



Public Prosecution Service of Canada  
Service des poursuites pénales du Canada

# PUBLIC PROSECUTION SERVICE OF CANADA



ANNUAL REPORT  
2016-2017

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

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

***Public Prosecution Service of Canada Annual Report 2016–2017***

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Service of Canada

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Bureau du directeur  
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Ottawa, Canada  
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JUN 30 2017

The Honourable Jody Wilson-Raybould, P.C., Q.C.  
Minister of Justice and Attorney General of Canada  
House of Commons  
Ottawa, Ontario K1A 0A6

Dear Attorney General:

Pursuant to section 16(1) of the *Director of Public Prosecutions Act*, I am pleased to present you with the 2016–2017 Annual Report of the Public Prosecution Service of Canada. The report covers the period from April 1, 2016 through March 31, 2017.

Sincerely,

Kathleen Roussel  
Director of Public Prosecutions

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# MESSAGE FROM THE DIRECTOR OF PUBLIC PROSECUTIONS

I am pleased to present the *Annual Report 2016–2017* of the Public Prosecution Service of Canada (PPSC) and the *Annual Report of the Commissioner of Canada Elections*. In consideration of the independence of our respective mandates, the Commissioner's report has been prepared independently.

2016–2017 was a significant milestone for the PPSC, as it celebrated its 10<sup>th</sup> anniversary in December 2016, marking a decade of prosecutorial excellence. It was also a year of change. Brian Saunders, the Director of Public Prosecutions (DPP) who led the organization since its creation, retired in 2016, and I was appointed DPP shortly before submitting this report.

The Supreme Court decision in *R. v. Jordan* has resulted in increased scrutiny of the administration of the criminal

justice system. In response to the decision, the PPSC reviewed its case management practices and added a chapter to the *PPSC Deskbook*, Ensuring Timely Prosecutions.

Looking forward, the proposed Cannabis Act, which would create a legal framework for controlling the production, distribution, sale, and possession of cannabis while allowing adults to possess and access small quantities of cannabis, will have an effect on the PPSC's drug prosecution work. It is difficult to quantify the effect, as many current cannabis prosecutions also involve trafficking, other drugs or prohibited substances, or offences under other acts. The PPSC is preparing for the transition by monitoring its cannabis-related prosecutions, as it continues to prosecute under existing legislation.

The PPSC Executive Council has

renewed the PPSC's strategic priorities for 2016–2017. They are:

- excellence in prosecution management;
- employee training and development; and
- working collaboratively with investigative agencies.

The PPSC's employees are at the heart of all that we do as an organization. Throughout the year, their commitment to our key values of respect, integrity, excellence, and leadership have made our success possible. I would like to thank them for all of their efforts.



Kathleen Roussel  
Director  
of Public Prosecutions



# THE PUBLIC PROSECUTION SERVICE OF CANADA – AN OVERVIEW

## INTRODUCTION

The Public Prosecution Service of Canada (PPSC) is an independent and accountable prosecuting authority whose main objective is to prosecute cases under federal jurisdiction in a manner that is free from any improper influence.

The PPSC was created in December 2006. In the ten years since its creation, the PPSC has established

effective policies and procedures, and developed and put in place the *PPSC Deskbook*, which sets out the guiding principles which all federal prosecutors and persons acting as federal prosecutors must follow. It has constantly adapted to the ever-changing legal environment, including evolving jurisprudence and new legislation in areas such as evidence in the online world, terrorism, election law, and drug offences.

## MANDATE

The mandate of the PPSC is set out in the *Director of Public Prosecutions Act*. The Act empowers 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 that involve the initiation and conduct of prosecutions;
- exercise the authority of the Attorney General of Canada in respect of private prosecutions; and
- 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 DPP.

For the purposes of carrying out these statutory responsibilities, the DPP is the Deputy Attorney General of Canada.

The *Director of Public Prosecutions Act* also empowers the DPP to:

- 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*.

The DPP has the rank and status of a deputy head of a department, and in this capacity is responsible for the management of the PPSC as a distinct governmental organization.

With the exception of *Canada Elections Act* matters, the Attorney General can issue a directive to the DPP about a prosecution or assume conduct of a prosecution, but must do so in writing and a corresponding notice must be published in the *Canada Gazette*. In turn, the DPP must inform the Attorney General of any prosecution or planned intervention that may raise important questions of general interest.

## MISSION AND VALUES

The mission of the PPSC is to serve the public interest by:

- prosecuting cases with diligence, in a manner that is fair, impartial, and objective;
- seeking to protect the rights of individuals and to uphold the rule of law; and

- working within the criminal justice system to make Canada a safe and just society.

In carrying out its mandate, the PPSC is guided by key values:

- **Respect** forms the basis of relationships with fellow employees and with the public.
- **Integrity** motivates employees to apply the highest ethical and professional standards.
- **Excellence** inspires employees in all aspects of their work.
- **Leadership** characterizes the organization's efforts to improve the quality of criminal justice throughout Canada.

## DIRECTIVES AND ASSIGNMENTS

On January 15, 2017, the Attorney General issued a directive to the DPP, updating two chapters of the *PPSC Deskbook*, which had been significantly revised: Chapter 2.11, Official Languages in Prosecutions, and Chapter 5.6, Victims of Crime.

The revisions take into account recent jurisprudence and legislation, and ensure that the PPSC's approach to these important issues is consistent and appropriate. Changes to the chapter on the use of official languages result from the appellate decisions of *R. v. Munkonda* and *Parsons v. R.*, which clarify Crown obligations in matters governed by Part XVII of the *Criminal Code*. Changes to the chapter dealing with victims of crime result from the enactment of the *Canadian*



*Victims Bill of Rights* and related changes to the *Criminal Code*.

The Attorney General did not assume conduct of any prosecutions in 2016–2017.

## ROLES AND RESPONSIBILITIES

The PPSC prosecutes charges with respect to offences created by federal laws. Charges are laid following an investigation by a law enforcement agency. The PPSC is not an investigative agency and does not conduct investigations. The separation of law enforcement from the prosecution function is a well-established principle of the Canadian criminal justice system. However, cooperation between investigators and prosecutors can be essential, particularly in the context of large and complex cases. The PPSC often provides legal advice and assistance to law enforcement officials in the investigative stage. Certain investigative tools, such as an application for a wiretap authorization, are obtained on application to the court by a PPSC prosecutor as a designated agent.

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* (CDSA), regardless of which police agency investigates the alleged offences. In Quebec and New Brunswick, the PPSC prosecutes only drug offences investigated by the Royal Canadian Mounted Police (RCMP).



In all provinces and territories, the PPSC prosecutes charges under federal statutes such as the *Income Tax Act*, the *Fisheries Act*, the *Excise Act*, the *Customs Act*, the *Canadian Environmental Protection Act, 1999*, and the *Competition Act*, as well as conspiracies and attempts to violate those statutes. In total, over 250 federal statutes contain offences that fall under the PPSC's jurisdiction to prosecute, and the PPSC regularly prosecutes offences under approximately 40 of those statutes.

The PPSC is responsible for prosecuting all *Criminal Code* offences in the territories. In the provinces, the PPSC prosecutes 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 arising from the same incident.

## ROLE OF THE PROSECUTOR

Prosecutors play a key role in the Canadian criminal justice system. This role is quasi-judicial in nature, imposing on prosecutors the duty to be objective, independent, and dispassionate. They must see that all cases deserving of prosecution are brought to trial and prosecuted with competence, diligence, and fairness. Prosecutors must be of integrity, above all suspicion, and must exercise the considerable discretion bestowed on them fairly, in good faith, and without any consideration of the political implications of their decisions. While they must be advocates,

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.

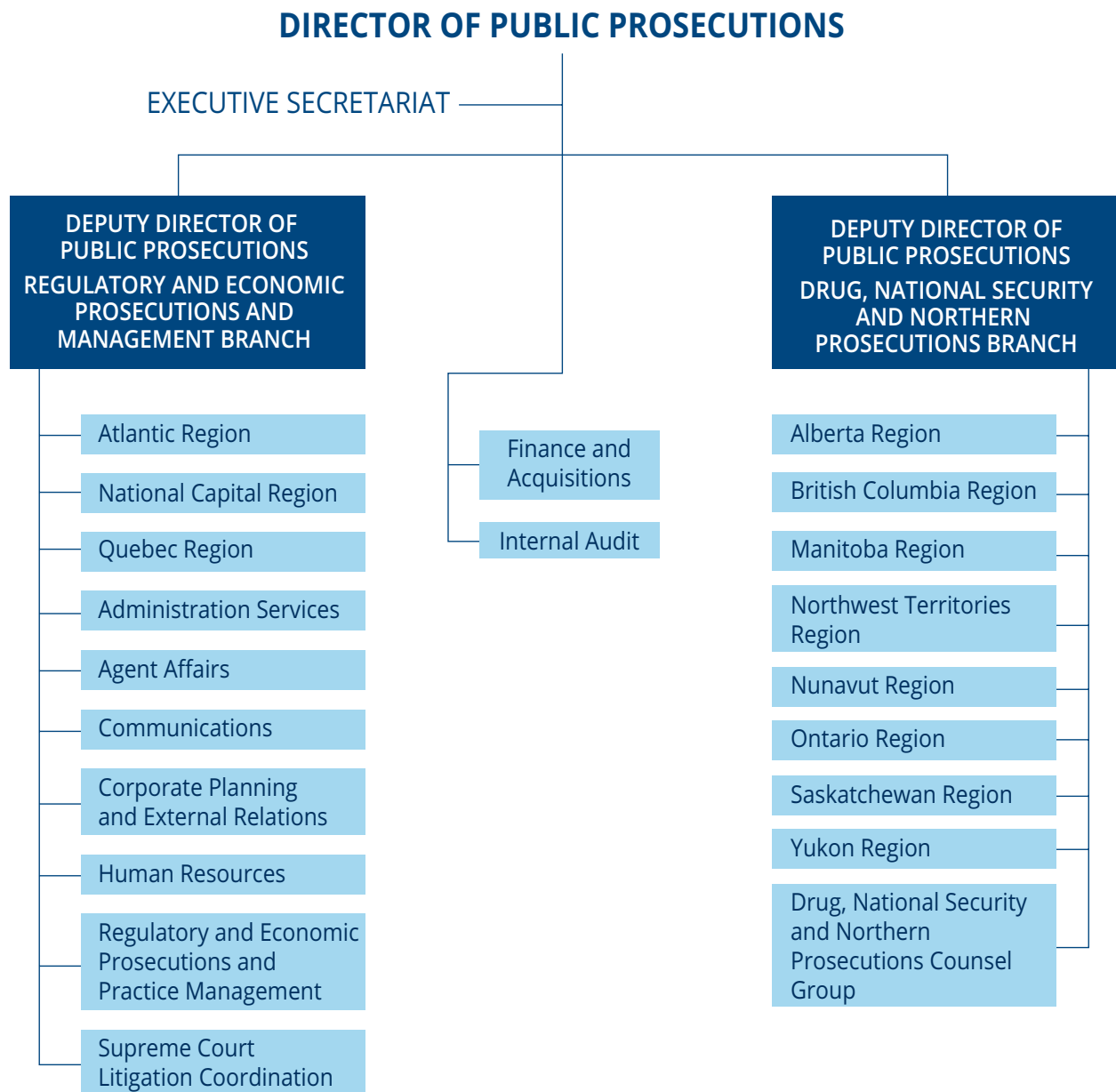
## ABOUT THE ORGANIZATION

As of March 31, 2017, the PPSC had 1,082 employees, 523 of whom were lawyers. In addition to staff prosecutors, the PPSC

retained the services of 417 agents.

PPSC Headquarters is located in Ottawa, and the organization maintains a network of regional and local offices across Canada.

