



Public Prosecution
Service of Canada

Service des poursuites
pénales du Canada

Public Prosecution Service of Canada

ANNUAL REPORT **2008 - 2009**



Canada

If you would like to know more about the Public Prosecution Service of Canada, please refer to the following documents, both of which are available through our website at **www.ppsc-sppc.gc.ca**:

- The *Director of Public Prosecutions Act*
- The *Federal Prosecution Service Deskbook*

Public Prosecution Service of Canada Annual Report 2008-2009

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Catalogue No: J75-2009

ISBN 978-0-662-06640-8

A special thank you to Susan Law for the photograph of Osgoode Hall on page 13.
To learn more about this heritage building, visit <http://www.osgoodehall.com>.



Public Prosecution Service of Canada Service des poursuites pénales du Canada

Office of the Director Bureau du directeur
Ottawa, Canada
K1A 0H8

JUN 29 2009

The Honourable Robert Nicholson, P.C., M.P.
Minister of Justice and Attorney General of Canada
House of Commons
Ottawa, Ontario K1A 0H8

Dear Attorney General:

Pursuant to Section 16(1) of the *Director of Public Prosecutions Act*, I am pleased to present you with the 2008-2009 Annual Report of the Public Prosecution Service of Canada. The report covers the period from April 1, 2008 through March 31, 2009.

In accordance with its mandate, the PPSC over the past year performed its duties and functions independently, prosecuting offences under federal law on behalf of the Crown and providing legal advice to investigative agencies in respect of potential prosecutions.

PPSC staff perform their role with pride and uphold the highest standards of professionalism in their work. I am grateful for their contributions to the PPSC's continued success as a key player in the Canadian criminal justice system.

I look forward to our work with all our partners in making Canada safer.

Yours sincerely,

Brian Saunders
Director of Public Prosecutions

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Message from the Director of Public Prosecutions

I am pleased to present the *Annual Report 2008-2009* of the Public Prosecution Service of Canada.

Since its creation in December 2006 as an independent organization, the PPSC has performed its legislated criminal justice role in all aspects related to federal prosecutions. Throughout this period, our prosecutors have represented the Crown with dedication and professionalism.

Reflecting the ongoing focus placed by investigative agencies on combating organized criminal activity, the PPSC prosecuted a large number of cases related to organized crime. The PPSC also devoted significant resources to the prosecution of terrorism-related activity. While organized crime and terrorism cases represent a small percentage of the PPSC's caseload, they pose particular challenges because of their complexity and the resources that must be dedicated to them.

On the administrative side, during the past year the PPSC conducted an organizational review and completed the development of its organizational structure. Last year also saw the signing, on March 23, 2009, of a Memorandum of Understanding between the PPSC and the Department of Justice Canada covering the provision of a broad range of administrative and technical services.

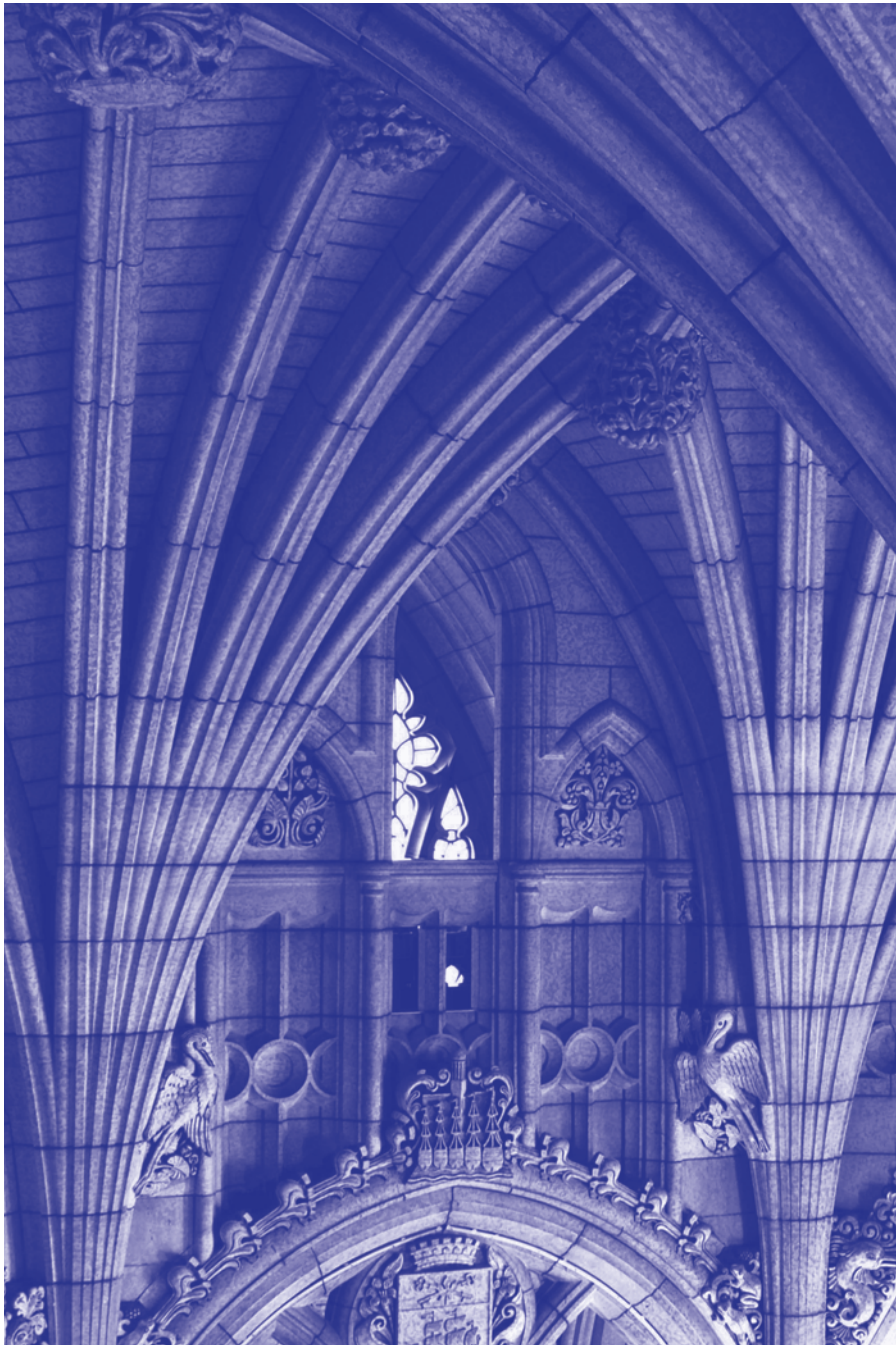
The operational nature of our mandate is reflected in the corporate priorities adopted for 2009-2010. The PPSC Executive Council has adopted four priorities that will guide our corporate services in the performance of their role. These priorities are:

- the safety and security of our employees;
- the recruitment and retention of staff;
- the development of performance measures for key financial and human resources information; and
- the development of a knowledge management framework.

