



Public Prosecution Service

ANNUAL REPORT

for the period April 1, 2014 to March 31, 2015

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, 2014 to March 31, 2015.



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

CONTENTS

The Mandate of the Public Prosecution Service	1
Mission	1
Goals	2
Core Business Functions	2
Priorities and Accomplishments 2014–2015.....	3
The Case of Rehtaeh Parsons	5
Measuring Our Performance	7
The Role of the Attorney General	9
The Role of the Director of Public Prosecutions	11
The Role of the Crown Attorney	12
Organization Description	14
Appendix A: Criminal Code Charges by Category of Offence	17
Appendix B: Provincial Statute Cases	19
Appendix C: Appeals Branch Statistics	20
Appendix D: Budget Resources	22
Appendix E: Public Prosecutions Act	23

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.

GOALS

In accomplishing its mission, the Public Prosecution Service contributes to the Government's priority of fulfilling its social responsibility to provide 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:

- to represent the Crown in the conduct of criminal matters and quasi-criminal matters before all levels of court
 - to represent the Crown in the conduct of criminal and quasi-criminal appeals before all levels of court
 - to provide legal advice and assistance to the police and provincial law enforcement officers at their request
 - to participate in the development of criminal law policy and criminal prosecutions policy
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PRIORITIES AND ACCOMPLISHMENTS FOR 2014–2015

Court Activity

This year 92 Crown attorneys in 19 offices across the province dealt with 40,700 criminal charges and prosecuted 10,507 Nova Scotia statute matters in both Provincial Court and the Supreme Court of Nova Scotia (see Appendices A and B).

During 2014–2015, 29 appeals and 225 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. The PPS exceeded its 2014–2015 budget by \$734,000. This overage was driven by operational pressures in the areas of per diem Crown attorney fees (\$318,700); external legal services (\$69,500); appeal costs (\$57,400); other earnings (\$53,100); severance costs (\$50,700); disclosure costs (\$38,500); witness fees (\$33,200); transcript costs (\$27,100); office rentals (\$24,300); Ottawa Agent costs (\$22,400); printing/stationery costs (\$16,900); electricity costs (\$11,800); and other services costs (\$10,400).

E-Disclosure

The e-disclosure initiative continues to make progress. Government approved the creation of a term position—e-disclosure analyst. The e-disclosure analyst is now advancing alternative methods of electronic transfer of information from police to Crown without the use of CDs.

Case Management

Case management remains a concern for the Public Prosecution Service. An established case management software solution in use in another Canadian jurisdiction is being studied to determine if it is adaptable for Nova Scotia. This software also features a method by which to electronically transfer disclosure from police to Crown.

Education and Training

Education and training were again a major priority for the PPS this year. The PPS's annual fall educational conference provided three days of education for Crown attorneys on a variety of criminal law topics. 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.

Occupational Health and Safety

Last summer the PPS successfully recruited an additional prosecutor to focus on Occupational Health and Safety offences. This position is funded by the Department of Labour and Advanced Education and, as per the agreement with that department, the PPS provided a 2014–2015 year-end report on the activity of that prosecutor.

Reducing Provincial Court Delay

The PPS continued to work in cooperation with justice partners in identifying contributing causes of provincial court delay and to streamline the processing of cases. The PPS has successfully developed an in-house electronic alert system identifying cases which are at risk due to delay.

National Flagging and FOIPOP

The PPS continued to monitor cases for inclusion of appropriate offenders in the national flagging program.

FOIPOP

The PPS is transitioning its FOIPOP services to the corporate model of delivery.

Policy Development

With the appointment of a new Deputy Director late last year, there has been a new focus on policy development. Policy gaps have been identified, new policies written and other policies revised.

Communications

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 CASE OF REHTAEH PARSONS AND R. v. KB AND CS

Background

On November 12, 2011, Rehtaeh Parsons, 15, attended a party at the home of a classmate. Everyone in attendance was consuming alcohol. Ms. Parsons engaged in sexual activity with two boys and, unbeknownst to her, one of the boys took a picture of her having sexual intercourse with the other boy while she was vomiting out of a window. The picture was disseminated to students in her school and beyond, resulting in instances of bullying and cyberbullying.

