?	WHERE ARE WE NOW?	WHERE DO WE WANT TO BE?
<b>High-quality trial work</b>	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.	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.	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.
<b>High-quality appeal work</b>	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.	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.	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.
<b>Provide high-quality legal advice and assistance</b>	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.	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.  The PPS is in its second year of requiring Crown attorneys to record all advice given to police so that the PPS may measure both quality and quantity of advice.	All advice to police should be examined and evaluated to determine volume and Crown workload. A quality analysis should also be undertaken.

OUTCOME DESCRIPTION	WHAT DOES THIS MEASURE TELL US?	WHERE ARE WE NOW?	WHERE DO WE WANT TO BE?
<b>Provide Crown representation in the development of criminal law and criminal prosecution policy</b>	That the PPS provides input into the development of criminal law and criminal prosecution policy from both an administrative and a frontline perspective.	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.	To maintain or enhance the existing level of contribution to policy development.

## THE ROLE OF THE ATTORNEY GENERAL

In Nova Scotia, the Minister of Justice is also the Attorney General and superintends all matters connected with the administration of justice in the province, except those within the jurisdiction of the Attorney General of Canada. The Attorney General's functions and powers include legislative responsibility for affairs and matters relating to courts and prosecutions. The Attorney General is the Law Officer of the Crown and the Chief Public Prosecutor.

By virtue of this role, the Attorney General has the right to be informed about the conduct of police activities and individual criminal prosecutions. This right is normally only exercised in exceptional cases. No such right exists for any other member of the Executive Council or of Government. This not only protects the integrity of the criminal justice system, but also serves to shield Government members and their staff from the accusation of attempting to interfere in the administration of justice.

The *Public Prosecutions Act* ensures the accountability to the Legislative Assembly of the Attorney General in his or her capacity as Chief Public Prosecutor. Section 6 of the Act provides that the Attorney General is responsible for the Public Prosecution Service and is accountable to the Assembly for all prosecutions. This ensures that ultimate control over prosecutions remains in the hands of an elected official.

By virtue of subsection 6 (a) of the *Public Prosecutions Act* the Attorney General is entitled to issue general instructions or guidelines in respect of all prosecutions, or a class of prosecutions, to the Public Prosecution Service after consultations with the Director of Public Prosecutions. During the period April 1, 2013 to March 31, 2014 the Attorney General did not have occasion to exercise his authority with this provision.

By virtue of subsection 6 (b) of the *Public Prosecutions Act*, the Attorney General is entitled to issue instructions or guidelines in a particular prosecution after consultation with the Director of Public Prosecutions. During the period April 1, 2013 to March 31, 2014 the Attorney General did not have occasion to exercise his authority with this provision.

By virtue of subsection 6 (e) of the *Public Prosecutions Act*, the Attorney General is entitled to exercise all statutory functions with respect to prosecutions after consultation with the Director of Public Prosecutions. During the period April 1, 2013 to March 31, 2014 the Attorney General did not have occasion to exercise his authority under this provision.

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## THE ROLE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

The Director of Public Prosecutions is the head of the Public Prosecution Service, which conducts all prosecutions independently of the Attorney General on behalf of the Crown in right of Nova Scotia. This includes the prosecution of offences under the Criminal Code, certain other federal statutes (e.g., *Migratory Birds Convention Act*, *Canada Shipping Act*, *Small Vessel Regulations*, *Explosives Act*) and most offences under provincial statutes. Prosecutions for violations of other federal statutes are conducted by agents of the Attorney General of Canada.

The Director of Public Prosecutions, as the lawful Deputy of the Attorney General with respect to prosecutions under the Criminal Code and under the *Summary Proceedings Act*, can exercise any of the powers conferred upon the Attorney General. These include the preferring of direct indictments or consenting to the laying of a new information following a discharge of an accused at a preliminary inquiry. When these powers are exercised in indictable matters, a report can be provided to the Attorney General at his or her request or upon the initiative of the Director of Public Prosecutions. This would allow the Attorney General to be in a knowledgeable position should any of these decisions be questioned in the House of Assembly, or should the Attorney General wish to exercise any of the powers conferred by section 6 of the *Public Prosecutions Act*.