## ORGANIZATIONAL STRUCTURE





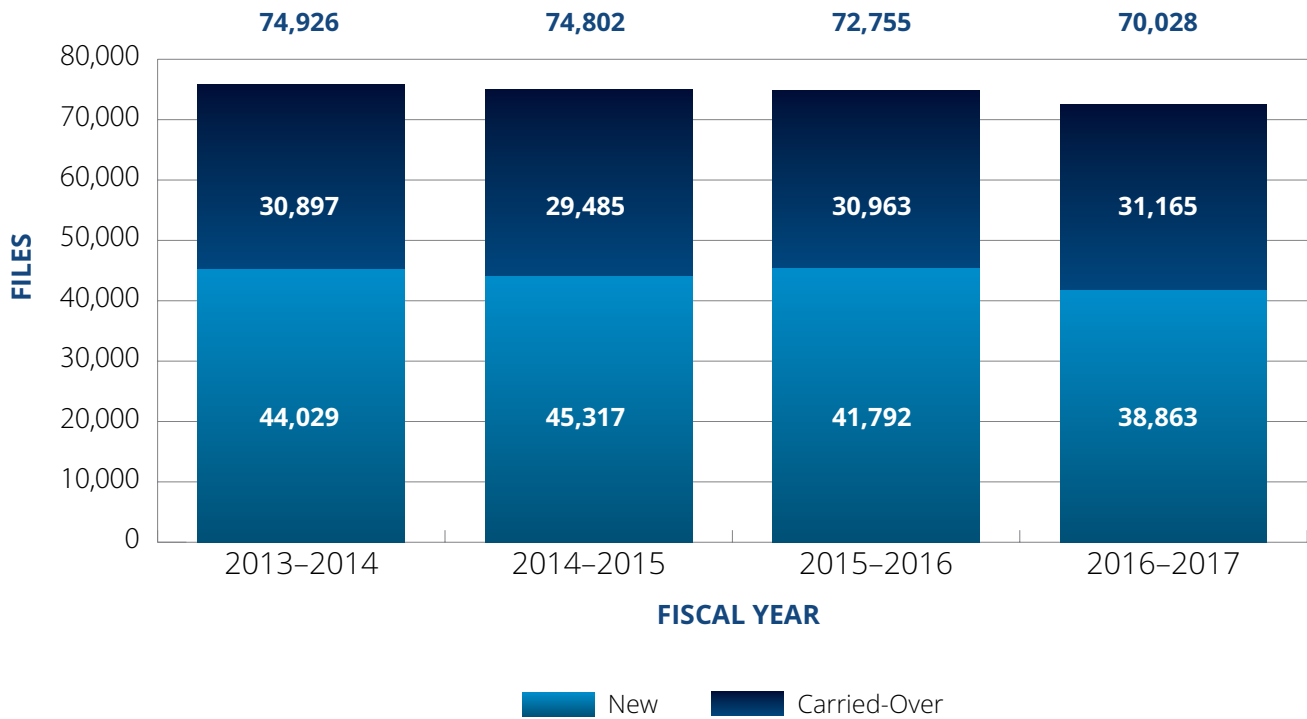
## THE YEAR IN REVIEW

### INTRODUCTION

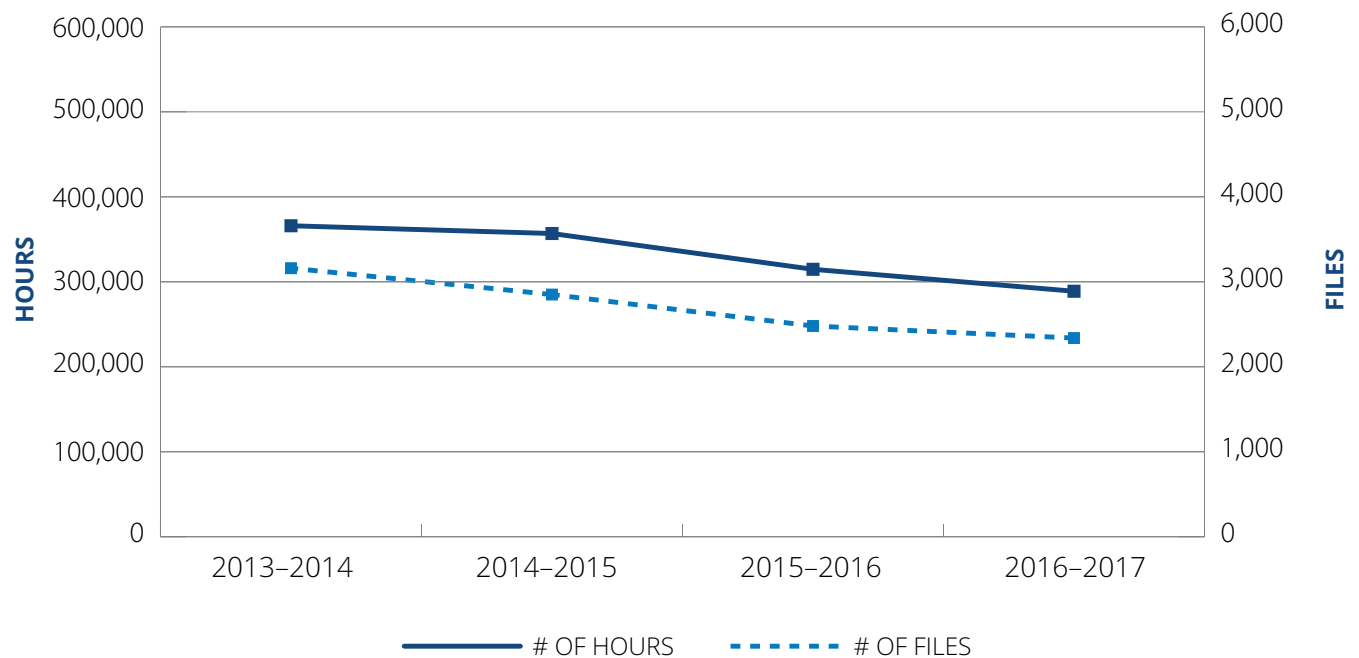
In 2016–2017, the PPSC worked on 70,028 files. This figure includes 38,863 files opened during the year, as well as 31,165 files carried over from previous years. PPSC prosecutors worked a total of 1,172,807 hours on prosecution files in 2016–2017.

A file typically consists of an information or an indictment and may include more than one charge, involve more than one accused, and include charges under multiple statutes.