As always, I would like to thank all PPSC staff in offices across Canada for their contribution to our success. By their hard work and dedication, they demonstrate every day their commitment to improving the quality of life of all Canadians.

A handwritten signature in dark ink, reading "Brian Saunders". The signature is written in a cursive, flowing style.

Brian Saunders
Director of Public Prosecutions



I. The Public Prosecution Service of Canada – An Overview

The Public Prosecution Service of Canada (PPSC) was created on December 12, 2006 with the coming into force of the *Director of Public Prosecutions Act*, Part 3 of the *Federal Accountability Act*. The PPSC is an independent prosecution service, whose main objective is to prosecute offences under federal jurisdiction in a manner that is independent of any improper influence and that respects the public interest.

Mandate

The mandate of the PPSC is set out in the *Director of Public Prosecutions Act*. The Act calls on the Director of Public Prosecutions (DPP) to:

- initiate and conduct federal prosecutions;
- intervene in proceedings that raise a question of public interest that may affect the conduct of prosecutions or related investigations;
- issue guidelines to federal prosecutors;
- advise law enforcement agencies or investigative bodies on general matters relating to prosecutions and on particular investigations that may lead to prosecutions;
- communicate with the media and the public on all matters respecting the initiation and conduct of prosecutions;
- exercise the authority of the Attorney General of Canada in respect of private prosecutions;
- exercise any other power or carry out any other duty or function assigned by the Attorney General of Canada that is compatible with the office of the Director;
- initiate and conduct prosecutions under the *Canada Elections Act*; and
- act, when requested by the Attorney General of Canada, in matters under the *Extradition Act* and the *Mutual Legal Assistance in Criminal Matters Act*.

When carrying out these statutory responsibilities, the DPP is the Deputy Attorney General of Canada. The *Director of Public Prosecutions Act* empowers the DPP to act independently in respect of federal prosecutions. With the exception of *Canada Elections Act* matters, the Attorney General of Canada can issue a directive to the DPP in respect of a prosecution or assume conduct of a prosecution, but must do so in writing and a notice must be published in the *Canada Gazette*. To assist the Attorney General in deciding whether to give direction or assume conduct, the DPP must inform the Attorney General of any prosecution or planned intervention that may raise important questions of general interest.

Most of the responsibilities of the DPP are carried out by federal prosecutors employed by the PPSC or retained as private-sector agents by the DPP. Whether staff counsel or private-sector agents, all federal prosecutors work pursuant to delegations issued by the DPP under the *Director of Public Prosecutions Act*.

Assignments and Directives

In 2008-2009, no assignments or directives were issued by the Attorney General of Canada to the DPP. The PPSC continued its work in developing a set of best practices for prosecuting fraud involving governments, which was the subject of an assignment from the Attorney General in February 2007. This will be completed in 2009-2010.

Roles and Responsibilities

The PPSC provides prosecution-related advice to law enforcement agencies across Canada and prosecutes offences within federal jurisdiction. Approximately 50 federal statutes contain offences in respect of which the PPSC undertakes these roles.

In all provinces and territories, except Quebec and New Brunswick, the PPSC is responsible for prosecuting all drug offences under the *Controlled Drugs and Substances Act*, regardless of which police agency investigates the alleged offences. In Quebec and New Brunswick, the PPSC prosecutes only those drug offences investigated by the Royal Canadian Mounted Police.

In all provinces and territories, the PPSC prosecutes violations of federal statutes such as the *Income Tax Act*, the *Fisheries Act*, the *Excise Act*, the *Customs Act*, the *Canadian Environmental Protection Act*, and the *Competition Act*, as well as conspiracies and attempts to violate these statutes.

In the three territories, the PPSC is responsible for prosecuting all *Criminal Code* offences. In the provinces, the PPSC has jurisdiction to prosecute a limited number of *Criminal Code* offences, including those related to terrorism, criminal organizations, money laundering, proceeds of crime and fraud. Under arrangements with the provinces, the PPSC may also prosecute *Criminal Code* offences that are otherwise within provincial jurisdiction when the accused also faces charges within federal jurisdiction.

The PPSC is not an investigative agency. The independence of law enforcement agencies from prosecutors is well established in Canada and is considered an important aspect of the administration of justice. The PPSC conducts a prosecution when a charge of violating federal law has been laid by an investigative or law enforcement agency, following an investigation. Despite the independence of investigators and prosecutors, cooperation between the two is recognized as essential. As a result, the PPSC often provides legal advice and assistance to investigators at the investigative stage and at times works closely with them.

In addition to providing advice and conducting prosecutions, the PPSC performs a number of other key roles in the criminal justice system, including:

- participating in multidisciplinary integrated enforcement teams with members of partner organizations;
- applying for various types of judicial authorizations to enable the police to carry out their investigations lawfully, including wiretap applications and applications for special search warrants and restraint orders;

- performing legal, financial, and strategic risk assessments and developing plans for managing the prosecution of megacases; and
- acting as a centre of expertise for criminal law, and providing the prosecutor's perspective on the development of amendments to federal statutes relevant to the criminal justice system.