The Director of Public Prosecutions also has the status of deputy head and the provisions of the *Civil Service Act* and regulations relating to a deputy or a deputy head apply to the Director of Public Prosecutions.

The Director of Public Prosecutions must be a barrister of at least 10 years' standing. If from another province, he or she must become a practising member of the Nova Scotia Barristers' Society within one year of appointment. The Director of Public Prosecutions holds office during good behaviour and may be removed from office for cause by a resolution of the Assembly.

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## **THE ROLE OF THE CROWN ATTORNEY**

Crown attorneys in Nova Scotia are responsible to the Director of Public Prosecutions through a chief Crown attorney for the conduct of prosecutions. The conduct of a prosecution involves not only the conduct of the trial itself but a myriad of other activities essential to a fair prosecution. Crown attorneys therefore conduct arraignments, show cause (bail) hearings, preliminary inquiries, sentencings, appeals to the Supreme Court of Nova Scotia, appeals to the Court of Appeal, appeals to the Supreme Court of Canada, disposition and review hearings before the Criminal Code Review Board, and fatality inquiries. In addition, they provide pre-charge advice to the police and provincial government enforcement officials, participate in the formulation of policy advice on the criminal law, participate in management activities aimed at improving the delivery of prosecutorial services to our community, prepare professional papers, and conduct and participate in public speaking engagements. In short, they discharge a number of responsibilities of fundamental importance to our community.

In discharging these responsibilities a Crown attorney must be guided by the law, codes of professional ethics, and the public interest. The public interest involves many considerations. It encompasses the need to protect citizens on convicting criminals and deterring crime. The community is entitled to have those charged with offences prosecuted firmly and efficiently, but it also expects them to be prosecuted fairly. Properly balanced, the public interest in the conviction of the guilty does not conflict with the principles of fundamental justice.

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The notion that all accused should receive fair and equal prosecutorial treatment by the Crown is an aspect of the rule of law. Canada's judicial system operates on an adversarial trial model. It is left up to the parties to frame the issues before the court and lead the evidence relied on in support of their case. The role of defence counsel in this model is to do everything that can be ethically done to secure an acquittal for an accused who has chosen to plead not guilty. The role of Crown attorney, on the other hand, excludes any notion of winning or losing. The Supreme Court of Canada has expressed the proper frame of mind of those who represent the Crown in the following words:

“... the situation which the Crown occupies is not that of an advocate in a civil case. His functions are quasi-judicial. He should not seek so much to obtain a verdict of guilty as assist the judge and jury to render the most complete justice. Moderation and impartiality should always characterize his conduct before the court. He will in fact have honestly fulfilled his duty and will be beyond reproach, if, putting aside any appeal to emotions, in a dignified manner consistent with his role, he exposes the evidence to the jury without going beyond what it actually reveals.”

*Boucher v. Her Majesty the Queen [1955] S.C.R. 16*

On March 31, 2014, there were 92 Crown attorneys employed by the Public Prosecution Service. They were assisted in their duties by 75 support staff.

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## **ORGANIZATION DESCRIPTION**

The head office of the Public Prosecution Service comprises its senior management, including the Director of Public Prosecutions, the Deputy Director, the Director of Communications, the Director of Business Affairs and their support staff.

The Deputy Director assists the Director and is primarily responsible for the legal operations of the Public Prosecution Service. All chief Crown attorneys report through the Deputy Director to the Director and are resident in the Western, Cape Breton, Halifax, and Central regions. In the Halifax Region, along with the chief Crown attorney, a regional Crown attorney (administrative) supervises the activities of Crown attorneys and their support staff. In the Western, Central, and Cape Breton regions, a chief Crown attorney supervises the activities of Crown attorneys and their support staff. The regional offices respond to requests from the police for pre-charge legal advice and conduct preliminary inquiries and trials before the various trial courts of the province. Chief Crown attorneys also head the Appeals Branch and Special Prosecutions Section.

### **Special Prosecutions Section**

The Special Prosecutions Section focuses on commercial crime; cybercrime; fraud; extraordinary, unusual or historical sexual assaults; charges under the province's Revenue Act or other provincial statutes; and Aboriginal law. Members of this unit also prosecute cases that present conflicts for regional offices, or may be involved where a law enforcement officer is the subject of a police investigation or a prosecution.