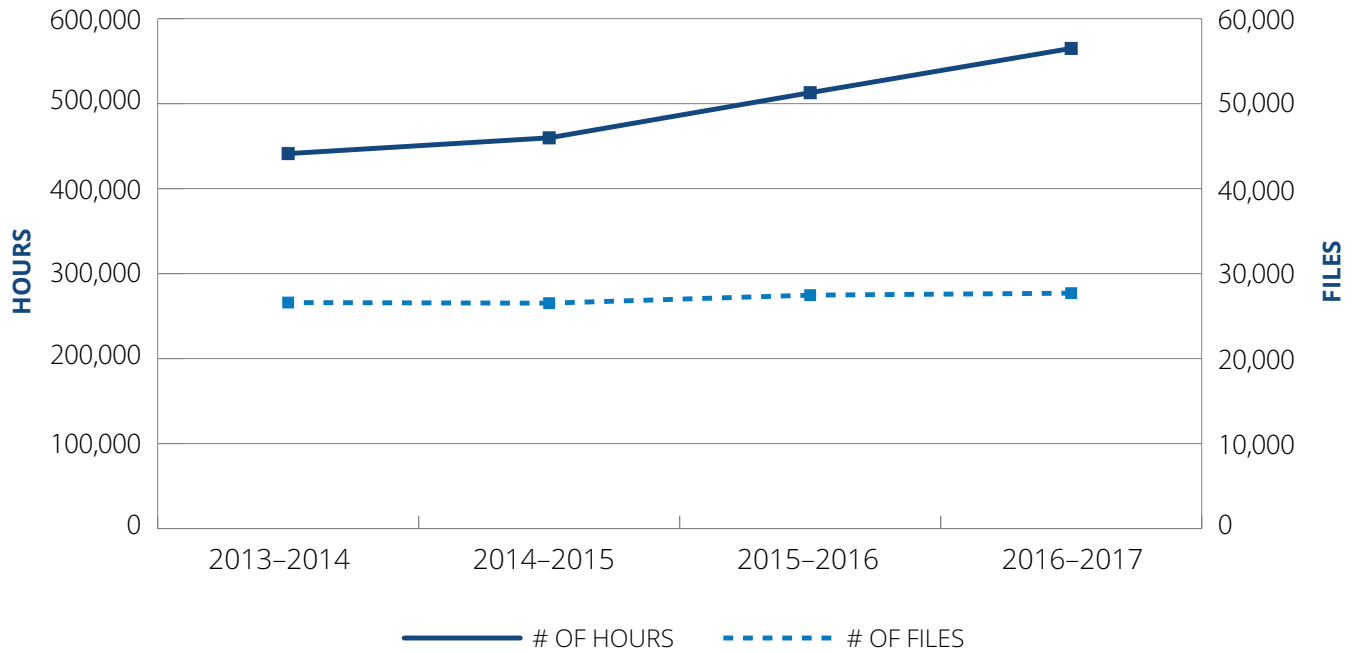
## NEW FILES AND CARRIED-OVER FILES OVER THE PAST FOUR YEARS



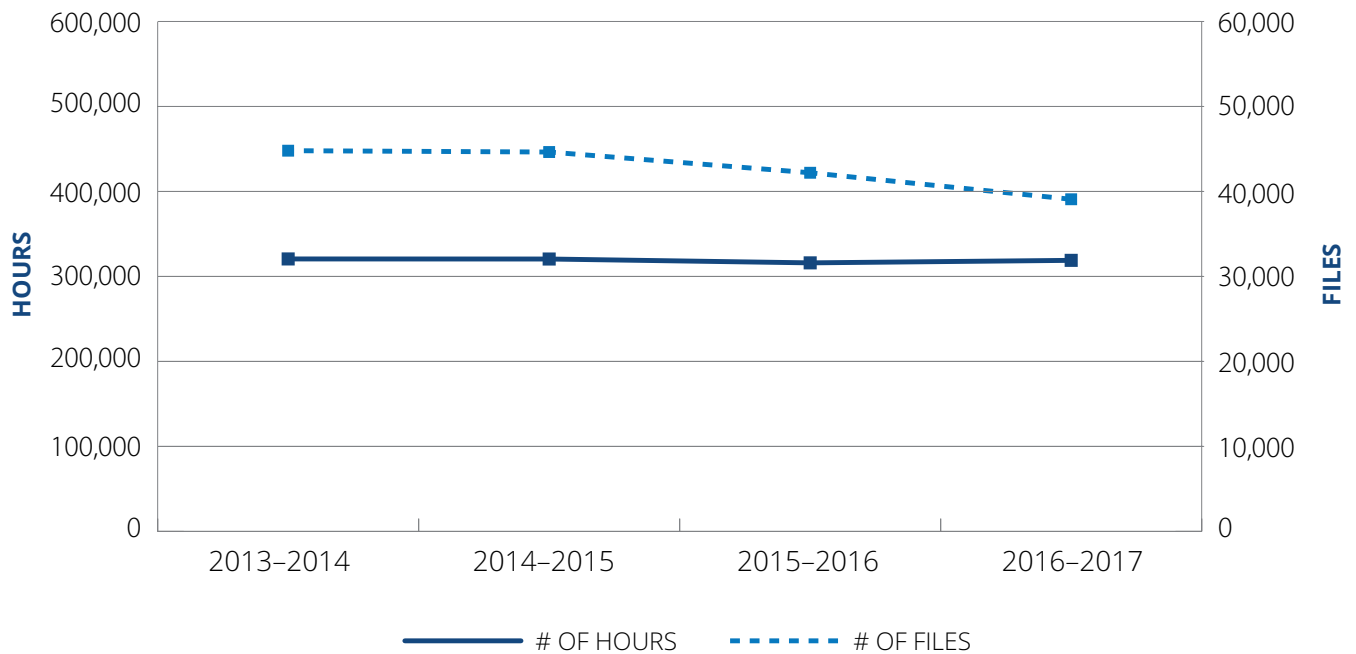
## HIGH-COMPLEXITY FILES AND TIME



## MEDIUM-COMPLEXITY FILES AND TIME

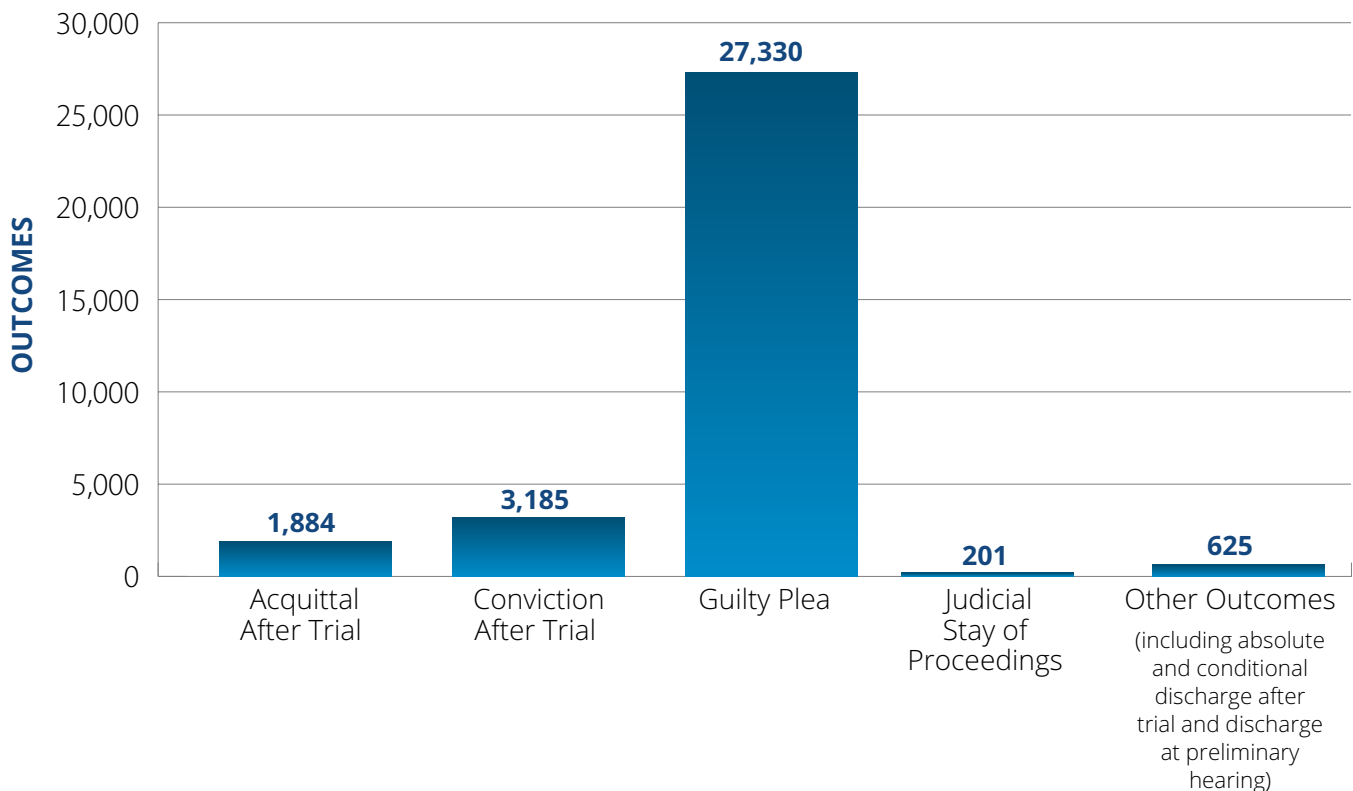


## LOW-COMPLEXITY FILES AND TIME





## OUTCOMES DURING FISCAL YEAR 2016–2017



Where charges were not stayed or withdrawn by the PPSC, the outcomes of those charges are set out above. In a given case, there may be more than one outcome if the accused was charged with more than one offence. For example, an accused may plead guilty to one offence, and see additional charges stayed.

In addition to these outcomes, the PPSC stayed or withdrew 48,182 charges in 2016–2017.

## DRUG, NATIONAL SECURITY AND NORTHERN PROSECUTIONS

### DRUG PROSECUTIONS

Drug prosecution files continue to represent the most significant portion of the PPSC's total caseload. In 2016–2017, the PPSC handled 53,990 prosecution files related to offences under the CDSA. Of those, 28,935 files were new and 25,055 were carried over from previous years. The complexity and scope of these prosecutions varies greatly, ranging from simple cases of possession of small quantities of cannabis to complex schemes

to import large quantities of drugs such as fentanyl and cocaine, or to the manufacturing of methamphetamine for both domestic use and for export to other countries.

Over the past year, high-complexity drug cases involved a substantial amount of PPSC resources. In these prosecutions, there are typically challenges raised during court proceedings related to the conduct of the investigation, the constitutionality of the legislation, or broad requests for further disclosure. There may also be allegations of abuse of process or, particularly since the decision in *R. v. Jordan*, allegations of unreasonable delay. While there were only 1,353 high-complexity CDSA files, representing 2.51% of counsel's drug caseload in

2016–2017, they took up 29.73% of the time dedicated to drug prosecutions.

Project Sideshow was a lengthy investigation conducted by Winnipeg Police Service using informants, undercover officers and intercepted telecommunications. Twenty-four accused were charged with trafficking in cocaine; multiple kilograms of cocaine were being transported from Toronto and Vancouver to Winnipeg for distribution. After a failed attack on the intercept authorization, a series of trials saw 17 of the accused convicted of trafficking offences and receiving sentences ranging from 4.5 years to 9.5 years' incarceration. Five of the accused remain before the courts with trials pending in the fall of 2017.

Offences involving drugs are very often revenue-generating crimes, and these types of cases continued to represent the majority of offences prosecuted by the PPSC that led to the forfeiture of proceeds of crime and of the property used to commit the crime ("offence-related property"). In 2016–2017, the PPSC handled 14,289 CDSA files involving either proceeds of crime or offence-related property (6,910 were new, and 7,379 were carried over from previous years). The proceeds or property at issue ranged from the money used to buy drugs from an undercover officer to real estate bought with proceeds of crime or used to produce drugs.

Addiction-driven crime always creates diverse challenges for prosecutors when it comes to sentencing an accused. To attempt to address the addiction and to decrease the crime committed in

## Project J-Tornado

**In September of 2014, RCMP in New Brunswick completed a lengthy drug and organized crime investigation in Saint John. Police executed 33 search warrants, charged 25 people, and seized 9.2 kilograms of cocaine, 64 pounds of marihuana, 9.8 ounces of heroin, almost \$300,000 in cash, and numerous weapons. Twenty-two individuals have entered guilty pleas, and two lengthy trials were completed this year. Shane Williams and Joshua Kindred were convicted of trafficking and conspiracy to traffic cocaine and organized crime offences. These represent the first organized crime convictions in New Brunswick.**

**Mr. Williams was sentenced to 9 years, 11 months, less time served, and Mr. Kindred was sentenced to 6 years in prison, less time served. Both Mr. Williams and Mr. Kindred have filed Notices of Appeal. Shane Edison was convicted of trafficking and conspiracy to traffic in heroin, cocaine and marihuana, along with possession of proceeds of crime and weapons offences. He was initially sentenced to 16.5 years, which was reduced on appeal to 11 years.**

support of it, there are a number of Drug Treatment Courts (DTCs) located across Canada. There are DTCs located in Vancouver, Edmonton, Calgary, Regina, Winnipeg, Toronto, Kitchener, Durham, Peterborough, Halton, London, Kenora, Ottawa, Montreal, Kentville, Nova Scotia, and, most recently, Simcoe County Ontario. These courts focus on the supervised treatment and rehabilitation of an offender. Prosecutors work with judges, defence counsel, treatment providers, and others to cooperatively but accountably deal with the issues raised by the conduct of offenders appearing before these courts. PPSC prosecutors or agents currently attend most of Canada's DTCs.

## FENTANYL PROSECUTIONS

Fentanyl is a powerful synthetic opioid drug that is 80 to 100 times more powerful than morphine and approximately 25 to 50 times more powerful than heroin. Its growing use as a widely available and affordable street drug has led to an alarming increase of opioid overdose deaths in Canada in recent years. It has also led to a corresponding increase in the number of PPSC prosecutions for possession for the purpose of trafficking and trafficking of fentanyl, particularly in British Columbia, Alberta and Ontario.

The prosecutions arising out of Project Northbound in Barrie, Ontario, were instrumental in setting the sentencing bar in 2016.

Project Northbound involved a number of individuals implicated in a fraudulent prescription fentanyl scheme involving a total of 990 fentanyl patches. Julie Baks, Grenville Sinclair and Raymond Godreau were the main individuals involved in the fraudulent prescription scheme. Ms. Baks worked in a doctor's office and created fraudulent prescriptions. She received a nine-year sentence following a guilty plea. Although the Ontario Court of Appeal later reduced the sentence to six years in light of her particular circumstances and the fact that she provided evidence at the trials of her co-accused, the Court stated that nine years' incarceration was an otherwise appropriate sentence. Mr. Sinclair was sentenced to nine years' incarceration following a guilty plea (reduced to eight years by the Ontario Court of Appeal). Mr. Godreau was convicted following a Superior Court trial and received a ten-year sentence.

Another significant fentanyl sentencing decision this year is *R. v. McCormick*, a case in British Columbia involving a 64-year-old accused with a lengthy criminal record, who had over 30,000 fentanyl pills, over 4 kilograms of cocaine, 1 kilogram of methamphetamine, and over 92,000 other Schedule IV pills. On January 30, 2017, the BC Provincial Court sentenced Mr. McCormick to 16 years' incarceration. The sentence was ultimately reduced to 14 years based on the principle of totality, which limits the cumulative length of consecutive sentences.

As a result of the fentanyl crisis in Canada, the PPSC has created a nation-wide network of federal

prosecutors appointed as coordinators of fentanyl issues in each region of Canada as well as at Headquarters in Ottawa. This working group shares information relating to relevant jurisprudence across the country, as well as emerging challenges and best practices to address them. In particular, the focus of the working group has been on creating a complete sentencing record before the courts in fentanyl cases, including expert evidence, in order to educate the judiciary as to the appropriate range of sentence for this very dangerous drug. The PPSC also maintains an internal database of fentanyl decisions, facts, expert reports and other scientific data related to fentanyl to aid prosecutors across the country with their sentencing submissions in fentanyl prosecutions.

## ORGANIZED CRIME PROSECUTIONS

One of the main activities of many organized criminal groups is trafficking in drugs. Cases involving criminal organizations have remained high in recent years. Organized crime continues to be a priority for the police and other law enforcement authorities. Issues relating to technology and lawful access continue to play a prominent role in the PPSC's advisory and litigation activities. The use of technology (such as encryption) by organized criminals to facilitate and conceal their criminal activities, the technological response by police to defeat these activities, and police access to data stored or located outside of Canada raise challenging legal and constitutional issues. As well, litigation concerning the limits and implications of existing Supreme Court of Canada jurisprudence

related to search and seizure issues in the context of technology frequently arises in organized crime prosecutions.

Many serious drug prosecutions conducted by the PPSC during the year involved an organized crime element. As well, over the past year, PPSC prosecutors provided advisory assistance to police in respect of a number of significant organized crime investigations.

Project E-Predicate was an RCMP investigation into the drug trafficking activities of members and associates of the Hells Angels in British Columbia. With the assistance of the United States Drug Enforcement Agency, the RCMP successfully introduced RCMP undercover operators posing as members of a South American-based cocaine organization to the accused. Over several months, a deal was negotiated for the sale to the accused of 500 kilograms of cocaine for approximately \$15 million. There was discussion of ongoing cocaine deals in the amount of 500 kilograms on a regular basis, which the accused indicated would be further trafficked across Canada through a distribution network associated to the Hells Angels. Two down payments of approximately \$2 million each were made by the accused.

On August 25, 2012, on the occasion of the staged delivery of cocaine, eight individuals who were engaged in the receipt and transport of the cocaine were arrested and charged via direct indictment with various offences. After some guilty pleas, and a lengthy and complex trial, seven accused were ultimately convicted of serious criminal

offences and sentenced to terms of imprisonment ranging from the equivalent (after consideration of pre-trial custody) of 3 years to 18 years, the most recent sentencing taking place March 31, 2017. One accused was acquitted.

## NATIONAL SECURITY PROSECUTIONS

### ANTI-TERRORISM

As of March 31, 2017, two trials for terrorism offences were underway. An additional seven individuals are awaiting trial or proceeding with pre-trial motions, and there are warrants outstanding for a further nine individuals. Since 2001, 54 individuals have been charged with terrorism offences in Canada.