Role of the Prosecutor

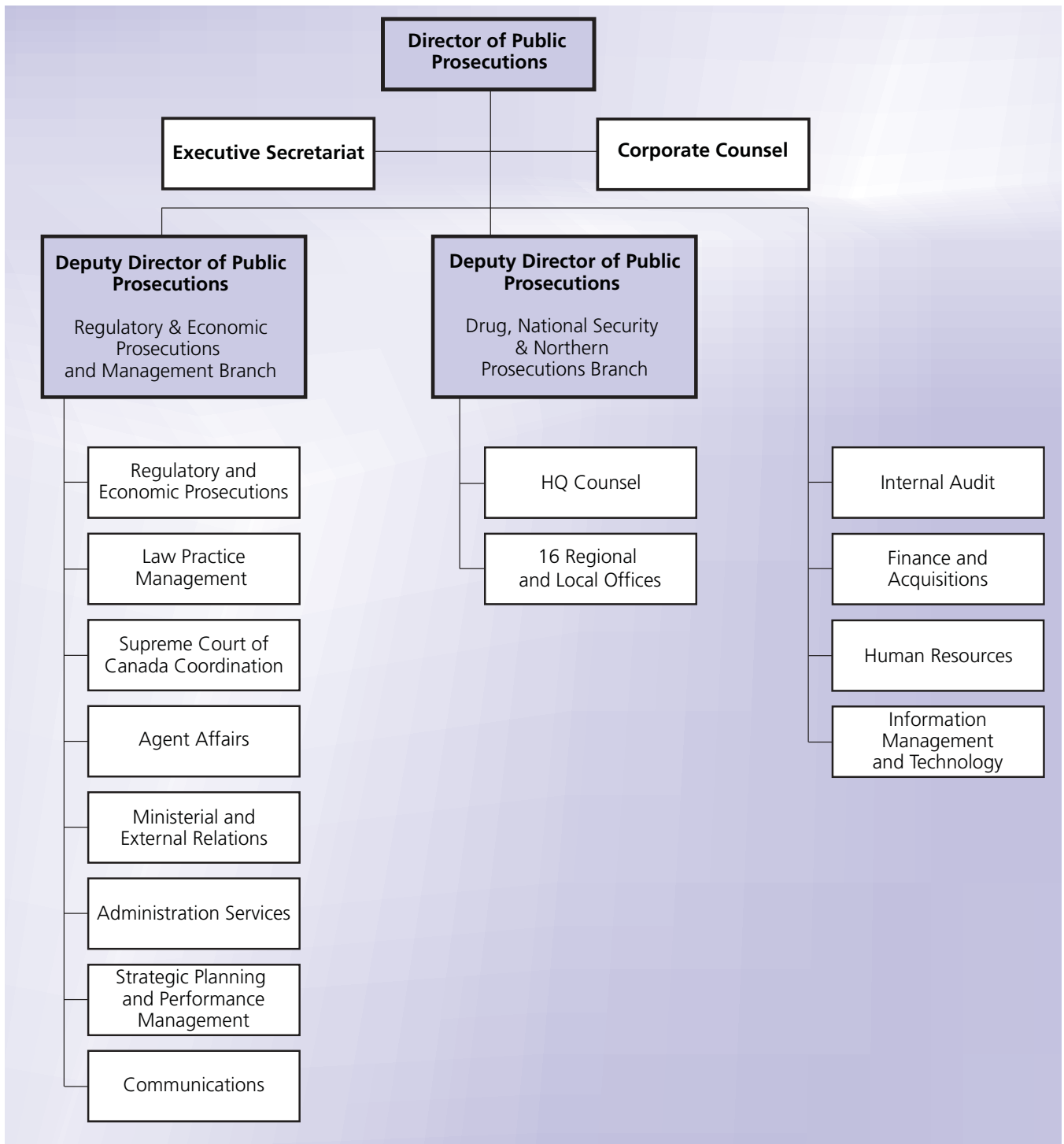
Prosecutors play a key role in the Canadian criminal justice system. Much is expected of them by the courts and by the public. They must see that all cases deserving of prosecution are brought to trial and prosecuted with diligence and fairness. They must be of absolute integrity, above all suspicion of favouritism and must exercise the considerable discretion bestowed on them fairly, in good faith, and without any consideration of the political implications of their decisions. Their role is not to win convictions at any cost, but to put before the court all available, relevant, and admissible evidence necessary to enable the court to determine the guilt or innocence of an accused.

About the Organization

As of March 31, 2009, the PPSC had 834 employees across Canada – the majority of whom were prosecutors. In addition to staff prosecutors, the PPSC retained the services of 704 private-sector lawyers as agents.

With Headquarters in Ottawa, the PPSC maintained a network of 16 offices across Canada. Some PPSC staff prosecutors were also co-located with the Competition Bureau in the National Capital Region and with integrated enforcement teams across Canada.

Current Organizational Structure



Partners

Department of Justice Canada

While the PPSC is an independent organization, it maintains a close and cooperative relationship with the Department of Justice Canada. PPSC prosecutors consult Justice counsel in areas such as human rights law, constitutional law, Aboriginal law and public law. Such consultations do not impinge on the independence of PPSC prosecutors.

The PPSC continues to rely on the Department of Justice for a number of transactional administrative services. On March 23, 2009, the PPSC and the Department of Justice signed a Memorandum of Understanding to formalize the provision of these services.

In Canada's territories, the PPSC provides transactional administrative services to the Department of Justice. The organizations are currently developing the terms of an agreement to formalize this arrangement.

Investigative Agencies

An important aspect of the PPSC's mandate is the provision of advice to law enforcement agencies during their investigations. The early and ongoing involvement of prosecutors, both during major investigations and in the implementation of national enforcement programs, helps ensure that the police and other investigative agencies benefit from legal advice to decide how best to enforce the law.

During 2008-2009, the PPSC worked with investigative agencies, including the RCMP and other police forces, as well as federal departments and agencies such as the Canada Revenue Agency, the Competition Bureau, the Canada Border Services Agency, Fisheries and Oceans Canada, Environment Canada, and Health Canada.

PPSC counsel provided advice on such issues as the disclosure required by law and assisted in obtaining key evidence-gathering orders, such as wiretap authorizations and orders to produce evidence.

Provinces

The federal and provincial governments share jurisdiction over criminal prosecutions. This makes cooperation and coordination essential to the effective enforcement of the law. One method used to ensure effective enforcement is "major-minor" arrangements. Under these arrangements, the prosecution service responsible for prosecuting the "major" charge faced by an accused prosecutes the "minor" one as well. Thus, the PPSC may prosecute a *Criminal Code* offence that is within provincial jurisdiction with the consent and on behalf of a provincial attorney general where it is related to a federal charge, usually a drug charge. In the same vein, provincial prosecution services may prosecute drug charges where the major offence is found in the *Criminal Code*.



II. The Year in Review

The total PPSC caseload in 2008-2009 numbered 74,674 files. The figure includes cases opened, as well as those carried over from the previous year, both for staff counsel and private-sector legal agents.

The PPSC provides prosecution services in four broad areas:

- prosecuting drug offences throughout the country;
- acting as the prosecution service for all offences in the three Northern territories, including *Criminal Code* offences;
- prosecuting crimes that threaten national security, such as terrorism and war crimes; and
- prosecuting offences under federal regulatory legislation.

In all these areas, the PPSC seeks to serve the public interest and ensure respect for the rule of law.

Drug Prosecutions

Drug prosecution files represent a high proportion of the PPSC's total caseload. In 2008-2009, the PPSC handled 54,705 prosecution files related to offences under the *Controlled Drugs and Substances Act*. This included files handled by staff counsel as well as those prosecuted by private-sector legal agents. This work is supported by prosecutors at Headquarters in Ottawa.