### **Appeals Branch**

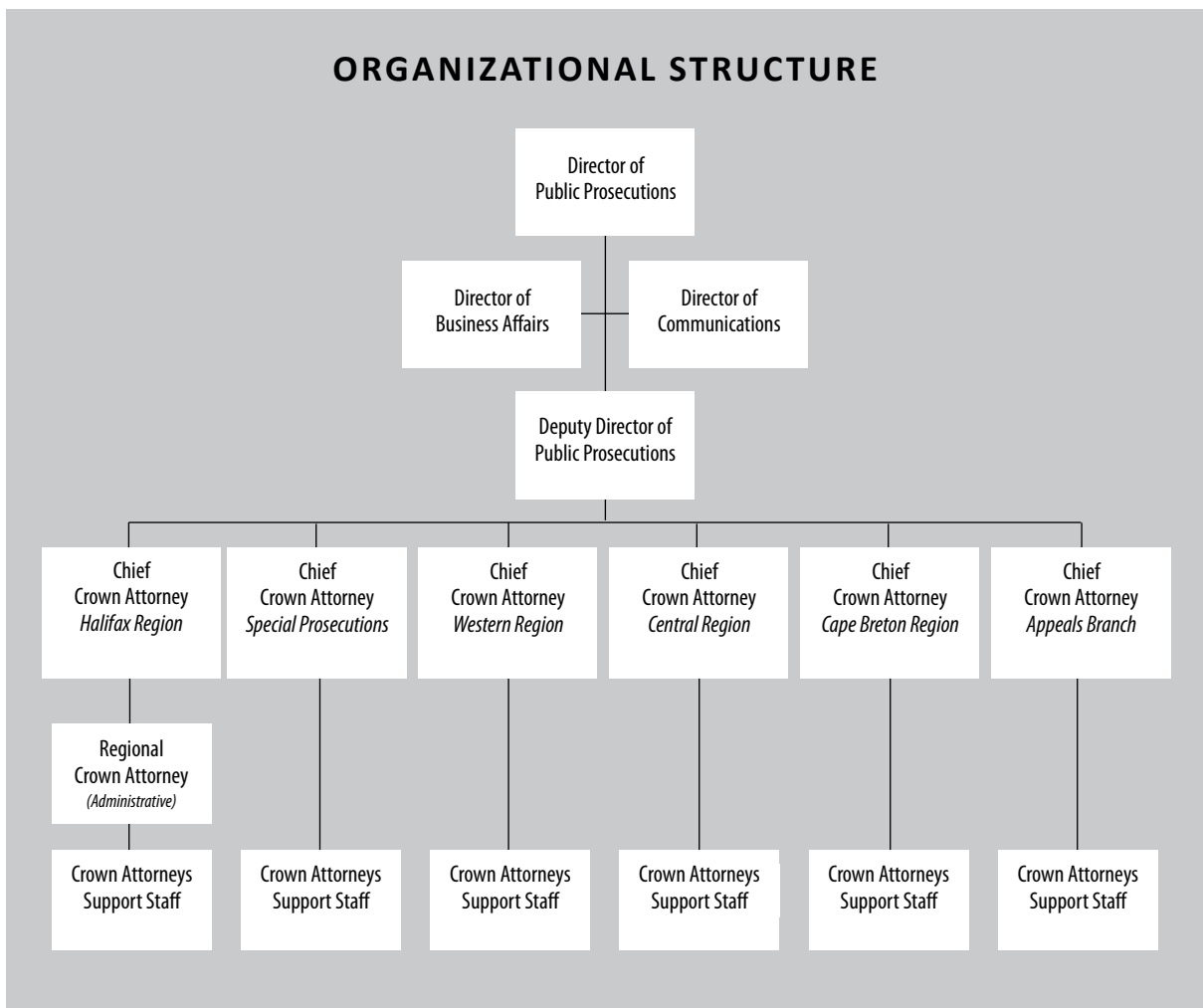
The Appeals Branch is responsible for conducting all criminal and quasi-criminal appeals to which the Attorney General is a party in the Nova Scotia Court of Appeal and the Supreme Court of Canada. The Appeals Branch also conducts all proceedings required before an appeal is heard by the court. These proceedings include Chambers motions in the Court of Appeal and applications for leave to appeal in the Supreme Court of Canada.