The investigation and prosecution of terrorism offences bring together the efforts of law enforcement, intelligence agencies, and prosecution services. To fulfill its mandate in this area, the PPSC engages in ongoing communication with investigative agencies and takes their operational requirements into account when allocating resources.

Counsel are assigned in each regional office, supported by senior counsel at headquarters. They fulfill the PPSC's advisory or prosecution role in anti-terrorism matters, and assist with training for law enforcement officers.

Beyond providing advice to the police, the PPSC decides whether to provide the Attorney General's consent for applications for recognizances with conditions and terrorism peace bonds and for the initiation of terrorism prosecutions. These decisions are the product

of a review of the evidence by investigators and prosecutors, both in regional offices and at headquarters. Such consent was granted ten times in 2016–2017.

The particular challenge of predicting and controlling future dangerousness was brought home in August 2016 with the death of Aaron Driver, who had been placed on conditions pursuant to a s. 810.011 terrorism peace bond in February 2016. Mr. Driver was killed by police who were attempting to arrest him and to prevent the detonation of an explosive device.

Project Souvenir was the RCMP investigation of John Nuttall and Amanda Korody in British Columbia. After an undercover investigation, Nuttall and Korody

were arrested on July 1, 2013, after planting pressure cooker bombs on the grounds of the provincial legislature in Victoria. On June 7, 2015, a jury found them guilty of conspiracy to commit murder and possession of an explosive device for a terrorist group. Subsequent to the guilty finding, they brought applications for a stay of proceedings alleging entrapment and abuse of process on the part of the police. On July 29, 2016, the Supreme Court of British Columbia found that the RCMP had entrapped Nuttall and Korody and had committed an abuse of process, directing a stay of proceedings. The Crown has appealed this finding and the appeal will be heard in the fall of 2017. The Crown also brought an application

### Project Slipstream

Ashton Larmond and Carlos Larmond, twin brothers, were charged on January 9, 2015 with conspiracy to participate in the activity of a terrorist group, among other charges. Suliman Mohamed was also charged on January 12, 2015 with conspiracy and participating in the activity of a terrorist group. The three were alleged to have planned to travel to the Middle East to join listed terrorist groups.

On August 26, 2016, all three entered guilty pleas and were sentenced. Ashton Larmond pleaded guilty to instructing to carry out activity for the benefit of a terrorist group, contrary to section 83.21 of the *Criminal Code*, and was sentenced to 17 years less time served. Carlos Larmond pleaded guilty to attempting to leave Canada for the purpose of participating in the activity of a terrorist group, contrary to s. 83.181 of the *Criminal Code*. He was sentenced to seven years less time served. Suliman Mohamed pleaded guilty to conspiracy to participate in the activity of a terrorist group, and was sentenced to seven years less time served.

following the stay of proceedings under s. 810.011 of the *Criminal Code* for a terrorism peace bond. That application has been adjourned pending the outcome of the appeal.

## PROSECUTIONS IN CANADA'S NORTH

The PPSC handles the prosecution of all *Criminal Code* offences in the territories as well as offences under all other federal legislation such as the CDSA, the *Youth Criminal Justice Act*, and the *Fisheries Act*. In Nunavut, the PPSC also prosecutes all offences under territorial legislation. In the Northwest Territories (NWT), the PPSC prosecutes most territorial offences.

The PPSC has regional offices in each of the territorial capitals. All three regional offices must also occasionally use the services of fly-in counsel from southern Canada.

PPSC prosecutors and Crown Witness Coordinators (CWCs) attend court in over sixty

communities across the North. Court is held at varying but regular intervals in each of the communities, most of which are accessible only by air (all of the communities in Nunavut are only accessible by air, those in the NWT are mainly accessible only by air; the communities in the Yukon are generally accessible by car).

A significant percentage of the population, particularly in the communities other than the territorial capitals, is Indigenous. In the Yukon, approximately 23% of the population is Indigenous, while in the NWT, 52% is Indigenous. In Nunavut, 86% of the population is Inuit. The PPSC requires all prosecutors, CWCs, and paralegals to participate in training aimed at increasing cultural awareness.

Because of the vicarious trauma that prosecutors and CWCs may experience due to their constant exposure to persons who have witnessed and experienced trauma and violence, which over time can have varying and significant implications on PPSC employees' personal and professional lives,

arrangements are in place in each northern office to provide all members of PPSC staff with annual on-site counselling as well as telephone counselling in relation to vicarious trauma. Additional counselling opportunities are available and will be provided to any staff exposed to the potentially added traumatic effects of having to work on cases requiring the viewing of video and audio evidence depicting the commission of violent offences.

The territories have among the highest rates of violent crime in the country, particularly as it relates to sexual abuse (including historical sexual abuse cases) and domestic violence. There is also a high rate of homicide. In 2016–2017, the PPSC had a total of 24 active homicide prosecutions before the courts (eleven in Nunavut, nine in the NWT and four in the Yukon), seven of which were concluded this past fiscal year in Nunavut, two in the Yukon and two in the NWT. All others are still before the courts at various stage of proceeding, including two homicide matters from the Yukon at the appeal stage.

The high rate of violent crime involving offenders with significant rates of recidivism has led to the implementation of coordinated high-risk offender flagging processes in the North. In each regional office, paralegals assist in coordinating the flagging of high-risk offenders in the territory. This enables a more effective and organized preparation of prosecution files in order to conduct effective long-term offender and dangerous offender applications.

### *R. v. Eid*

**Roland Eid was prosecuted for a number of fraud-related charges under the *Criminal Code* as well as charges under the *Bankruptcy and Insolvency Act*. The charges were related to what the sentencing judge described as “the biggest commercial fraud ever to have occurred in the Ottawa area”. Mr. Eid had fled Canada for a number of years before his arrest. He was ultimately convicted and sentenced to seven years’ imprisonment and a \$1.7 million fine, with an additional five years’ incarceration if the fine is not paid. Restitution for victims in the amount of \$488,057 was also ordered.**



## REGULATORY AND ECONOMIC PROSECUTIONS

The PPSC provides prosecution services related to legislation aimed at protecting the environment and the safety, health, economic security, and general welfare of the public. In addition to the imposition of fines and sentences of imprisonment, these cases can result in the imposition of measures designed to enhance public health and safety, improve the management and protection of environmental resources, or discourage financial and economic malfeasance. In 2016–2017, the PPSC handled 5,824 files involving regulatory and economic offences, of which 2,654 were carried over from previous years.

### REGULATORY PROSECUTIONS

#### CONSUMER PRODUCTS AND FOOD SAFETY

In January 2012, Canadian Food Inspection Agency (CFIA) inspectors investigated produce being sold at the “Farmers’ Market” section of the Ontario Food Terminal, which is devoted to Canadian produce. They discovered peppers labelled with both “Product of Canada” and “Product of Mexico” labels. Further investigation into the dual labelling revealed that Mexican peppers had been affixed with grown in Canada labels.

Search warrants were executed at facilities owned by Mucci, and investigators found two sets of records relating to the importation, packaging and sale of the same produce. Analysis of 243 specific sale transactions demonstrated that the country of

origin from the paper records was altered in the computer system, and produce was re-packed as Canadian to meet customer orders. A forensic accounting report confirmed that between November 2011 and January 2013, the company misrepresented the country of origin on labels affixed to 243 shipments of produce, sold to retailers for a total of \$1,115,135.73.

Mucci International Marketing, Inc, and Mucci Pac Ltd. entered guilty pleas to charges under the *Food and Drugs Act*, the *Consumer Packaging and Labelling Act* and the *Canada Agricultural Products Act*, and the two directors, Danny Mucci and Joseph Spano, each pleaded guilty to one of the offences. A total fine of \$1.5 million was imposed on a joint submission, and the corporations were each placed on probation for three years to ensure continued compliance with the Acts. This was the biggest fine ever imposed for

violations of these offences, and is ten times the profit made by the accused in these transactions.

#### CORRUPTION OF FOREIGN PUBLIC OFFICIALS

In 2016–2017, the PPSC continued to provide pre-charge advice and training to RCMP units engaged in the investigation of offences under the *Corruption of Foreign Public Officials Act* (CFPOA).

In December 2016, the RCMP charged Larry Kushniruk, president of Canadian General Aircraft in Calgary, in relation to allegations that he planned to bribe officials in Thailand in order to secure the sale of a commercial jet by the country's national airline.

SNC-Lavalin Inc. has been charged in relation to the alleged payment of bribes to secure an advantage for the company in relation to major construction projects in Libya. Two individuals, Sami Bebawi and Stéphane Roy, are also

### *R. v. O'Brien, Fisher, O'Brien & Fuerst Logging Ltd., the Forest Shore*

This case was a prosecution under the *Canada Shipping Act, 2001* for a variety of safety violations. Most notably, the vessel had six flotation devices on board, whereas it was required to have eight lifejackets. The corporate defendant operated a large logging company on Haida Gwaii and used the vessel to transport its crew. The case proceeded to trial and the corporation, director, employee and vessel defendants were all convicted. The sentencing judge found that the safety deficiencies put the crew at serious risk. The penalty imposed was substantial for this type of offence: O'Brien & Fuerst Logging Ltd., the motor vessel the “Forest Shore”, and Randolph Carson O'Brien were sentenced largely as the same entity to total fines of \$46,000. The employee, Gregory Marvin Fischer (the operator of the vessel), was fined \$5,500.

charged in relation to the matter. Each of these prosecutions is ongoing.

The prosecution of Ramesh Shah, Kevin Wallace, Zulfiqar Ali Bhuiyan, and Abul Hasan Chowdhury for alleged violations of the CFPOA ended in February of 2017. The charges related to bribes allegedly to be paid to officials in Bangladesh in order to secure a contract for SNC-Lavalin in relation to a bridge construction project financed by the World Bank. In January of 2017, Justice Nordheimer of the Ontario Superior Court ruled that the statutory pre-conditions for the issuance of a wiretap in the case were not met and excluded the evidence that had been obtained as a result. With the exclusion of the wiretap evidence, the Crown concluded that there was no longer a reasonable prospect of conviction and called no evidence, resulting in the acquittal of the accused.

## ENVIRONMENTAL OFFENCES

The PPSC prosecutes offences under statutes aimed at managing environmental resources and at protecting the natural environment, wildlife, and public health, such as the *Canadian Environmental Protection Act, 1999*, the *Fisheries Act*, the *Migratory Birds Convention Act, 1994*, and the *Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act* (WAPPRIITA).

Three companies, Gwaii Wood Products Ltd., Howe Sound Forest Products Ltd., and I. Crosby Contracting Ltd., were convicted of destruction of fish habitat under the *Fisheries Act*, as a result of logging activities on a district lot on Graham Island in Haida Gwaii. The logging activities resulted in significant damage to the highly sensitive wetlands of the Kumdis Bay Estuary. Gwaii Wood Products was fined \$120,000 and ordered to pay \$400,000 for conservation and protection of fish habitat on

Haida Gwaii. Howe Sound Forest Products Ltd. was fined \$300,000 and ordered to pay \$800,000 for conservation and protection of fish habitat on Haida Gwaii. I. Crosby Contracting Ltd. was fined \$180,000 and ordered to pay \$400,000 for conservation and protection of fish habitat on Haida Gwaii.

On May 11, 2016, Northern Pulp Nova Scotia Corporation (NPNSC) was sentenced after pleading guilty under the *Fisheries Act* to discharging pulp and paper effluent, a deleterious substance, into fish-bearing waters, namely the East River/Pictou Harbour, Nova Scotia. The facts before the Court were that there was a break in the 3.6 km pipeline carrying the effluent from the plant to the treatment facility, which caused the discharge of 47,000,000 litres of untreated effluent into the surrounding wetland and river. Although there was no evidence of direct, immediate harm to fish and the NPNSC took prompt action to fix the break and remediate the effects of the discharge, the Court accepted the joint submission of Crown and defence and ordered NPNSC to pay a fine of \$225,000, which was directed to be paid to the Environmental Damages Fund operated by Environment Canada. In so doing, the Court heard representations from the Pictou Landing First Nation about the impact the discharge had on the community.