Drug prosecutions can range from a very simple case of possession of a few grams of marihuana to a complicated scheme to import kilograms of cocaine or to export methamphetamine made in a clandestine laboratory in a suburban neighborhood.

A number of trends noted in previous years continued in 2008-2009.

- Even what previously may have been a relatively straightforward prosecution can become prolonged as a result of extended motions focused on such things as the legality of the investigation, the constitutionality of the legislation or of the investigation, disclosure issues, allegations of abuse of process, or unreasonable delay.
- There is an increased number of drug cases in certain parts of the country as a consequence of police initiatives to address street crime.
- Police forces are targeting significant crime groups, whether formally organized or not. In 2008-2009, the PPSC prosecuted over 400 cases related to organized criminal activity.

PPSC prosecutors are frequently called upon to become involved early on in investigations to ensure that investigators receive timely advice on the lawfulness of the techniques they are using and that they marshal the evidence in such a way that a prosecution that permits a decision on the merits can be pursued.

The last decade has seen an increase in the number of high-complexity trials. These cases continue to require a disproportionate amount of PPSC resources. While high-complexity drug cases represented only about 1.4% of staff counsel's drug caseload in 2008-2009, they absorbed almost 12.5% of the litigation time dedicated to drug prosecutions recorded by legal staff.

Some cases are of such length and complexity that they are considered megacases. PPSC prosecutors assigned the conduct of megacases are required to prepare a prosecution plan for review by senior litigators on the National Prosecution Advisory Committee. A number of megacases handled by the PPSC were concluded in the courts in 2008-2009. Project Tandem and Project Colisée are noteworthy examples of the utility of careful preparation through the use of prosecution plans.

Project Colisée

Following a four-year police investigation, 101 people, including employees of the Montréal-Trudeau Airport and the Canada Border Services Agency, were accused of offences related to gangsterism, drug trafficking, corruption, bookmaking, extortion, gambling houses, possession of proceeds of crime and firearms. This investigation generated an unprecedented volume of evidence, including over 1.2 million private communications (a large percentage of which were in Italian) and 120,000 hours of video. Restraining orders were issued and proceeds of crime were seized.

In 2008-2009, of the 101 individuals charged, 33 pleaded guilty and were sentenced; six received sentences ranging from four to 15 years in jail; 56 were temporarily released pending preliminary hearings, trials or sentencing; and 12 were taken into custody while awaiting trial or sentencing.

By the end of 2008-2009, forfeiture orders for over \$4,000,000 of goods and currency had been issued by the court.



As revenue-generating crimes, drug offences continued in the past year to represent most of the offences that produced proceeds of crime and property used to commit crime ("offence-related property"). In 2008-2009, the PPSC handled 4,039 cases involving either proceeds of crime or offence-related property. The proceeds or property at issue ranged from money used to buy drugs from an undercover officer to real estate bought with the proceeds of crime or used to produce drugs. A total of approximately \$29.9 million worth of proceeds of crime and offence-related property was forfeited during 2008-2009.

The PPSC's role in relation to drug offences is not confined to prosecutions that result in penalties. Addiction-motivated crime poses particular challenges. To address it, federally funded drug treatment courts have been established in Vancouver, Edmonton, Regina, Winnipeg, Toronto and Ottawa. In addition, a community-funded drug treatment court has been established in Calgary. These courts try to reduce the revolving door of crime committed to feed an addiction by focusing on the supervised treatment of the offender. Prosecutors work with judges, defence counsel, treatment providers and other personnel to cooperatively but accountably deal with the issues raised by the conduct of offenders diverted to these specialized courts.

PPSC prosecutors currently staff all of Canada's drug treatment courts with the exception of the Regina Drug Treatment Court, which is staffed by prosecutors from the Ministry of the Attorney General of Saskatchewan. In 2008-2009, drug treatment courts in Canada dealt with approximately 384 individuals.

Project Tandem

After an 18-month investigation into the criminal activities of the Hells Angels in southern Ontario, 24 persons were arrested in September 2006 and charged with offences relating to drugs, weapons, stolen property, proceeds of crime, and criminal organization activities. It was the first prosecution in Canada to use the services of a full-patch member of the Hells Angels as a police undercover agent. Of those charged, 21 were convicted, including 13 full-patch members. The Crown withdrew or stayed charges on the other three. In each of the proceedings with criminal organization charges at issue, the trial judge found the Hells Angels to be a criminal organization. Eleven accused received penitentiary sentences, and forfeitures included \$644,895 and seven vehicles.

National Security

Anti-terrorism

The Attorney General of Canada has concurrent jurisdiction with provincial attorneys general to prosecute terrorism offences. In 2008-2009, the PPSC was responsible for prosecuting four cases involving terrorism-related offences in Montreal, Ottawa, Toronto and Vancouver.

Mohammad Momin Khawaja

On October 29, 2008, following a five-week trial, Mohammad Momin Khawaja was found guilty in the Ontario Superior Court of Justice at Ottawa of five terrorism offence charges under the Criminal Code. He was also found guilty of two other Criminal Code offences relating to the making and possession of explosive substances.

On March 12, 2009, he was sentenced to 10.5 years in jail, in addition to time served. Mr. Khawaja appealed the conviction and the sentence. On April 14, 2009, the PPSC sought leave to appeal to the Ontario Court of Appeal regarding the sentence.

War Crimes and Crimes Against Humanity

The PPSC has the responsibility of prosecuting offences under the *Crimes Against Humanity and War Crimes Act*. To date, the PPSC has conducted one prosecution under the Act. That prosecution demonstrated that war crimes prosecutions will be complex and lengthy, with significant amounts of evidence from beyond Canada's borders.

Désiré Munyaneza

Canada's first-ever modern war crimes prosecution took place in Montreal and was in relation to events that occurred in Rwanda in 1994. Désiré Munyaneza, a Rwandan citizen living in Canada, stood accused of genocide, crimes against humanity and war crimes. The offences were committed in Butare, Rwanda, in 1994, and included the killing and causing serious bodily harm to Tutsi, the raping of Tutsi women and pillaging. On May 22, 2009, Mr. Munyaneza was found guilty on all charges.

Prosecutions in Canada's North

In Canada's three territories, the PPSC prosecutes all *Criminal Code* offences as well as offences under other federal legislation. In 2008-2009, the PPSC prosecuted 9,306 files in the territories, of which 8,045 involved *Criminal Code* offences, 465 drug offences, 286 regulatory offences and 510 territorial offences. Prosecutions undertaken included many offences of violence, particularly in the area of domestic violence and sexual assault.

During 2008-2009, the three Northern regional offices handled a total of 23 homicide cases, including two cases involving the killing of on-duty police officers.

Heavy workload, cultural differences and travel over vast distances present challenges for PPSC employees working in Nunavut, the Northwest Territories and Yukon.