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**Freedom of Information and Protection of Privacy Act**

The Public Prosecution Service’s coordinator for the *Freedom of Information and Protection of Privacy Act* is also located in the head office. For the period April 1, 2013 to March 31, 2014, the PPS received 14 applications for records under this Act.

The PPS organizational structure is illustrated by the following chart:



## APPENDICES

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

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## APPENDIX A

### CRIMINAL CODE CHARGES IN PROVINCIAL COURT by Offence Category and Judicial Centre 2013–2014

OFFENCE CATEGORIES	HALIFAX	DARTMOUTH	AMHERST	KENTVILLE	BRIDGEWATER	PICTOU
Homicide	8	13	0	1	0	0
Attempted Murder	30	10	1	3	0	0
Robbery	110	43	1	6	5	7
Sexual Assault	53	33	16	34	39	18
Other Sexual Offences	65	75	49	43	54	22
Major Assault	441	324	66	114	71	42
Common Assault	622	469	136	253	149	148
Uttering Threats	406	279	70	94	101	94
Criminal Harassment	55	34	12	6	8	4
Other Crimes Against a Person	97	52	21	15	17	5
Theft of a Motor Vehicle	89	41	13	15	49	11
Theft	1,070	482	123	238	167	122
Break and Enter	426	114	64	73	102	37
Fraud	960	230	26	124	77	21
Mischief	354	205	77	93	80	67
Possession of Stolen Property	1,297	565	44	133	101	54
Other Property Crimes	48	58	11	11	7	4
Failure to Attend Court	182	131	7	11	19	12
Breach of Probation	1,552	898	139	159	113	87
Unlawfully at Large	53	117	1	2	1	3
Failure to Comply with Order	3,438	2,192	357	371	365	263
Other Administration of Justice	223	162	39	55	34	16
Weapons Offences	740	870	54	137	79	42
Prostitution	24	0	0	0	1	0
Disturbing the Peace	58	23	21	13	9	10
Residual Criminal Code	205	39	26	26	21	21
Impaired Driving	597	698	132	349	140	152
Other Criminal Code Traffic	104	126	32	66	25	16
<b>TOTAL</b>	<b>13,307</b>	<b>8,283</b>	<b>1,538</b>	<b>2,445</b>	<b>1,834</b>	<b>1,278</b>

**APPENDIX A (continued)**  
**CRIMINAL CODE CHARGES IN PROVINCIAL COURT**  
**by Offence Category and Judicial Centre 2013–2014**

OFFENCE CATEGORIES	SYDNEY	TRURO	ANTIGONISH	PORT HAWKESBURY	YARMOUTH	DIGBY	TOTAL
Homicide	0	2	0	2	0	1	27
Attempted Murder	7	2	0	0	2	0	55
Robbery	36	12	0	0	4	2	226
Sexual Assault	42	24	7	11	16	11	304
Other Sexual Offences	35	37	16	15	34	25	470
Major Assault	213	93	31	22	46	56	1,519
Common Assault	483	160	68	81	128	116	2,813
Uttering Threats	327	98	35	51	81	69	1,705
Criminal Harassment	15	3	6	6	5	3	157
Other Crimes Against a Person	46	18	5	10	7	7	300
Theft of a Motor Vehicle	14	11	1	3	4	25	276
Theft	462	156	21	32	90	100	3,063
Break and Enter	144	54	19	25	64	215	1,337
Fraud	86	28	19	85	56	5	1,717
Mischief	277	73	22	49	72	48	1,417
Possession of Stolen Property	226	95	5	5	55	163	2,743
Other Property Crimes	45	10	0	1	6	4	205
Failure to Attend Court	136	33	5	8	11	4	559
Breach of Probation	681	173	67	56	184	132	4,241
Unlawfully at Large	9	2	1	1	1	0	191
Failure to Comply with Order	2,073	518	125	147	266	236	10,351
Other Administration of Justice	108	48	13	20	43	19	780
Weapons Offences	168	136	16	28	38	45	2,353
Prostitution	1	0	0	0	0	6	32
Disturbing the Peace	19	13	3	4	14	2	189
Residual Criminal Code	104	11	5	4	21	146	629
Impaired Driving	415	451	118	93	166	177	3,488
Other Criminal Code Traffic	61	44	18	19	22	39	572
<b>TOTAL</b>	<b>6,233</b>	<b>2,305</b>	<b>626</b>	<b>778</b>	<b>1,436</b>	<b>1,656</b>	<b>41,719</b>