In *R. v. Electronics Recycling Canada & Guan*, the company was prosecuted for exporting electronic waste to China contrary to the *Canadian Environmental Protection Act, 1999*. The offence involved breaches of the Basel

### *R. v. Teck Metals Ltd.*

**Teck Metals Ltd. operates a smelter and fertilizer plant in Trail, B.C. The company pleaded guilty to several pollution offences contrary to the *Fisheries Act* that occurred between November 2013 and February 2015. Teck admitted to discharging effluent into the Columbia River that contained various metals and process chemicals that are harmful to fish. Teck Metals Ltd. had a record of environmental offences including convictions in 2009 and 2011. Teck was sentenced to a global penalty of \$3 million, one of the largest penalties imposed to date in Canada for pollution offences.**

Convention on the control of international movements of waste. Such offences may lead to the contamination of developing countries and populations. The defendants were sentenced to a total fine of \$40,000.

## IMMIGRATION OFFENCES

The PPSC prosecutes offences under the *Immigration and Refugee Protection Act* (IRPA) and the *Citizenship Act*, as well as related offences under the *Criminal Code*.

In *R. v. McBee*, the accused was prosecuted for smuggling two people into Canada from the United States for profit. The accused pleaded guilty under s.117(1) of the IRPA and was sentenced to the recently enacted mandatory minimum of three years' imprisonment.

In *R. v. Mohamed Abdulle*, Mr. Abdulle was charged with offering bribes to immigration officers, submitting misleading refugee applications concerning 340 potential refugees, providing false information, and misrepresenting material facts on applications under the IRPA. He was also charged with forgery, possessing identity information intended to be used to submit fraudulent sponsorship applications, and fraud on the government under the *Criminal Code*. He was convicted on five counts and sentenced to 45 months in custody. During the trial, Crown counsel successfully defended an application to have section 117 of the IRPA declared unconstitutional.

## LOBBYING ACT

Bruce Carson was charged and convicted under the *Lobbying Act*, for illegally engaging in lobbying activities. Mr. Carson was subject to a five-year lobbying prohibition, given his previous position as a senior advisor in the Prime Minister's Office. The Ontario Court of Justice found that he had lobbied senior members in government to adopt an energy policy that would have benefitted corporate entities in the energy sector. He was fined a total of \$50,000, the highest fine thus far imposed under the *Lobbying Act*. The case is scheduled for appeal in June of 2017.

## WORKPLACE AND TRANSPORTATION SAFETY

The PPSC prosecutes *Canada Labour Code* offences following investigations conducted by health and safety officers of Employment and Social Development Canada regarding the protection of workers employed in the operation of federal works, undertakings, and businesses. It also prosecutes matters that ensure the safety of Canada's transportation industry.

Canadian National Railway (CN) was convicted after trial of failing to ensure the health and safety of its employees, following the death of a conductor who was killed when a train derailed and fell on him north of Fort St. John, British Columbia. CN had failed to have proper signage near the location of the derailment. CN received the maximum fine of \$100,000, and two years of probation was imposed. In addition, CN was required to post on its website a summary of the offence of which it has been convicted, the sentence imposed, and any measures CN

has taken or is taking to reduce the likelihood of a subsequent offence.

## ECONOMIC PROSECUTIONS COMPETITION LAW

The PPSC prosecutes offences under the *Competition Act* as well as the *Consumer Packaging and Labelling Act*, the *Textile Labelling Act*, and the *Precious Metals Marking Act*. The PPSC also provides legal advice to the Competition Bureau on investigative files that may lead to prosecutions.

In 2016–2017, the PPSC handled 63 files dealing with competition law.

Several accused and one company charged with bid-rigging contrary to the *Competition Act* with respect to tenders issued for the procurement of information technology services by the Government of Canada had their matters addressed this year as did three government employees charged with a violation of the *Financial Administration Act* in relation to the same tenders. Two individuals pleaded guilty to bid-rigging contrary to s. 47 of the *Competition Act* and one government employee pleaded guilty to failure to report information in writing to a supervisor contrary to s. 80(1)(e) of the *Financial Administration Act*. Two applications for a stay of proceedings pursuant to s. 11(b) of the Charter were dismissed. The remaining accused are scheduled to proceed to trial in the fall of 2017 and the spring of 2018.

A Montreal-based telemarketing company pleaded guilty to three counts of deceptive telemarketing.

The company admitted to using deceptive sales tactics to deceive or mislead unsuspecting businesses into accepting to purchase a subscription or listing in their online directories. Small and medium enterprises and charitable organizations were amongst the victims targeted. The Court of Quebec in Montreal imposed a fine of \$450,000 and made an order prohibiting the company and its president from directly or indirectly engaging in telemarketing for a period of ten years. This completed what had been a longstanding investigation and prosecution. Three other individuals had pleaded guilty in 2015.

## INTEGRATED MARKET ENFORCEMENT TEAMS

The Integrated Market Enforcement Teams (IMET) located in Vancouver, Calgary, Toronto, and Montreal investigate serious capital market fraud. PPSC counsel provide training, as well as pre-charge and general legal advice and support to IMET teams. They may also support or participate in prosecutions of IMET cases. 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. Where provinces choose not to exercise that right, the PPSC may assume carriage of the prosecution.

Two important trials stemming from IMET investigations took place in 2016–2017.

In Halifax, the prosecution of Messrs. Colpitts and Potter continued, following the guilty plea and sentencing of Mr. Clarke. All three were accused of fraud,

fraud affecting the public market, and conspiracy to commit fraud affecting the public market in connection with the trading of stock in Knowledge House Inc. The trial began in December 2016 and will continue in 2017.

Jacky Quan was sentenced in April 2017; he and his co-accused, Messrs. Dumais and Paquin, pleaded guilty to the fraudulent manipulation of the stock market in February 2016. The Montreal IMET had laid charges following a lengthy investigation into the use of stock market transactions to illegally withdraw money from retirement pension funds. Victims, who were investors with financial problems who needed funds, were recruited through ads in regional papers. The fraud was estimated to be close to 3 million dollars. Mr. Quan received a suspended sentence of two years less a day and 240 community service hours. The judge also imposed an order preventing Mr. Quan from trading on the stock markets, giving financial advice on such matters, or occupying a job as a broker or advisor.

## REVENUE OFFENCES

The PPSC prosecutes offences under all statutes administered by the Canada Revenue Agency (CRA), notably the *Income Tax Act*. Across Canada, specialized PPSC prosecutors provide pre-charge advice, conduct prosecutions, and provide training to investigators. In 2016–2017, 392 prosecutions were concluded.

Many tax evasion prosecutions of individuals linked to the Paradigm Education Group (PEG) were concluded in 2016–2017. The group counselled taxpayers across the country on methods to evade

tax through seminars, books, DVDs, and CDs. A number of so-called educators who taught the PEG system have been prosecuted across Canada.

The founder of PEG, Russell Porisky, was sentenced July 29, 2016 in the British Columbia Supreme Court. It was Mr. Porisky's and his wife Elaine Gould's second trial. A CRA investigation revealed that Mr. Porisky and Mrs. Gould omitted to declare a total revenue of \$1,415,366 between the 2004 and 2007 taxation years. Mr. Porisky was sentenced to five and a half years' imprisonment and a fine of \$259,482 for one count of counselling tax evasion and for two counts of tax evasion. Mrs. Gould was sentenced to one day's imprisonment, after having received a credit of six months for time served under her conditional sentence for a previous conviction, and to a fine of \$38,241.

On October 17, 2016, Tania Kovaluk was sentenced to five years' imprisonment for the nonpayment of a fine. Mrs. Kovaluk had been fined \$887,328 in 2012 for promoting the Paradigm strategy, specifically to nine employees of her dental practice in Ontario. The fine was to have been paid before June 30, 2014.

Lawrence Watts, the owner of a company named Fiscal Arbitrators, promoted a tax evasion strategy through falsifying company losses. The revenue declarations for 241 of his clients resulted in reimbursement requests of federal income tax of close to 10 million dollars. On June 6, 2016, Mr. Watts was sentenced to six years' imprisonment and a fine of \$149,129 by the Ontario Superior Court.



## SUPREME COURT OF CANADA LITIGATION

Federal prosecutors appeared before the Supreme Court of Canada in eight cases in 2016–2017 and responded to 20 applications for leave to appeal. Of these 20, two applications for leave were granted by the Supreme Court.

In *R. v. Jordan*, federal prosecutors argued unsuccessfully that the accused's right to be tried within a reasonable time frame guaranteed by section 11(b) of the *Canadian Charter of Rights and Freedoms* had not been infringed. The Supreme Court adopted a new analytical framework based on a ceiling beyond which delay – from the charge to the actual or anticipated end of trial – is presumed to be unreasonable, unless exceptional circumstances justify it. That presumptive ceiling is 18 months for cases tried in the provincial court, and 30 months for cases in the superior court (or cases tried in the provincial court after a preliminary inquiry).

In *R. v. Paterson*, federal prosecutors successfully argued that statements made by an accused to the police are admissible without the necessity to apply the confession rule when submitted to justify state action as part of a constitutional challenge to such state action. The Supreme Court went on to hold that the warrantless search conducted by the police into the accused's dwelling, in the specific circumstances of this case, infringed his right to be secure against unreasonable search and

### *R. v. Jordan* and Timely Prosecutions

In response to the Supreme Court's decision in *R. v. Jordan*, a new chapter was added to the *PPSC Deskbook: Ensuring Timely Prosecutions*. It mandates a number of comprehensive practices aimed at ensuring that disclosure is effected in a prompt manner and that undue delay is not experienced in the court process.

As well, the PPSC has established a nation-wide network of federal prosecutors appointed as coordinators of *Jordan* issues. Coordinators have been identified in all regional offices as well as at Headquarters, to share information relating to relevant jurisprudence across the country, emerging challenges, and best practices to address them. *Jordan* issues have been made a standing item on the bi-weekly meetings of the PPSC's Senior Advisory Board.

The PPSC has had a total of 67 *Jordan* applications decided by the courts as of March 31, 2017. Applications for stays of proceeding were refused by the court in 50 of those cases, and granted in 17. In addition, the PPSC itself entered stays of proceedings by reason of delay in 25 cases.

seizure protected by section 8 of the Charter. This led to the exclusion of the evidence and the acquittal of the accused.

## TRAINING

PPSC prosecutors participated in legal training to meet the requirements set by their provincial bar associations and to promote professional development. This included training provided at the School for Prosecutors and specialized conferences throughout the year. In all, PPSC prosecutors participated in over 36,000 hours of in-house training in 2016–2017.

The PPSC continued its use of technology in providing training. A training conference in the

Ontario Regional Office addressed legal knowledge, practice, and the ethical and professional obligations that attach to that practice. The training was shared with prosecutors across the country by videoconference.

## WEBINAR ON WRONGFUL CONVICTIONS

The PPSC developed a webinar consisting of an overview of the history of wrongful convictions and the key factors that have contributed to them followed by a scenario-based discussion highlighting some of the circumstances commonly present in wrongful conviction cases. The objective of this training was to provide PPSC prosecutors with a



## *R. v Morris*

**Ms. Morris pleaded guilty to charges under the *Immigration and Refugee Protection Act*, for inducing immigration to Canada by false or misleading communication in relation to three foreign workers. She also pleaded guilty to employing an additional 68 workers without authorization. She was sentenced to 2.5 years for the first offence and 18 months to be served concurrently for the offence related to the 68 workers. The judge found that the workers were vulnerable and were exploited by Ms. Morris, and that victims are unlikely to report these types of crime. Deterrence and denunciation were the paramount sentencing principles identified by the Court.**

higher level of awareness of the causes of wrongful convictions and what can be done to prevent them.

## SCHOOL FOR PROSECUTORS

The PPSC School for Prosecutors offers annual training designed to promote professional development relevant to the prosecution function. In 2016, the School delivered three courses: one for junior counsel, one for senior counsel, and a legal writing course. Level One (Prosecution Fundamentals) focused on criminal law topics, including the role of the Crown, the law and procedure on *voir-dires*, and the trial. Level Two (Advanced Issues for Prosecutors) delved into the intricacies of advising on, preparing, and prosecuting a case with electronic evidence. The objective of the Written Advocacy course was to help counsel perfect factum-writing skills. The teaching methods for each of the three courses included a combination of lectures, seminars, panel discussions, and small group problem solving and workshop sessions.