To help witnesses and victims confronted with the criminal justice system, the PPSC employs Crown Witness Coordinators in its Northern offices. The coordinators provide invaluable assistance by helping explain to victims and witnesses how the court process works and by acting as a support to them during the process. Their assistance is often critical to ensuring that the court has all of the relevant evidence before it can make a determination on the merits of the case. In 2008-2009, the PPSC partnered with the Policy Centre for Victim Issues of the Department of Justice to provide increased training and support for Crown Witness Coordinators.

In July 2007, the Department of Justice Canada released *Northern Justice Consultations: A Report on Discussions about the Northern Justice System carried out in the Yukon, Northwest Territories and Nunavut in 2006*. The report contained recommendations for improving the criminal justice system and highlighted the need for creative, innovative and community-based programs to deal with family violence, addictions and mental illnesses, with a focus on rehabilitation and restoration.



In the fall of 2008, the PPSC issued its response to the report's recommendations that fell within its mandate. The PPSC agreed to address the recommendations and made a commitment to continue to work with the Department of Justice and with the territorial governments to improve the delivery of criminal justice to Northern communities.

The PPSC participates in a number of innovative and community-based courts and programs in the North. In the Yukon, the Domestic Violence Treatment Option Court and the Community Wellness Court provide prosecutors with alternative sentencing options in appropriate cases which involve extensive counselling and monitoring of offenders. In Nunavut, the PPSC participates in the Rankin Inlet Spousal Abuse Program, which gives prosecutors the option of referring accused for community counselling prior to sentencing.

Review of Northern Files

In May 2008, the PPSC announced the completion of its search of homicide prosecution files in the territories which could have involved pathologist Dr. Charles Smith. In 2007, the PPSC announced it had undertaken a review of northern case files going back 27 years, in light of concerns raised about autopsies involving Dr. Smith over that period. None of the PPSC files reviewed were found to have involved autopsies performed by Dr. Smith. The file review results were announced at the completion of inquiry hearings into the oversight of Ontario's pediatric forensic pathology system.

Regulatory Prosecutions

The PPSC prosecutes a wide range of offences that are aimed at protecting the health, safety and general welfare of the public. They include offences under statutes such as the *Fisheries Act*, the *Immigration and Refugee Protection Act*, the *Copyright Act*, the *Canada Elections Act*, the *Food and Drugs Act*, and the *Canadian Environmental Protection Act*.

Regulatory prosecutions comprise the second-largest category of offences prosecuted by the PPSC, after drug prosecutions. In 2008-2009, the PPSC handled 8,682 files involving regulatory offences.

Regulatory prosecutions are typically complex and resource-intensive. Specialized teams of regulatory prosecutors have been established in most PPSC regional offices. Their work is coordinated and supported by prosecutors at PPSC Headquarters in Ottawa.

In recognition of the specialized nature of regulatory prosecutions, a special meeting of PPSC regulatory prosecutors was held in the context of the PPSC National Conference, in November 2008. This training session allowed PPSC prosecutors from across Canada to network and share their knowledge. Similar meetings for regulatory prosecutors will be held in the future.

Economic Crime Prosecutions

Revenue Offences

As part of its work to fight economic crime, the PPSC prosecutes offences under all statutes administered by the Canada Revenue Agency (CRA). The most common offences prosecuted are *Income Tax Act* offences such as tax evasion. The PPSC provides advice at the investigative stage, and prosecutions are conducted by specialized prosecutors throughout Canada.

Senior officials from the PPSC and the CRA meet on a quarterly basis to discuss issues of mutual interest, including joint planning, training and specific issues arising from revenue investigations and prosecutions. In April 2008, the CRA and the PPSC held their annual conference of investigators and prosecutors to further enhance cooperation between the two organizations.

Integrated Market Enforcement Teams

PPSC prosecutors assigned to Integrated Market Enforcement Teams (IMET) work with RCMP members and other investigators, including forensic accountants, and are located in Vancouver, Calgary, Toronto and Montreal. They provide legal services to investigators during investigations. In 2008-2009, these prosecutors were consulted on 35 investigations.

The PPSC has concurrent jurisdiction in cases of fraud charges pursuant to section 380 of the *Criminal Code*. When a fraud charge is laid following an IMET investigation, the attorney general of the province in which the charge is laid has the right of first refusal to prosecute the offence.

In 2008-2009, the PPSC completed its implementation of the recommendations of the Le Pan report, which suggested improved cooperation between stakeholders and more involvement by senior management. In the wake of these recommendations, the Securities Fraud and Economic Crime Prosecution Affiliation was created. This affiliation is co-chaired by the PPSC, and is comprised of representatives from the four provincial jurisdictions in which IMET units are located. It is mandated to establish a network of specialized prosecutors and to develop best practices in this area.

In 2008-2009, charges were laid in five IMET files. In addition to the work of legal advisors within the IMET, the PPSC is responsible for prosecuting one of them and is part of the team prosecuting another, by invitation of the Director of Criminal and Penal Prosecutions for Quebec.

Competition Law Section

The PPSC handles prosecutions under the *Competition Act* as well as the *Consumer Packaging and Labelling Act*, the *Textile Labelling Act*, and the *Precious Metals Marking Act*. These statutes are administered and enforced by the Commissioner of Competition, who oversees the Competition Bureau. The PPSC also provides legal advice at the investigative stage on Competition Bureau files that may lead to prosecutions.

In 2008-2009, the section handled a total of 59 cases.

Operation Octane

Following an extensive investigation into the pricing practices of gasoline retailers in Victoriaville, Thetford-Mines, Magog, and Sherbrooke, Quebec, the Competition Bureau laid charges alleging that the retailers were engaged in a conspiracy to fix gas prices at the pump, contrary to section 45 of the Competition Act. The PPSC handled the prosecution of the 13 individuals and 11 companies charged. Six individuals have since pleaded guilty and have been sentenced to terms of imprisonment ranging from two to twelve months in prison, to be served in the community, and to fines from \$5,000 to \$50,000. Four companies have pleaded guilty to these charges; the total amount of all fines imposed on the companies was over \$2.6 million.

Counterfeiting

In 2003, counterfeiting was on the rise and Canada had the highest rate of bank note counterfeiting among G7 countries. In response to this situation, Federal, Provincial and Territorial Heads of Prosecutions created a subcommittee on bank note counterfeiting. The subcommittee is mandated to create tools for prosecutors and distribute information on the social and economic effects of counterfeiting as well as trends in this area. The PPSC has developed the model for a Bank of Canada affidavit, which is used in court at time of sentencing, and provides information to judges on the prevalence of counterfeiting and the repercussions of this activity on the Canadian economy. Since 2007, this affidavit has been used in over 35 cases.