**APPENDIX B**  
**PROVINCIAL STATUTE CASES**  
**by Judicial Centre, 2013–2014**

	MOTOR VEHICLE ACT	LIQUOR CONTROL ACT	OTHER PROVINCIAL STATUTES	TOTAL
HALIFAX	4,302	188	154	4,644
DARTMOUTH	2,842	24	185	3,051
AMHERST	137	6	68	211
KENTVILLE	291	26	34	351
BRIDGEWATER	226	8	24	258
NEW GLASGOW	157	20	15	192
SYDNEY	217	17	26	260
TRURO	212	8	117	337
ANTIGONISH	89	14	4	107
PORT HAWKESBURY	101	5	11	117
YARMOUTH	273	25	53	351
DIGBY	205	19	126	350
<b>TOTAL</b>	<b>9,052</b>	<b>360</b>	<b>817</b>	<b>10,229</b>

## **APPENDIX C**

### **APPEALS BRANCH STATISTICS**

The following are statistics related to the operations of the Appeals Branch covering the period April 1, 2013 to March 31, 2014.

The Branch participated in 40 appeals heard by the Court of Appeal. Of this number:

- 5 were initiated by the Crown
- 35 were initiated by offenders

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

Of the 35 appeals initiated by offenders:

- 17 dealt with conviction
- 12 dealt with sentence
- 2 involved a motion to adduce fresh evidence
- 4 involved a special order made by the trial court

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

The Appeals Branch was also involved in 21 appeals that 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). One had been initiated by the Crown and 20 by offenders.

The Appeals Branch participated in 223 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 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).

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The Appeals Branch received 11 recommendations for appeal from trial Crown attorneys, of which two were approved.

The Appeals Branch received decisions in two applications for leave to appeal to the Supreme Court of Canada, both filed by offenders. Offenders filed two applications for leave to appeal in the Supreme Court of Canada. The Crown participated in one full hearing before the Court and received judgment in three appeals.



## APPENDIX D BUDGET RESOURCES

PROGRAM & SERVICE AREA	2013-2014 ESTIMATE (\$ thousands)	2013-2014 ACTUAL (\$ thousands)
GROSS DEPARTMENTAL EXPENSES		
Head Office	2,973	2,671
Cape Breton Region	3,022	3,159
Central Region	2,711	2,953
Halifax Region	6,656	7,028
Western Region	2,717	3,020
Special Prosecutions	1,638	1,729
Appeals	983	1,051
<b>TOTAL GROSS DEPARTMENTAL EXPENSES</b>	<b>20,700</b>	<b>21,611</b>
ADDITIONAL INFORMATION		
Fees and Other Charges	0	0
Ordinary Recoveries	(216)	(260)
TCA Purchase Requirements	-	-
Provincial Funded Staff (Full Time Employees)	168.2	167.9

## **APPENDIX E**

### **PUBLIC PROSECUTIONS ACT**

*Formatting of this version may differ from the official version. An official copy of this statute is available from Nova Scotia Government Publications.*

## **An Act to Provide for an Independent Director of Public Prosecutions**

### **Short Title**

- 1 This Act may be cited as the *Public Prosecutions Act*.

### **Purpose of Act**

- 2 The purpose of this Act is to ensure fair and equal treatment in the prosecution of offences by
  - (a) establishing the position of Director of Public Prosecutions;
  - (b) providing for a public prosecution service; and
  - (c) providing for the independence of the Director of Public Prosecutions and the public prosecution service.