## OUTREACH

During 2016–2017, the PPSC continued to support and advance external relations with national and international stakeholders involved in the law.

## FPT HEADS OF PROSECUTIONS COMMITTEE

The Federal-Provincial-Territorial Heads of Prosecutions Committee comprises the leaders of Canada's prosecution services to promote assistance and to cooperate on operational issues. The DPP is permanent co-chair of the Committee and the PPSC acts as its secretariat.

The Committee held two meetings in 2016. The first was held in St. John's, Newfoundland and Labrador, in April, organized jointly with the Public Prosecution Service of Newfoundland and Labrador. The second meeting, organized jointly with the Public Prosecution Service of Nova Scotia, was held in Halifax in October and featured the National Prosecution Awards Ceremony. The Committee also

held teleconferences throughout the year to deal with emerging issues between meetings. Two PPSC prosecutors were recognized at the National Prosecution Awards Ceremony: André A. Morin, Chief Federal Prosecutor of the Montreal Regional Office, won the Humanitarian Award, while Douglas Curliss, Senior General Counsel with the Saskatchewan Regional Office, won the Commitment to Justice Award.

## INTERNATIONAL ASSOCIATION OF PROSECUTORS

The International Association of Prosecutors (IAP) is a non-governmental and non-political organization. It promotes the effective, fair, impartial, and efficient prosecution of criminal offences through high standards and principles, including procedures to prevent or address miscarriages of justice. Former DPP Brian Saunders was an elected member of the Executive Committee of the IAP until fall 2016. DPP Kathleen Roussel was elected to the Executive. A PPSC representative sits as vice-president on the board of the *Association internationale des procureurs et poursuivants francophones*, a sister organization of the IAP. The PPSC participated in the Twenty-first Annual Conference and General Meeting of the IAP in Dublin, Ireland, in September 2016, where the DPP chaired a special interest group meeting and attended a meeting of the Executive Committee; a Deputy DPP spoke at the inaugural Environment Special Interest Group. The PPSC also participated in the Fourth North American and Caribbean Conference in Jamaica; two senior prosecutors were

speakers, and the Deputy DPP chaired a panel on the Dark Web and Encryption and Anonymity.

## FOREIGN DELEGATIONS

The PPSC received delegations from the People's Republic of China throughout the past year. These included research and learning missions from the Legislative Affairs Commission of the Standing Committee of the National People's Congress, as well as prosecutors from the provincial people's procuratorates of Qinghai and Yunnan.

On July 7, 2016, the PPSC met with senior officials from the Ministry of Justice of Japan. This visit followed an earlier successful relationship-building meeting to share information on approaches to resolution discussion or plea bargaining as well as training and capacity building for prosecutors.

During the same month, PPSC prosecutors met with visiting officials from the Korean Fair Trade Commission as part of a learning mission. During their time in Canada, the Korean delegates also met with the Competition Bureau, the Competition Tribunal of the Federal Court, and the Department of Justice to discuss the procedural process in Canada in relation to competition law matters.

The Director of Public Prosecutions had the opportunity to accept a courtesy meeting with Deputy Director David Adsett of the Australia Commonwealth Director of Public Prosecutions, on his visit to Canada during a brief stop in Ottawa.

In October 2016, the PPSC received a delegation of judicial officers of the Republic of Latvia.

### *R. v. Cameron*

**On March 28, 2017, Mr. Cameron was convicted in the Court of Queen's Bench, in Calgary, of fraud over \$5,000 and tax evasion, both in relation to a Ponzi scheme that he operated between 2002 and 2006. In 2002, Mr. Cameron incorporated an Alberta company, Venture Trading Inc. Over the next four years, he used the company to raise over \$8 million from dozens of investors across Canada. Most investors lost their entire investment, which Mr. Cameron sent offshore or converted to his personal use, evading payment of over \$700,000 in income taxes overall. A sentencing date is pending.**

This meeting was coordinated through the International Programs Division at the Office of the Commissioner for Federal Judicial Affairs Canada. The Latvian delegation was appreciative of the presentations provided by the PPSC as they continue their justice system reform efforts.

Towards the end of the fiscal year, PPSC officials met with Leonel González, Area Training Coordinator (Chile) of the Justice Studies Center of the Americas to discuss various approaches and initiatives in Canada with respect to non-traditional or community-based justice initiatives. This was followed by an article prepared by the PPSC's Special Advisor on Northern Issues to be featured in a study report being prepared by Mr. González for future publication.

## TRAINING FOR INVESTIGATIVE AGENCIES

PPSC employees regularly provide training on prosecution-related topics to members of police services and federal regulatory agencies. In 2016–2017, PPSC

employees provided over 9,000 hours of such training. In addition to this, PPSC has an employee seconded full time to the Canadian Police College in Ottawa to provide legal training, research and advice on course offerings.

Investigative agencies have told the PPSC that such training increases investigators' understanding of the legal requirements that must be met to support criminal charges, reducing the likelihood of legal errors that can compromise an investigation or prosecution. Further, training provides an opportunity for investigators and prosecutors to build rapport and solidify partnerships.

## INTERNAL SERVICES

PPSC prosecutors are supported by many employees working in various internal services. Their work is essential to the effective functioning of the organization. Like all federal government departments, the PPSC's finance, human resources, communications, and other internal services help to

ensure that the organization is effectively governed and meets its administrative responsibilities.

Some internal services divisions had significant milestones or launched major initiatives in 2016–2017.

## ADMINISTRATION

The Administration Services Division launched the relocation projects of offices in Toronto, Brampton/Mississauga, Yellowknife, Vancouver, and Saskatoon in close partnership with Public Services and Procurement Canada and Shared Services Canada.

The PPSC Hazard Prevention Program (HPP), which was started in the previous year, was rolled out nationally. The HPP seeks to reduce the risk of work-related injuries and illnesses through the establishment of safe work procedures and training.

## CORPORATE PLANNING AND EXTERNAL RELATIONS DIVISION

Pursuant to the new Treasury Board Secretariat's Policy on Results, the PPSC created the Committee on Results and Evaluation. This committee met several times this year and contributed to the development of the PPSC's draft *Departmental Results Framework*, *Program Inventory* and *Performance Information Profiles*. These documents will be finalized in 2017–2018.

## FINE RECOVERY

The PPSC is responsible for administering the recovery of outstanding federal fines under the terms of an assignment issued by the Attorney General of Canada in 2007. The PPSC's National Fine Recovery Division recovers the court-ordered fines under federal statutes.

On March 1, 2016, a contract was signed with Partners in Credit Inc., a private collection agency, for the collection of the PPSC's outstanding federal fines. Partners in Credit began collecting federal fines on behalf of the PPSC on April 1, 2016.

As of March 31, 2017, the PPSC had transferred over 6,200 outstanding fines, totalling \$163M, to Partners in Credit. Partners in Credit recovered \$1.315M against 132 of those accounts.

Over \$11.1M in fines were deemed unrecoverable by Partners in Credit and returned to the PPSC for further actions such as set-off, hearings under section 734.7 of the *Criminal Code*, or suspension of permits. Through the Canada Revenue Agency's set-off program, the PPSC has recovered \$436,220 during 2016–2017. Over 5,000 accounts, representing \$11M in fines, are registered with the CRA.

## HUMAN RESOURCES

The PPSC launched the 2016–2019 Strategic Workforce and Workplace Plan articulating human resources priorities to guide strategic people management decisions, investments and initiatives.

To focus talent development, the PPSC identified mental

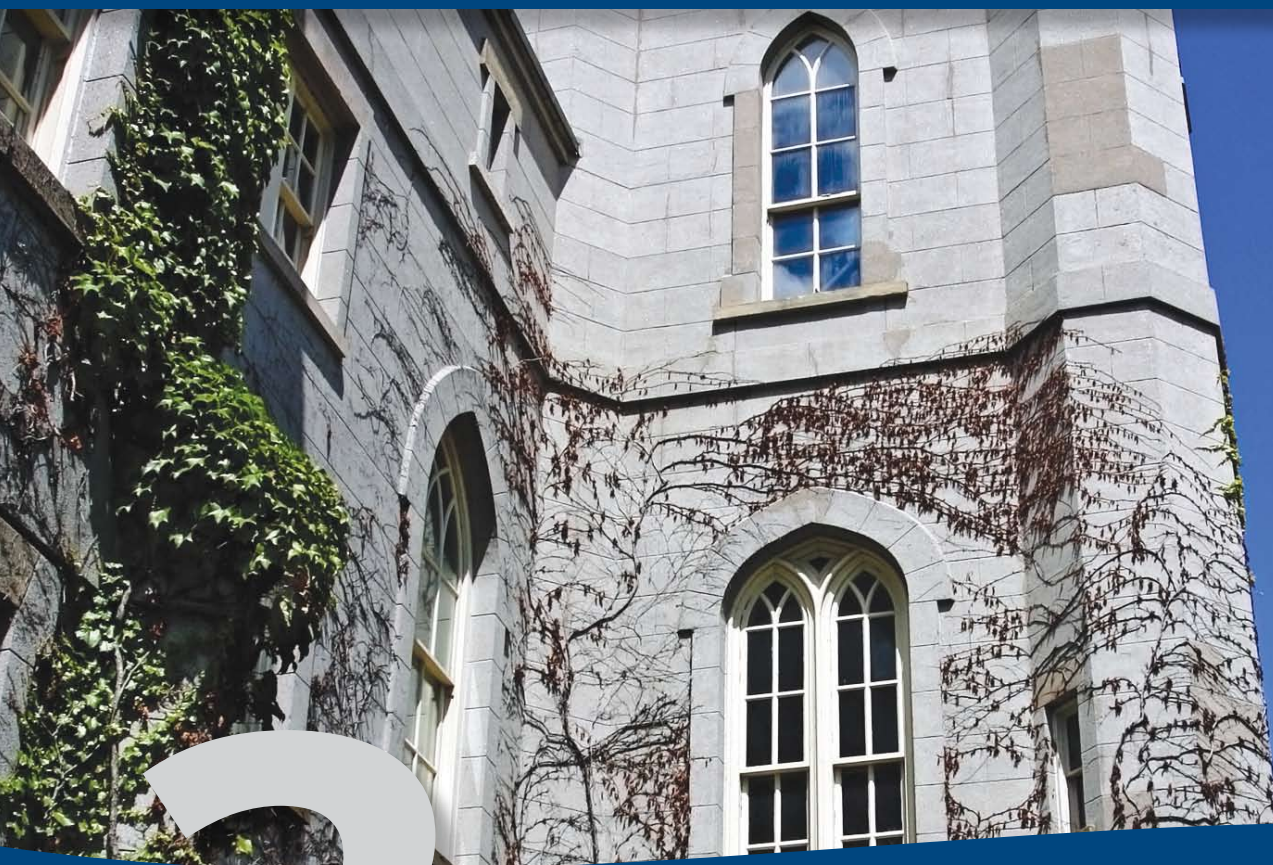
health and wellness and working effectively with others as employee learning priorities. The PPSC also launched learning roadmaps for the Administrative Professional and Supervisor and Manager communities to further establish a long term, coordinated approach to learning and development. The PPSC also held a senior management meeting focused on People Management to ensure managers are well equipped to effectively lead their teams and employees.

The PPSC continued to engage employees and create an enabling work environment through the appointment of Co-Champions for Mental Health and Wellness. The PPSC continued its three-year organizational review to update all positions and continued efforts to implement generic job descriptions by reviewing a large number of headquarters administrative positions.

## INTERNAL AUDIT

In 2016–2017, the PPSC published two internal audit reports, the *Audit of Information Technology* and the *Audit of the Quebec Regional Office*, and conducted one consulting engagement for management. The Internal Audit Division also conducted a follow-up review of management action plans addressing prior audit recommendations. The Departmental Audit Committee, which is chaired by the DPP, met three times during the year and reviewed a number of audit-related items, including values and ethics, risk management, internal controls, governance, planning, and financial reporting.