Programs

Agent Affairs

The PPSC retains the services of private-sector legal agents to conduct prosecutions on behalf of the Federal Crown. As of March 31, 2009, the PPSC retained the services of 704 private-sector lawyers from 243 law firms. The PPSC uses agents where it does not have a regional office or where it is impractical or otherwise not cost-effective for staff counsel to handle cases. In 2008-2009, legal agents had carriage of approximately 38,500 files, or just over half of the total handled by the PPSC.

The Agent Affairs Program (AAP) handles the management of legal agents. Its objective is to ensure that agents provide quality legal services at a reasonable cost. The AAP is located at PPSC Headquarters in Ottawa. Each regional office (with the exception of the Northern regional offices) has an Agent Supervision Unit to handle the day-to-day supervision of agents and to support them in their work.

As part of its management control framework, the AAP uses modern audit techniques, such as risk management, for agent file review. Benchmarks have been developed for a number of case profiles, within the context of the *Controlled Drugs and Substances Act*, the *Fisheries Act*, the *Income Tax Act* and other federal statutes.

In 2008-2009 the PPSC, with the approval of the Treasury Board of Canada, increased the agent fee rates for the first time in over 15 years. The new agent fee rates will increase in future years, aligned with the Consumer Price Index.

In 2008-2009, the PPSC also introduced fixed-term appointments for agents, replacing indeterminate appointments, which were subject, however, to termination without notice. Under the new regime, any law firm or lawyer interested in becoming a federal prosecution agent can apply for a five-year appointment when an opening occurs in a jurisdiction. Fixed-term appointments will be offered in all jurisdictions across Canada over the next five years. The selection of agents will be done pursuant to a competitive process that includes a screening process and reference checks. Further information about the new appointment regime is available on the PPSC website at <http://www.ppsc-sppc.gc.ca>.

Fine Recovery

The PPSC National Fine Recovery Program recovers outstanding court-ordered fines under federal statutes through the efforts of eight fine recovery units, located in PPSC regional offices.

Outstanding fines are recovered through various types of intervention, including an initial demand letter, telephone contacts, payment negotiations, seizure of assets, registering liens on property and income garnishment. The final resort is the issuance of a warrant of committal, in cases where offenders try to avoid making payment despite their ability to pay.

In 2008-2009, the Program recovered \$5.2 million in fines – an increase of 12% over the previous year. Over 1,000 files were closed. One hundred and sixty-five individuals were incarcerated for refusing to pay their fines. Since the Program was first introduced in late 2002, approximately \$45 million in fines has been recovered.

On July 1, 2008, the PPSC entered into an agreement with the CRA to allow the PPSC to recover offenders' outstanding fines by way of set-off against the offenders' income tax and GST refunds. Between July 1, 2008 and March 31, 2009, almost 5,000 fines were registered with the CRA, resulting in the recovery of approximately \$400,000.



Legal Committees

National Litigation Committee and Supreme Court of Canada Litigation

The PPSC National Litigation Committee advises the DPP on questions of law in the context of litigation and makes recommendations with respect to the filing of interventions in Canadian courts and on applications for leave to appeal and facta in the Supreme Court of Canada.

In 2008-2009, PPSC counsel appeared on 15 cases in the Supreme Court of Canada, namely on eight appeals, five interventions and two motions.

Confidential Advice to Counsel Committee

The Confidential Advice to Counsel Committee is composed of senior prosecutors from across the PPSC. The Committee considers proposed legal practice directives relating to areas of the law that are of relevance to federal prosecutors and, if appropriate, recommends their adoption by the DPP. Through the work of the Committee, the PPSC ensures that national positions and approaches to pre-charge and post-charge legal issues are developed in light of the national experience. During 2008-2009, the DPP issued seven confidential practice guidelines.

National Prosecution Advisory Committee

The National Prosecution Advisory Committee is comprised of senior PPSC litigators from offices across Canada. It considers prosecution plans submitted in respect of megacase prosecutions and makes recommendations to the responsible Deputy Director. The Committee examined four such plans in 2008-2009.

Training

The PPSC is involved in a wide range of training activities for prosecutors and partners in the criminal justice system. These activities ensure the organization is equipped to meet its challenges and set the foundation for a responsive, accountable and innovative prosecutorial environment. In 2008-2009, the PPSC provided training to police officers across Canada on several criminal law matters. The PPSC also participated in the delivery of training offered at the Canadian Police College, where a PPSC staff prosecutor was assigned to ensure prosecution concerns were addressed.

School for Prosecutors

The School for Prosecutors is an in-house training program established in 1997. Its mandate is to promote professional development relevant to the prosecution function, through the delivery of practical and academic training.

In 2008, the School conducted two intensive one-week courses - one fundamental, the other advanced - each covering various key topics, to a total of 107 students. In addition to PPSC prosecutors, the School was also attended by private practitioners who act as agents for the PPSC, lawyers from the Department of Justice Canada, federal law enforcement officials, and two lawyers from the *Centro de Estudios de Justicia de las Americas* (CEJA), of Santiago, Chile.

Core elements of the *Prosecution Fundamentals* course examined criminal law topics such as the role of the prosecutor, issues related to the *Canadian Charter of Rights and Freedoms*, trial advocacy, search and seizure, informer privilege, expert evidence, disclosure, proceeds of crime, and regulatory offences.

The *Advanced Issues for Prosecutors* course, designed for experienced practitioners, examined complex case issues including wiretap and prosecutions of criminal organizations.

The School's faculty members are drawn largely from the senior ranks of the PPSC. A number of guest speakers, including members of the judiciary, a prosecutor with the United Kingdom Crown Prosecution Service, professors of law, defence counsel, senior provincial prosecutors, and senior police investigators, were also among the 2008-2009 faculty.

PPSC - CEJA Program

The National Capital Regional Office hosted two CEJA-sponsored lawyers from Latin America, from April 28 to May 16, 2008. Over the course of the three-week program, the interns shadowed federal prosecutors in provincial and superior courts, where they attended bail hearings, remand court, judicial pre-trials, jury trials and sentencing hearings. They also met with other criminal justice system participants including, judges, provincial prosecutors, defence counsel, victim and witness coordinators and a University of Ottawa Law School professor.

The School uses a combination of lectures, seminars, panel discussions, case scenarios and papers to teach participants. Attention is also given to operational policies and guidelines, such as those contained in the *Federal Prosecution Service Deskbook*. In addition to providing classroom training, the School also serves as a forum for prosecutors to meet, share work experiences, develop mentoring relationships, and enhance their sense of identity as federal prosecutors.