Ms. Parsons made a complaint to police and after investigating, police came to the Public Prosecution Service in October 2012 for advice on possible charges of sexual assault and possession and distribution of child pornography. Police were advised that, based on the evidence at hand, there was no realistic prospect of conviction on these charges.

On April 5, 2013, Ms. Parsons attempted suicide and on April 8, 2013, she passed away. After her death police received new information and reopened the investigation into the incident of November 12, 2011, and the subsequent incidents of cyberbullying.

Because of the public criticism of the advice given to police by the Public Prosecution Service, the PPS asked the Ontario Ministry of the Attorney General to provide any advice to police during this new investigation and to handle the prosecution should there be any resulting charges.

At the conclusion of the police investigation on August 8, 2013, child pornography charges were laid against the two boys, KB and CS.

On August 7, 2013, the Nova Scotia Department of Justice tasked Murray Segal, former Deputy Attorney General and former Chief Prosecutor of Ontario, with conducting an independent review of the case.

Mr. Segal began his review but suspended it for a time to allow the prosecution of the two boys to conclude before he proceeded.

On September 22, 2014, CS pled guilty to CC 163.1(2) (A) *publicly exhibits a disgusting object or an indecent show*. He was sentenced on November 13, 2014, in Halifax Youth Court. He received a conditional discharge.

KB went to trial on November 24, 2014, in Halifax Youth Court. He was charged with two counts of CC 163.1(3) (A) *distributes, transmits, sells, imports, exports, or possesses child pornography*. He was found guilty on one count and was sentenced to 12 months' probation.

Ministerial Directive Issued

It should be noted that the public was heavily engaged in the Rehtaeh Parsons story. It generated an unprecedented amount of public dialogue through social media and the name of Rehtaeh Parsons became well-known nationally and even internationally.

However, when KB and CS were charged and the prosecution began, a publication ban on the name of the victim—Rehtaeh Parsons—was ordered. Judge Jamie Campbell ordered the ban as per the law in such cases. In his decision he recognized the fact that Parsons' name is already widely known due to unprecedented public interest and media coverage. Judge Campbell suggested the PPS could announce that it won't prosecute violations of the ban because of public interest considerations. The parents of Rehtaeh Parsons wanted her name to be published and actually published it frequently themselves on their website.

After a great deal of public pressure, Attorney General and Minister of Justice Lena Diab issued a directive on December 15, 2014, under subsection 6(a) of the Public Prosecutions Act that violations of the publication ban not be prosecuted as long as the name of Ms. Parsons was used in a respectful way.

To date, there have been no prosecutions pursuant to the publication ban.

Mr. Segal's report is expected in the fall of 2015.

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	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.
High-quality appeal work	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.
Provide high-quality legal advice and assistance	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 third 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 make a determination on volume and Crown workload. As well, a quality analysis should be undertaken.

OUTCOME DESCRIPTION	WHAT DOES THIS MEASURE TELL US?	WHERE ARE WE NOW?	WHERE DO WE WANT TO BE?
<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 front-line 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>The PPS wants to maintain or enhance the existing level of contribution to policy development.</p>

THE ROLE OF THE ATTORNEY GENERAL

In Nova Scotia, the Minister of Justice is also the Attorney General, and in this role 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 to the Public Prosecution Service in respect of all prosecutions, or a class of prosecutions, after consultations with the Director of Public Prosecutions.

During the period April 1, 2014, to March 31, 2015, the Attorney General issued a directive that no charges laid under section 486.6 of the Criminal Code in relation to the publication ban on the identity of Rehtaeh Parsons be prosecuted unless public interest circumstances exist for doing so. The Attorney General stipulated that such public interest circumstances would include the use of Ms. Parsons' name in a manner that detracts from Parliament's intent of encouraging the participation of witnesses in the criminal justice system through the use of protective measures, of protecting victims from harm, intimidation, or retaliation, and of encouraging the reporting of offences.