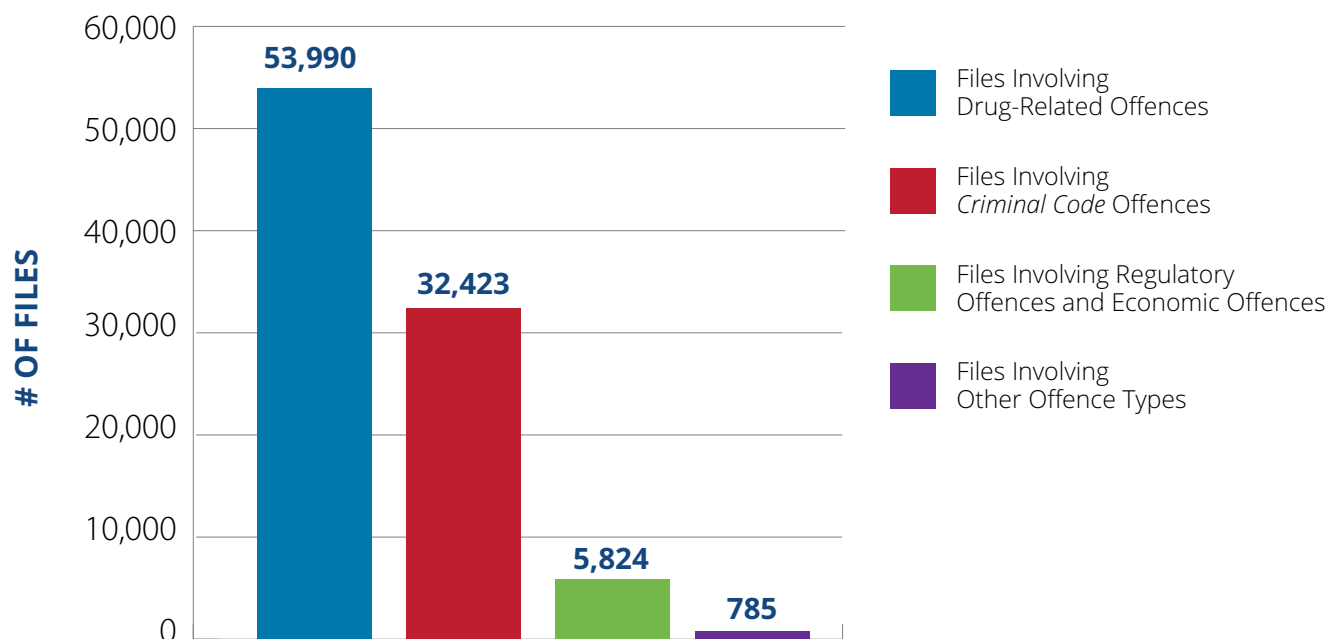
## REGIONAL PROFILES

### OVERVIEW

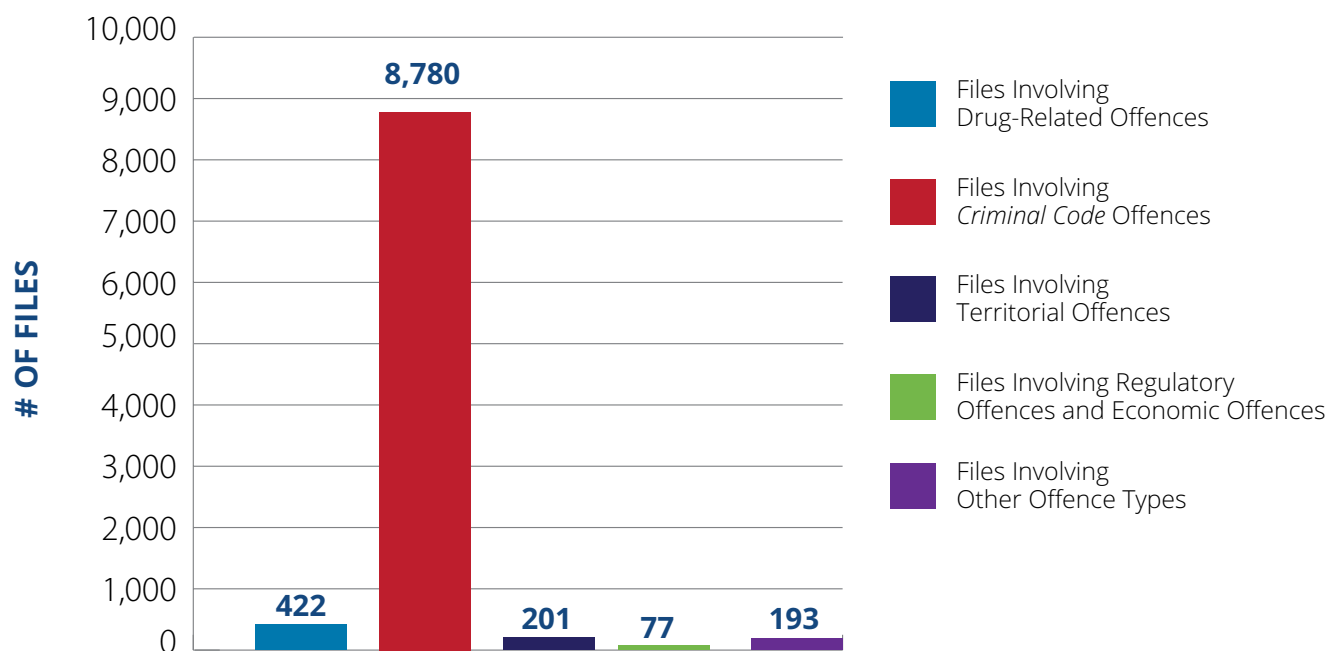
**T**he PPSC has eleven regions across Canada. Each region has at least one regional headquarters, and may also have local offices and/or staff co-located with partner organizations in other cities in the region. Each region is headed by a Chief Federal Prosecutor (CFP).

All PPSC regional offices prosecute offences under the CDSA, organized crime, regulatory offences, and economic crime, including tax evasion and immigration offences.

## FILES BY OFFENCE TYPE - ALL PPSC OFFICES

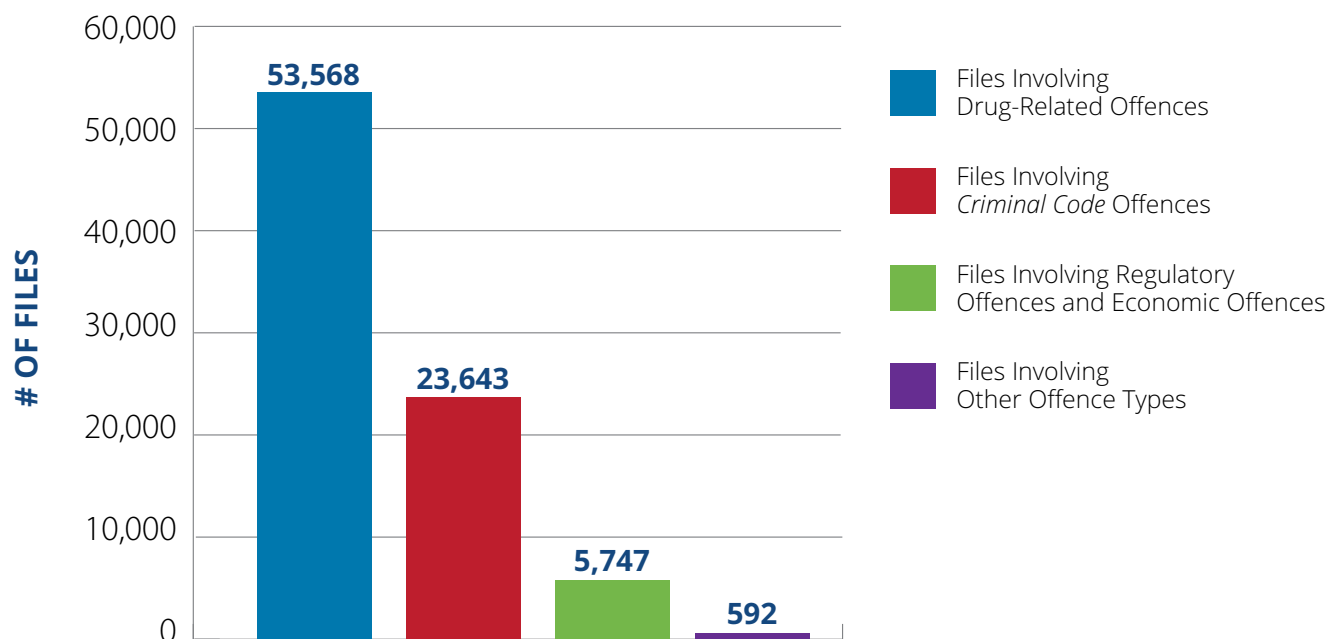


## FILES BY OFFENCE TYPE - REGIONAL OFFICES LOCATED IN THE TERRITORIES





## FILES BY OFFENCE TYPE – REGIONAL OFFICES LOCATED IN THE PROVINCES



## ALBERTA

EMPLOYEE DISTRIBUTION	
Employees	132
Lawyers (LP)	69
Law Management (LC)	2
Paralegals (EC)	18
Program and Administrative Services	43

The Alberta Regional Office has offices in Edmonton and Calgary.

The office continues to work with investigative and prosecutorial partners to find efficiencies in case-processing systems, and to ensure that files come to trial with as few delays as possible.

The office is undertaking a comprehensive review of work flow systems, from the way that information is received by the PPSC from investigative agencies to the way that the office assigns and concludes prosecution files. As well, the Alberta Regional Office has instituted a completely new

system for dealing with Judicial Interim Release and bail hearings within the province.

As a result of the Irving Report, the PPSC Alberta Regional Office undertook that all federal bail matters that went before a Judicial Officer would be presented by a lawyer as the representative of the federal Crown. Prior to this, police officers presented bail on some matters. Legal agents across the country are now covering most or all of the off-hours bail hearings in Alberta.

## ATLANTIC

EMPLOYEE DISTRIBUTION	
Employees	66
Lawyers (LP)	41
Law Management (LC)	2
Paralegals (EC)	4
Program and Administrative Services	19

The Atlantic Regional Office (ARO) serves the provinces of Nova Scotia, Newfoundland and Labrador, New Brunswick and Prince Edward Island. The regional

headquarters is located in Halifax, Nova Scotia, and there are local offices in Moncton, New Brunswick and St. John's, Newfoundland and Labrador.

The ARO sees a high volume of regulatory files, particularly fisheries-related files, as fisheries are a significant part of the social fabric of the Atlantic provinces.

The ARO supports specialized courts, including the Drug Treatment Court in Kentville, Nova Scotia and the Healing to Wellness Court in Elsipogtog, New Brunswick.

## BRITISH COLUMBIA

EMPLOYEE DISTRIBUTION	
Employees	103
Lawyers (LP)	65
Law Management (LC)	2
Paralegals (EC)	3
Program and Administrative Services	33

The British Columbia Regional Office (BCRO) is located in Vancouver.

The BCRO handles a notable number of fisheries and marine pollution cases, as well as immigration cases due to the proximity of the border with the United States and ports on the West Coast.

The BCRO has continued to work closely with the BC Criminal Justice Branch, police and other investigative agencies on a series of initiatives to improve the quality of materials for use in court. There has been an increase in the number of national security files referred to the BCRO by the RCMP and a number of such cases are currently before the courts.

The BCRO supports specialized courts, including the Drug Treatment Court of Vancouver (DTCV). The DTCV has taken innovative approaches to expanding its services to those in need, including expanding its geographic catchment. As one of the oldest drug treatment courts in Canada, the program has been extensively evaluated and has been found to significantly reduce recidivism amongst its challenging drug-affected offender clients.

## MANITOBA

EMPLOYEE DISTRIBUTION	
Employees	43
Lawyers (LP)	22
Law Management (LC)	1
Paralegals (EC)	4
Program and Administrative Services	16

The Manitoba Regional Office (MRO) is located in Winnipeg.

The MRO handles a wide range of files, including numerous drug files, as well as environmental and wildlife offences and offences relating to the health and safety of Canadians generally. The

office provides legal advice and prosecution services across the province, including in circuit courts in smaller communities, some of which can only be reached by air.

In 2016–2017, the MRO continued to work closely with municipal police forces and the RCMP, who

have targeted specific criminal organizations, resulting in arrests and seizures of drugs, weapons, and the proceeds of crime.