Outreach

The PPSC maintains contacts with external stakeholders involved in the criminal justice field to ensure key linkages are developed and maintained. In 2008-2009, the PPSC focused its outreach activities on professional organizations such as the Federation of Law Societies of Canada and the Canadian Bar Association.

Federal-Provincial-Territorial Heads of Prosecutions Committee

The Federal-Provincial-Territorial Heads of Prosecutions Committee brings together the prosecution leaders of Canada's prosecution services to promote assistance and cooperation between prosecution services on operational issues. The Committee also provides the prosecution perspective to Federal-Provincial-Territorial Ministers Responsible for Justice. The Director of Public Prosecutions is permanent co-chair of the Committee and the PPSC acts as its secretariat.



The PPSC co-chaired two meetings of the Committee in the past year: one in April 2008, organized jointly with the Canadian Military Prosecution Service in Ottawa and the other in October 2008, with the Crown Attorney's Office of Prince Edward Island, in Charlottetown. The PPSC also organized several meetings and teleconferences of subcommittees and working groups of the Committee.

Foreign Prosecution Services

During the past year, the PPSC received delegations from New Zealand, Russia and Serbia. A variety of topics were discussed including Canadian drug legislation and approaches to drug control, anti-corruption mechanisms in the Canadian Federal Public Service, and the role played by Canadian prosecutors.

In September 2008, the PPSC hosted a delegation of public prosecutors and *juges d'instruction* from Algeria, Egypt, Iraq, Jordan, Lebanon, Morocco and Yemen. The visit took place under the Programme on Governance in the Arab Region, an initiative launched through the United Nations Development Program with the aim of strengthening the relationship between Arab public prosecutors and the international community, and building their capacities. The PPSC briefed the delegation on a number of subjects ranging from drug and terrorism offences, to the security of prosecutors and other justice officials.

In March 2009, PPSC officials attended a bilateral work meeting with senior management from France's Department of Justice. This meeting focused on the exchange of information on matters of mutual interest, such as prosecution of terrorism, organized crime, environmental crime, fraud and financial interests, and principles related to prosecutorial independence.

International Association of Prosecutors (IAP)

In May 2008, the PPSC represented the IAP at the 1st Meeting of the International Network to Promote the Rule of Law (INPROL), held in Washington DC. INPROL aims to create a network of specialists who can provide assistance in justice reconstruction and capacity-building projects in regions that have experienced civil unrest or civil war. The PPSC discussed how the resources of the IAP and of prosecution services such as the PPSC can help INPROL achieve its goals.

The PPSC has a representative on the development board of the Global Prosecutors E-Crime Network, a web-based platform launched by the IAP for specialist e-crime prosecutors providing them with access to a library of documentary and training resources.

The IAP's *Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors* is a statement intended to serve as an international benchmark for the conduct of individual prosecutors and of prosecution services. In 2008-2009, the PPSC signed the statement, signalling its commitment to the highest standards expected of prosecutors and prosecution services.

The PPSC maintains the French-language web site of the IAP and is working on an update and re-launch of the site.

Corporate Functions

Since its creation, the PPSC has developed its strategic corporate capacity in a number of areas. The functions performed within these corporate service areas are essential to the operations of the PPSC and to its obligations to report to Parliament as a distinct government organization.

Strategic Planning and Performance Management

The Strategic Planning and Performance Management Section is responsible for planning, performance management and reporting at the corporate level. It performs strategic and business planning, performance management and reporting, central agency liaison and research and evaluation.

One of the PPSC's corporate priorities for both 2008-2009 and 2009-2010 is performance measurement. The work undertaken in this area will allow the PPSC to better monitor and report on its activities.

In 2008-2009, the PPSC analyzed the results of its first survey of investigative agencies. The analysis revealed a remarkable level of consistency in the factors that influence respondent perceptions of the PPSC. These factors include the perceived quality and consistency of the legal knowledge and advice of the prosecutors that the respondents had dealt with; the nature and extent of communication, liaison and training at the front line and management levels; and various aspects of the PPSC's case management processes, including the file review and charge approval process.

Human Resources

The Human Resources Directorate provides ongoing strategic advice and has begun performing some transactional services previously offered by the Department of Justice, such as labour relations. In 2008-2009, the Directorate completed the organizational design of the headquarters component of the PPSC, and an organizational review of all of the PPSC. As a result of the design and review exercises, the PPSC organizational structure accurately reflects its current complement and resource allocation.

The Directorate also worked on the development of a five-year human resources strategy and plan for 2009-2014. In partnership with the PPSC's Finance and Acquisitions Directorate, the Directorate developed an integrated Delegation of Authorities Instrument that defines the accountabilities, responsibilities and delegated authorities of executives, managers, supervisors and functional specialists and identifies how resources are to be managed. The instrument will be introduced in 2009-2010.

Finance and Acquisitions

The Finance and Acquisitions Directorate provides leadership in financial management, program financing, acquisition of goods and services, financial reporting and proactive disclosure to central agencies and stakeholders. During 2008-2009, the Directorate developed an accountability framework and accounting procedures. It also separated PPSC accounting records from those of the Department of Justice Canada.

Information Management and Technology

In 2008-2009, the Information Management and Technology Directorate was engaged in staffing its organization while at the same time providing essential IM-IT services in support of PPSC staff. It developed a corporate Intranet with the Communications Division, generated a technology renewal plan, improved IT service delivery in the Northern offices and launched a multi-year initiative to provide prosecutors ready access to the key information they require to conduct their day-to-day work.

Ministerial and External Relations

The Ministerial and External Relations Secretariat is responsible for Cabinet and Parliamentary Affairs, ministerial liaison, correspondence, and for relations with external stakeholders. Cabinet affairs involves the preparation of briefing material for the Attorney General of Canada on matters that concern the PPSC. Parliamentary affairs involves the coordination of responses to requests from Parliament, the monitoring of parliamentary proceedings and the analysis of their potential impact on the PPSC.

The Access to Information and Privacy Office is responsible for processing requests submitted to the PPSC under both the *Access to Information Act* and *Privacy Act*. The Office carried out a number of training and education activities to raise awareness within the PPSC and to educate senior management and other employees about their roles and responsibilities pursuant to these acts. Training sessions were held in Vancouver, Edmonton, Calgary, Yellowknife, Winnipeg, Saskatoon, Ottawa and Toronto. Additional sessions will be given during the next year.