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, 2014, to March 31, 2015, the Attorney General did not have occasion to exercise this authority under 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, 2014 to March 31, 2015, the Attorney General did not have occasion to exercise this authority under this provision.

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 practicing member of the Nova Scotia Barristers' Society within one year of appointment. The Director of Public Prosecutions holds office during good behavior and may be removed from office for cause by a resolution of the Assembly.

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 precharge 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, including the need to protect citizens while 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.

The notion that all accused should receive fair and equal prosecutorial treatment by the Crown is a key 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 attorneys, on the other hand, excludes any notion of winning or losing. The Supreme Court of Canada has expressed in the following words the proper frame of mind of those who represent the Crown:

“... 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, 2015, there were 92 Crown attorneys employed by the Public Prosecution Service. They were assisted in their duties by 75 support staff.

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, and the Director of Business Affairs, plus 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 precharge legal advice, and conduct preliminary inquiries and trials before the various trial courts of the province. Chief Crown attorneys also head Appeals and Special Prosecutions.

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 they may be involved where a law enforcement officer is the subject of a police investigation or a prosecution.

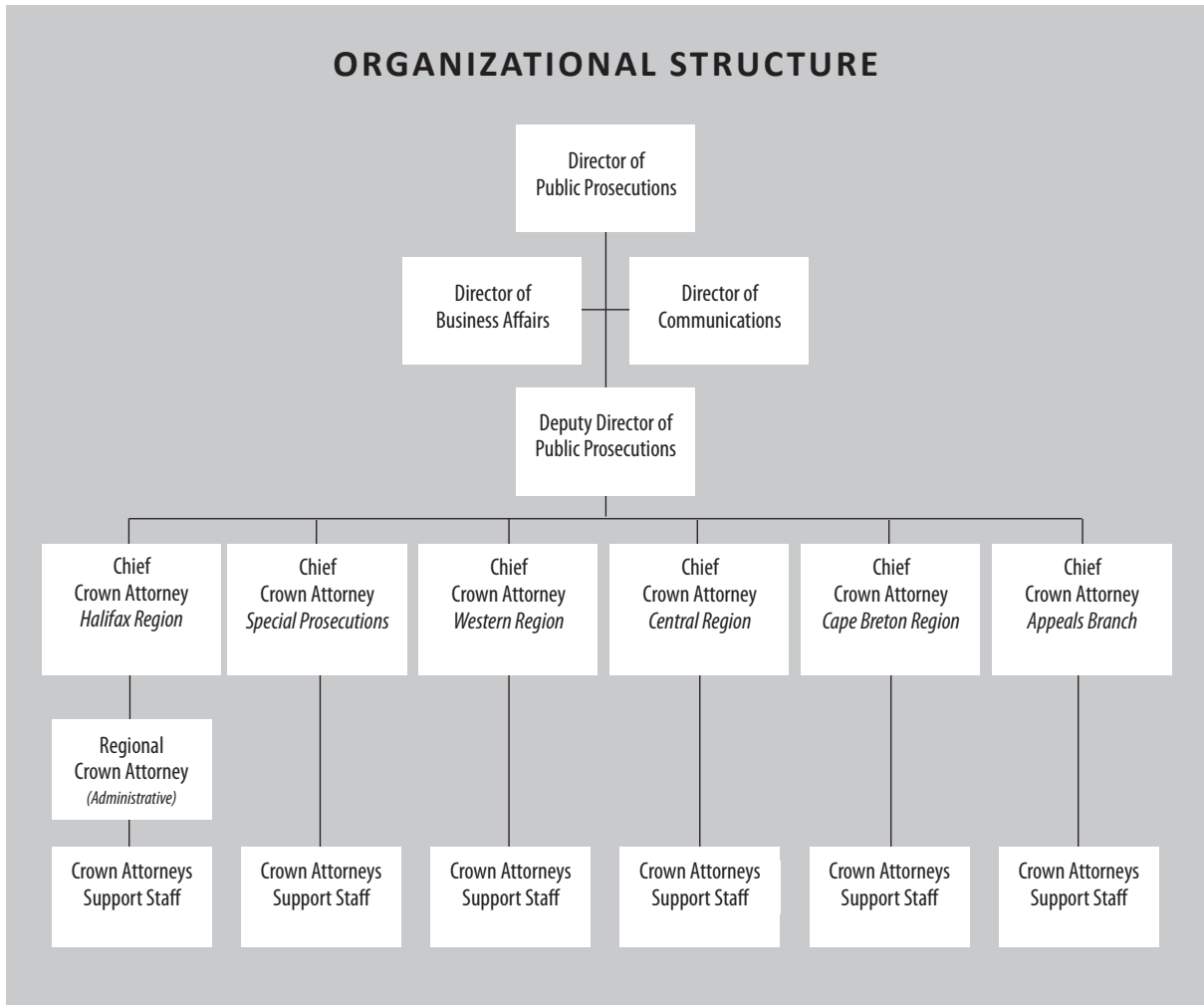
Appeals Branch