### **Interpretation**

- 3 In this Act, “prosecution” includes the decision whether to prosecute or not, the prosecution proceeding itself and matters arising therefrom, and appeals.
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## **Director of Public Prosecutions**

- 4 There shall be a Director of Public Prosecutions who
- (a) is the head of the public prosecution service and is responsible for all prosecutions within the jurisdiction of the Attorney General conducted on behalf of the Crown;
  - (b) may conduct all prosecutions independently of the Attorney General except that the Director of Public Prosecutions shall comply with all instructions or guidelines issued by the Attorney General in writing and published pursuant to this Act;
  - (c) is, for the purpose of the Criminal Code (Canada) and the *Summary Proceedings Act*, the Attorney General's lawful deputy in respect of prosecutions;
  - (d) shall advise police officers in respect of prosecutions generally or in respect of a particular investigation that may lead to a prosecution when the police request such assistance;
  - (e) may issue general instructions or guidelines to a chief Crown attorney, a regional Crown attorney or a Crown attorney in respect of all prosecutions or a class of prosecutions, and shall cause such instructions or guidelines to be published.
  - (f) may issue instructions or guidelines to a chief Crown attorney, a regional Crown attorney or a Crown attorney in a particular prosecution.
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## **Qualifications and appointment**

- 5 (1) The Director of Public Prosecutions
- (a) shall be a barrister of at least ten years standing at the Bar of Nova Scotia or of another province of Canada, and if of another province, shall, within one year of appointment, become a practising member of the Bar of Nova Scotia;
  - (b) shall be appointed by the Governor in Council after consultation with the Chief Justice of Nova Scotia, the Chief Justice of the Trial Division of the Supreme Court and the Executive of the Nova Scotia Barristers' Society;
  - (c) holds office during good behaviour;
  - (d) has the status of deputy head and the provisions of the *Civil Service Act* and regulations relating to a deputy or a deputy head apply to the Director of Public Prosecutions; and
  - (e) shall be paid the same salary as the Chief Judge of the provincial court.

## **Removal from office**

- (2) The Director of Public Prosecutions may be removed from office for cause by a resolution of the Assembly.
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### **Acting Director of Public Prosecutions**

- (3) Where, while the Assembly is not sitting, the Director of Public Prosecutions fails to be of good behaviour, or is unable to perform the duties of office, the Governor in Council may appoint a person to be Acting Director of Public Prosecutions who shall take over the duties of the Director of Public Prosecutions until the Governor in Council sooner rescinds the appointment of the Acting Director of Public Prosecutions. *As amended by 1999 (2nd session), c.16, s.1(1).*
- (4) Where a vacancy occurs in the office of the Director of Public Prosecutions in a manner other than that referred to in subsection (2), the Governor in Council may appoint a person to be Acting Director of Public Prosecutions until a Director of Public Prosecutions is appointed pursuant to this Act. *As amended by 1999 (2nd session) c.16, s.1(2).*

### **Power and duties of Attorney General**

- 6 The Attorney General is the minister responsible for the prosecution service and is accountable to the Assembly for all prosecutions to which this Act applies and
    - (a) after consultation with the Director of Public Prosecutions, may issue general instructions or guidelines in respect of all prosecutions, or a class of prosecutions, to the prosecution service and shall cause all such instructions or guidelines to be in writing and to be published at the direction of the Director of Public Prosecutions as soon as practicable in the Royal Gazette;
    - (b) after consultation with the Director of Public Prosecutions, may issue instructions or guidelines in a particular prosecution, and shall cause such instructions or guidelines to be in writing and to be published at the direction of the Director of Public Prosecutions as soon as practicable in the Royal Gazette except where, in the opinion of the Director of Public Prosecutions, publication would not be in the best interests of the administration of justice, in which case the Director of Public Prosecutions, instead, shall publish as much information concerning the instructions or guidelines as the Director of Public Prosecutions considers appropriate in the next annual report of the Director of Public Prosecutions to the Assembly;
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- (c) may consult with the Director of Public Prosecutions and may provide advice to the Director of Public Prosecutions and, subject to clauses (a) and (b), the Director of Public Prosecutions is not bound by such advice;
- (d) may consult with members of the Executive Council regarding general prosecution policy but not regarding a particular prosecution;
- (e) may exercise statutory functions with respect to prosecutions, including consenting to a prosecution, preferring an indictment or authorizing a stay of proceedings, after consultation with the Director of Public Prosecutions and shall cause notice of such action to be published at the direction of the Director of Public Prosecutions as soon as practicable in the Royal Gazette. *As amended by 1999 (2nd session) c.16, s.2.*