Administration Services

The PPSC created the Administration Services Division in October 2008 and tasked it with the delivery of operational services in the areas of security, accommodations, occupational health and safety, and informal conflict management. The position of Manager, Security Services was staffed. The Accommodation and Facilities Management Services Section was created to lead the planning and execution of PPSC short, medium and long-term accommodation plans. The PPSC Occupational Health and Safety (OHS) Section initiated work on the implementation of its Hazard Prevention Program to identify OHS risks in the workplace. The section also initiated the delivery of OHS training in all offices nationally. The PPSC extended the Memorandum of Understanding established with the Department of Justice for the provision of corporate services including services in the area of Informal Conflict Management.

Corporate Counsel

Corporate counsel provides advice to the DPP and to PPSC management on issues of interest and importance to the practice of law, including advice on administrative and public law matters, management issues and matters related to actual or potential conflicts of interest on the part of PPSC employees. In addition, corporate counsel is involved in any matter related to ethics or issues related to membership by counsel in a provincial or territorial law society.

Communications

The Communications Division provides the PPSC with a broad range of communications products and services, including media relations, media monitoring and analysis, publications, strategic advice, internal communications and communications support. Communications plays a key role in explaining PPSC operations and decisions to the public and to the media. In 2008-2009, Communications jointly developed iNet, the PPSC's corporate Intranet, and increased its public and media outreach efforts through a heightened PPSC web presence, news releases and regular media updates on major files.



III. Corporate Priorities

In 2008-2009, the Public Prosecution Service of Canada worked on four corporate priorities to support the delivery of its operational mandate. Those priorities were:

- the safety and security of employees;
- the recruitment and retention of staff;
- the development of performance measures for key financial and human resources information; and
- the development of an organizational structure.

In 2008-2009, the PPSC completed the development of its organizational structure. It undertook an organizational review to assess the extent to which its infrastructure was both efficient and effective, and that it had a workforce that was renewable, affordable over time and aligned with its mandate.

For 2009-2010, the PPSC has again adopted four corporate priorities, three of which continue to be in place from the previous year.

Security

Ensuring the safety and security of employees is of paramount importance to the PPSC. Prosecutors and other employees work in an environment where they may be the subject of threats to their personal safety and security.

The PPSC also works closely with police forces as well as the Federal-Provincial-Territorial Heads of Prosecutions Committee to share information on security issues and to develop strategies to safeguard the security of prosecutors and other prosecution service employees, both inside and outside the workplace.

In 2008-2009, the PPSC established its own security section. The section is working with the PPSC's Security Committee to develop a suite of security products, including policies, procedures and information, to meet the needs of all employees.

The section is responsible for assessing the security of PPSC offices and implementing recommendations for enhancements; implementing measures to ensure that staff are protected against threats and intimidation; and establishing measures for emergency preparedness, including business continuity planning.

Recruitment and Retention

Investing in a diverse, multicultural and multilingual workforce through recruitment and retention is an ongoing process. Ensuring that employees feel valued and appreciated, and that the organization is viewed as an employer of choice is essential, particularly in light of employment alternatives that exist with provincial prosecution services or in the private sector.

In order to foster an environment where staff recruitment and retention is encouraged, the PPSC took a number of steps, including:

- increasing the complement of senior level practitioner positions across the PPSC;
- developing and implementing a human resources framework that describes the accountabilities and responsibilities of all levels of management;
- implementing a National Mentoring Program;
- expanding the School for Prosecutors; and
- holding a national conference in November 2008 for about 200 PPSC prosecutors.

Measuring Organizational Performance

As a federal government organization, the PPSC is accountable to the Canadian public for how it uses its resources. Measuring organizational performance is an integral part of the PPSC's accountability regime.

Following a review, the PPSC restructured and simplified its timekeeping categories used by prosecutors and paralegals. A revised national timekeeping protocol took effect in April 2009. This change is aimed at improving the PPSC's capacity for organizational analysis and strategic planning, for monitoring and measuring organizational performance and, ultimately, for reporting on results achieved.

Further improvements are planned for 2009-2010.

Knowledge Management

Knowledge Management is a new corporate priority for the PPSC as of 2009-2010. Its objective is to develop tools to support the ongoing sharing of information needed by employees to ensure that the mandate of the PPSC is supported and achieved. Its goal is to review and consolidate existing knowledge management tools used within the PPSC and to develop any additional tools required to support employees.



IV. Financial Information

Fiscal Year 2008-2009

Table 1: Total Spending Authorities	Spending Authorities Beginning of the Year	Additional Funding	Less Frozen Allotments*/adj.	Spending Authorities at Year-End
Personnel	83,602,000	5,375,885	(11,714,184)	77,263,701
Other Operating Costs	51,807,000	23,879,543	(10,211,419)	65,475,124
Contributions to Employee Benefit Plan	14,630,000		(3,176,468)	11,453,532
Total Spending	150,039,000	29,255,428	(25,102,071)	154,192,357
Receipts and Revenues Credited to Vote	(11,342,000)		1,898,556	(9,443,444)
Total Net Spending	138,697,000	29,255,428	(23,203,515)	144,748,913

* A frozen allotment indicates that spending is not permitted until a specific condition established by Treasury Board has been met. Adjustments have been made to the EBP and revenues to reflect the actual spending and recoveries.

ADDITIONAL FUNDING:	
Crown Agents across Canada	12,400,000
Effectively enforce the law against serious criminal capital market fraud offences in Canada (Integrated Market Enforcement Teams Program)	5,133,780
Prosecution of drug and anti-terrorism offences (transfer from Justice)	5,169,877
Operating Budget carry forward	3,574,907
Paylist Requirements	3,125,531
Marine Security Coordination Fund (transfer to Justice)	(148,667)
Total Additional Funding	29,255,428

Table 2: Total Actual Net Spending	Spending Authorities at Year-End	Actual Spending	Unused Authorities (notes)
Personnel	77,263,701	76,096,200	1,167,501
Other Operating Costs	65,475,124	54,085,145	11,389,979
Contributions to Employee Benefit Plan	11,453,532	11,453,532	-
Total Spending	154,192,357	141,634,877	12,557,480
Receipts and Revenues Credited to Vote	(9,443,444)	(9,443,444)	-
Total Net Spending	144,748,913	132,191,433	12,557,480

Table 3: Total Actual Net Spending by Program Activity	Net Spending Authorities at Year-End	Actual Spending	Unused Authorities
Prosecution of drug, organized crime and <i>Criminal Code</i> offences	112,904,152	103,109,318	9,974,834
Prosecution of federal offences to protect the environment, natural resources and economic and social health	24,607,315	22,472,544	2,134,772
Addressing criminal issues to contribute to a safer world for Canada	4,342,467	3,965,743	376,724
Promoting a fair and effective justice system that reflects Canadian values	2,894,978	2,643,829	251,150
Total Net Spending	144,748,913	132,191,433	12,557,480

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