The Appeals Branch is responsible for conducting all criminal and quasicriminal 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.

Freedom of Information and Protection of Privacy Act

The Public Prosecution Service’s coordinator for the *Freedom of Information and Protection of Privacy Act* (FOIPOP) is also located in the head office. For the period April 1, 2014, to March 31, 2015, the PPS received 13 applications for records under this Act.

The organizational structure of the Public Prosecution Service 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.

APPENDIX A

CRIMINAL CODE CHARGES IN PROVINCIAL COURT by Offence Category and Judicial Centre 2014–2015

OFFENCE CATEGORIES	HALIFAX	DARTMOUTH	AMHERST	KENTVILLE	BRIDGEWATER	PICTOU
Homicide	7	17	0	1	0	0
Attempted Murder	37	17	4	7	2	1
Robbery	125	70	4	7	2	4
Sexual Assault	50	59	17	47	16	3
Other Sexual Offences	84	102	22	65	27	8
Major Assault	480	464	55	116	57	58
Common Assault	702	500	117	219	171	167
Uttering Threats	464	289	70	121	93	94
Criminal Harassment	60	29	6	15	14	6
Other Crimes Against a Person	87	82	12	27	20	7
Theft of a Motor Vehicle	61	34	12	13	4	0
Theft	1,076	695	83	248	123	126
Break and Enter	173	174	234	86	26	48
Fraud	476	281	32	29	61	52
Mischief	327	262	62	115	84	183
Possession of Stolen Property	1,139	593	52	124	44	56
Other Property Crimes	70	43	1	15	4	5
Failure to Attend Court	166	126	8	10	9	3
Breach of Probation	1,767	913	194	173	120	51
Unlawfully at Large	43	96	5	2	3	4
Failure to Comply with Order	3,042	1,710	309	422	357	205
Other Administration of Justice	210	153	41	54	34	28
Weapons Offences	948	1,021	78	100	70	56
Prostitution	43	17	0	6	0	0
Disturbing the Peace	73	16	8	10	8	7
Residual Criminal Code	132	104	24	69	22	21
Impaired Driving	522	737	192	347	202	156
Other Criminal Code Traffic	124	145	37	50	23	25
TOTAL	12,488	8,749	1,679	2,498	1,596	1,374

APPENDIX A (continued)
CRIMINAL CODE CHARGES IN PROVINCIAL COURT
by Offence Category and Judicial Centre 2014–2015