### **Meeting between Attorney General and Director**

- 6A The Attorney General and the Director of Public Prosecutions shall meet at least twelve times a year, on a monthly basis if possible, to discuss policy matters, including existing and contemplated major prosecutions. *As amended by 1999 (2nd session) c.16, s.3.*

### **Extraordinary prosecution**

- 6B (1) In this Section, “extraordinary prosecution” means an unexpected or unforeseen prosecution that cannot be undertaken within the budget appropriated for the public prosecution service but is of such a magnitude and importance that, in the opinion of the Director of Public Prosecutions, the prosecution should be undertaken notwithstanding the lack of financial resources.
- (2) The Director of Public Prosecutions may spend in any fiscal year an amount that is not more than five per cent more than the amount appropriated for the public prosecution service for that year for the purpose of undertaking an extraordinary prosecution.
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- (3) The Governor in Council shall provide the additional funds referred to in subsection (2) through a supplementary appropriation.
- (4) Where the Governor in Council has provided the funds referred to in subsection (3) and deems it advisable to conduct a review of the need for the additional funds, the Governor in Council may appoint a qualified person to conduct the review. *As amended by 1999 (2nd session) c.16, s.3.*

### **Deputy Director of Public Prosecutions**

- 7 The Director of Public Prosecutions may, from time to time, designate a barrister in the public service to be Deputy Director of Public Prosecutions who is responsible to the Director of Public Prosecutions and who may exercise all of the powers and authority of the Director of Public Prosecutions and, for that purpose, is a lawful deputy of the Attorney General.

### **Crown attorneys**

- 8 There shall be Crown attorneys to conduct prosecutions and the Crown attorneys are responsible to the Director of Public Prosecutions and, where applicable, to a chief Crown attorney or a regional Crown attorney.

### **Regional Crown attorneys**

- 9 There may be a regional Crown attorney to supervise Crown attorneys within a geographic area determined by the Director of Public Prosecutions, and a regional Crown attorney is responsible to the Director of Public Prosecutions.

### **Chief Crown attorneys**

- 10 There may be a chief Crown attorney to supervise Crown attorneys and, where applicable, regional Crown attorneys, and a chief Crown attorney is responsible to the Director of Public Prosecutions.
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### **Powers, authorities and duties**

- 11 A chief Crown attorney, a regional Crown attorney and a Crown attorney have all the powers, authorities and duties provided by the criminal law of Canada for prosecutors, for prosecuting officers or for counsel acting on behalf of the Attorney General.

### **Qualifications**

- 12 All chief Crown attorneys, all regional Crown attorneys and all full-time Crown attorneys shall be barristers appointed pursuant to the *Civil Service Act* upon the recommendation of the Director of Public Prosecutions after a competition.

### **Annual report**

- 13 The Director of Public Prosecutions shall report annually to the Assembly in respect of prosecutions.

### **Appointment of barrister**

- 14 (1) The Director of Public Prosecutions may appoint a barrister to take charge of and conduct a particular prosecution or to take charge of and conduct criminal business to the extent specified in the terms of the appointment.  
  
(2) A barrister appointed pursuant to this Section shall be known and designated as a Crown attorney and, when acting within the terms of the appointment, has all the powers and authority of a Crown attorney.  
  
(3) The Director of Public Prosecutions may, from time to time, vary the terms of appointment of a Crown attorney pursuant to this Section or may, at any time, revoke the appointment.
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### **Existing prosecuting officers**

- 15 Notwithstanding Section 12, all prosecuting officers and assistant prosecuting officers employed by the Province immediately before the coming into force of this Act are Crown attorneys for the purpose of this Act.

### **House of Assembly Act amended**

- 16 Clause (c) of subsection (1) of Section 30 of Chapter 210 of the Revised Statutes, 1989, the *House of Assembly Act*, is amended by striking out the punctuation and words “prosecuting officer” in the second and third lines thereof.

### **Repeal of Prosecuting Officers Act**

- 17 Chapter 362 of the Revised Statutes, 1989, the Prosecuting Officers Act, is repealed.

### **Proclamation**

- 18 This Act comes into force on and not before such day as the Governor in Council order and declares by proclamation.

Proclaimed July 24, 1990

In force September 1, 1990

Amended by Chapter 16, 1999 (Second Session), which received Royal Assent on November 23, 1999

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