OFFENCE CATEGORIES	SYDNEY	TRURO	ANTIGONISH	PORT HAWKESBURY	YARMOUTH	DIGBY	TOTAL
Homicide	1	0	0	0	0	0	26
Attempted Murder	8	5	1	5	10	1	98
Robbery	19	20	12	6	3	4	276
Sexual Assault	55	21	6	11	23	15	323
Other Sexual Offences	99	29	9	4	21	36	506
Major Assault	232	117	30	34	79	51	1,773
Common Assault	476	172	51	56	121	126	2,878
Uttering Threats	348	118	39	38	82	77	1,833
Criminal Harassment	17	7	3	3	4	7	171
Other Crimes Against a Person	47	22	6	0	8	9	327
Theft of a Motor Vehicle	14	23	4	1	5	10	181
Theft	437	201	35	27	59	42	3,152
Break and Enter	120	58	28	23	31	32	1,033
Fraud	84	32	12	2	13	16	1,090
Mischief	296	92	22	49	49	57	1,598
Possession of Stolen Property	130	156	7	4	19	42	2,366
Other Property Crimes	43	14	7	2	6	6	216
Failure to Attend Court	140	29	4	8	7	4	514
Breach of Probation	763	163	56	84	148	114	4,546
Unlawfully at Large	16	4	0	0	1	0	174
Failure to Comply with Order	1,830	492	99	146	234	250	9,096
Other Administration of Justice	111	41	8	14	27	21	742
Weapons Offences	271	114	18	35	49	283	3,043
Prostitution	2	2	0	0	0	0	70
Disturbing the Peace	13	12	3	3	4	3	160
Residual Criminal Code	77	20	3	6	11	10	499
Impaired Driving	343	354	121	104	179	121	3,378
Other Criminal Code Traffic	69	47	21	24	34	32	631
TOTAL	6,061	2,365	605	689	1,227	1,369	40,700

APPENDIX B
PROVINCIAL STATUTE CASES
by Judicial Centre, 2014–2015

	MOTOR VEHICLE ACT	LIQUOR CONTROL ACT	OTHER PROVINCIAL STATUTES	TOTAL
HALIFAX	4,665	181	242	5,088
DARTMOUTH	2,278	19	165	2,462
AMHERST	209	7	36	252
KENTVILLE	276	29	46	351
BRIDGEWATER	299	8	66	373
PICTOU	161	9	15	185
SYDNEY	402	13	66	481
TRURO	183	21	163	367
ANTIGONISH	105	10	13	128
PORT HAWKESBURY	92	7	12	111
YARMOUTH	323	17	35	375
DIGBY	266	19	49	334
TOTAL	9,259	340	908	10,507

APPENDIX C

APPEALS BRANCH STATISTICS

The following are statistics related to the operations of the Appeals Branch covering the period April 1, 2014 to March 31, 2015.

The Branch participated in 29 appeals heard by the Court of Appeal. Of this number:

- 2 were initiated by the Crown
- 27 were initiated by offenders

Of the appeals initiated by the Crown, both dealt with acquittal.

Of the 27 appeals initiated by offenders:

- 18 dealt with conviction
- 8 dealt with sentence
- 1 involved a motion for further disclosure

Of the appeals initiated by offenders, one fell under the *Youth Criminal Justice Act* and five were argued by self-represented parties.

The Appeals Branch was 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 225 Chambers motions heard by a single judge in 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 14 recommendations for appeal from trial Crown Attorneys, of which four were approved for appeal.

The Appeals Branch filed three applications for leave to appeal to the Supreme Court of Canada and offenders filed six applications for leave to appeal. The Branch received decisions in eight leave applications, one filed by the Branch and seven by offenders. The Branch filed one notice of appeal and two notices of intervention (one of which was later withdrawn). Counsel in the Branch participated in two appeal hearings and received judgment in two appeals.

APPENDIX D BUDGET RESOURCES

PROGRAM & SERVICE AREA	2014-2015 ESTIMATE (\$ thousands)	2014-2015 ACTUAL (\$ thousands)
GROSS DEPARTMENTAL EXPENSES		
Head Office	2,837	2,654
Cape Breton Region	3,155	3,365
Central Region	2,726	2,894
Halifax Region	6,947	7,107
Western Region	2,782	3,097
Special Prosecutions	1,657	1,533
Appeals	1,033	1,221
TOTAL GROSS DEPARTMENTAL EXPENSES	21,137	21,871
ADDITIONAL INFORMATION		
Fees and Other Charges	0	0
Ordinary Recoveries	262	243
TCA Purchase Requirements	0	0
Provincial Funded Staff (Full Time Employees)	170.7	166.3

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