The MRO has worked to build relationships with aboriginal communities, particularly those in the northern part of the province. In partnership with the Manitoba Métis Federation, the MRO has developed a new alternative measures program to provide an alternative to prosecution in appropriate cases.

## NATIONAL CAPITAL

EMPLOYEE DISTRIBUTION	
Employees	98
Lawyers (LP)	58
Law Management (LC)	2
Paralegals (EC)	14
Program and Administrative Services	24

The National Capital Regional Office (NCRO) serves the Eastern, Northwestern, and Northeastern regions of Ontario, as well as judicial districts in western Quebec. The regional headquarters is located in Ottawa.

Most of the PPSC's Competition Law team is housed within the NCRO, and handles competition

files throughout the country. The NCRO also sees a high volume of national security, human smuggling, and contraband smuggling files.

The NCRO opened a local office in Kenora, Ontario in March of 2017. Counsel in this office is responsible for federal prosecutions in Kenora, Red Lake,

and approximately thirteen remote (fly-in) communities, as well as for providing advice to police officers from the Ontario Provincial Police, municipal police services, and Native police services. Previously, prosecutions in this region were conducted by an agent of the DPP.

The NCRO supports a Drug Treatment Court and a Mental Health Court in Ottawa, as well as Drug Treatment Courts in several smaller jurisdictions within the region, including Kenora, Kingston, and Perth.

## NORTHWEST TERRITORIES

EMPLOYEE DISTRIBUTION	
Employees	44
Lawyers (LP)	18
Law Management (LC)	1
Paralegals (EC)	2
Program and Administrative Services	23

The Northwest Territories Regional Office (NWTRO) is located in Yellowknife. Communities throughout the NWT are served by circuit in both the Territorial and Supreme Court and prosecutors travel by air to some 20 communities and by road to one (Behchoko).

The NWTRO prosecutes *Criminal Code* offences, in addition to offences under all statutes normally prosecuted by the PPSC. The case load of the regional office includes a high number of personal injury offences, including homicide cases, sexual assaults, aggravated assault, and assault causing bodily

harm or with a weapon. The region actively reviews the files of high risk offenders and applies in appropriate cases for dangerous or long-term offender status following conviction.

In 2016–2017, prosecutors and Crown Witness Coordinators in the NWTRO received training on winter driving and skid control, first aid, sexual assault cases, and HIV-related prosecutions, as well as training on the *Canadian Victims Bill of Rights*.

## NUNAVUT

EMPLOYEE DISTRIBUTION	
Employees	50
Lawyers (LP)	20
Law Management (LC)	2
Paralegals (EC)	3
Program and Administrative Services	25

The regional headquarters of the Nunavut Regional Office (NRO) is located in Iqaluit, and there is a local office in Yellowknife, which covers the Western Nunavut Region.

In addition to offences under all statutes normally prosecuted by the PPSC, the NRO is responsible for prosecuting *Criminal Code* offences in the territory. The majority of the prosecutions involve crimes of violence, ranging

from assaults to homicides. The frequency of serious violent crime in Nunavut remains far above the national average.

The PPSC NRO continues its work with the Rankin Inlet Spousal Assault Program, a program in which first offenders charged with low-level spousal assaults complete an intensive counselling program.

## ONTARIO

EMPLOYEE DISTRIBUTION	
Employees	189
Lawyers (LP)	117
Law Management (LC)	3
Paralegals (EC)	24
Program and Administrative Services	45

The Ontario Regional Office (ORO) serves southern and southwestern Ontario, from Windsor in the west to Trenton in the east, and northward to Georgian Bay and the districts encompassing Barrie, Lindsay, and Peterborough. The regional headquarters is located

in Toronto, with local offices in Brampton, Kitchener, and London.

In 2016–2017, the ORO handled numerous files arising from the raids of marihuana dispensaries by the Toronto Police Service, and also prosecuted several fentanyl traffickers.

Three anti-terrorism prosecutions were either commenced or continued, including the case against an accused charged with a number of offences stemming from an alleged attack on Canadian Armed Forces personnel at a recruiting center in Toronto. In addition, two people were ordered to enter into peace bonds under a provision of the *Criminal Code* which permits a judge to order such peace bonds when satisfied there are reasonable grounds to fear a person may commit a terrorism offence.

## QUEBEC

EMPLOYEE DISTRIBUTION	
Employees	86
Lawyers (LP)	54
Law Management (LC)	2
Paralegals (EC)	9
Program and Administrative Services	21

The Quebec Regional Office (QRO) is located in Montreal; there are also a few prosecutors working in Quebec City. QRO prosecutors and agents serve all of Quebec's judicial districts, except those in Gatineau, Pontiac, and Labelle.

In Quebec, the PPSC only prosecutes CDSA offences when they were investigated by the RCMP. Prosecutors in the QRO deal with many large and high-profile prosecutions, particularly those related to organized crime

(especially linked to drugs and money laundering), and national and border security.

In 2016–2017, the QRO conducted several prosecutions under the *Immigration and Refugee Protection Act*, specifically in human smuggling. In addition, an anti-terrorism case before the Youth Tribunal and another in the Quebec Court garnered particular attention.



## SASKATCHEWAN

EMPLOYEE DISTRIBUTION	
Employees	29
Lawyers (LP)	16
Law Management (LC)	1
Paralegals (EC)	3
Program and Administrative Services	9

The Saskatchewan Regional Office (SRO) is located in Saskatoon, and a PPSC prosecutor is co-located with the RCMP in an Integrated Proceeds of Crime (IPOC) office in Regina. The IPOC unit deals with restraint orders and management orders for real property, vehicles,

and cash, in conjunction with prosecutions involving the forfeiture or seizure of the profits of drug-related criminal activity.

The SRO has developed a particular expertise in organized crime prosecutions. Major files

handled by the office in 2016–2017 included the carriage of the Project Forseti prosecutions based upon an investigation in which police dismantled an entire puppet club of a well-known outlaw motorcycle group. In the past year, those prosecutions have resulted in penalties being meted out that are at the upper end of the range in Saskatchewan for drug trafficking activity.

The office also made significant progress in the past year in establishing a clear framework of applicable sentencing principles for fentanyl trafficking activity in the province.

## YUKON

EMPLOYEE DISTRIBUTION	
Employees	32
Lawyers (LP)	13
Law Management (LC)	1
Paralegals (EC)	2
Program and Administrative Services	16

The Yukon Regional Office (YRO) is located in Whitehorse. In addition to offences under all statutes normally prosecuted by the PPSC, the office is responsible for *Criminal Code* prosecutions in the territory.

In 2016–2017, the YRO continued partnership in the Domestic Violence Treatment Option

Court focusing on domestic violence offences as well as in the Community Wellness Court, which focuses on offenders with alcohol or drug addiction, mental health issues, or Foetal Alcohol Spectrum Disorder and other cognitive issues. The YRO also continued its partnership with the RCMP, Victim Services, Family and Children

Services, and others in Project Lynx, which coordinates support for children going through the justice system. The YRO worked in partnership with the RCMP and Offender Supervision and Services on the Prolific Offender Management Program, which identifies those with a history of frequent offending, and engages them in a behaviour change process. The YRO also worked with the RCMP, Correctional Service Canada, and the Yukon Territorial Government with the Restorative Justice Council to provide restorative justice training to Aboriginal Court Workers and First Nations Justice representatives.



# 4

## STRATEGIC ORGANIZATIONAL PRIORITIES

Each year the PPSC considers strategic organizational priorities in support of its mandate. These priorities are primarily operational in nature and identify areas of focus for the coming year.

The PPSC has renewed its organizational priorities for 2017–2018. Building on the work and successes of recent years, the organization will continue to focus on excellence in prosecution management, employee training and development, and working collaboratively with investigative agencies.

## EXCELLENCE IN PROSECUTION MANAGEMENT

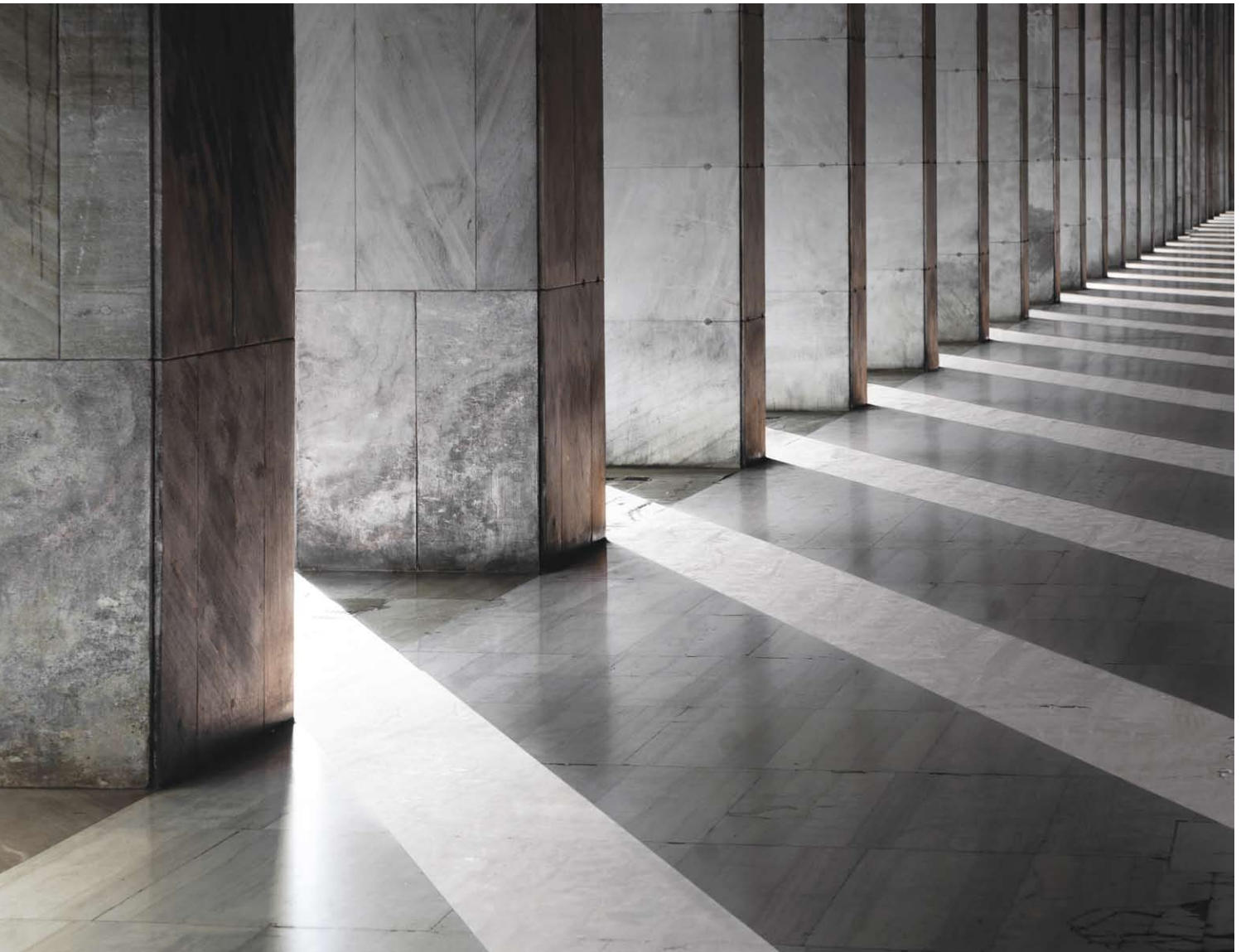
Given the nature, volume, and complexity of criminal prosecutions, the PPSC is required to assess and manage its prosecutorial resources on an ongoing basis. As a result, the organization is committed to improving its prosecution management practices, from

the way files are assigned to how they are managed and tracked throughout the lifecycle of a prosecution. The PPSC also continues to identify and learn from best practices and recommendations developed by its partners as well as international and provincial counterparts.

### FILE MANAGEMENT

The PPSC continued to make strides in developing a new legal

case management system (LCMS) given that its current system, iCase, is at the end of its lifespan and does not fully address the PPSC's business requirements. For example, the LCMS team has conducted numerous working group meetings and has begun developing migration strategies to transfer file information from iCase to the new system. Work on this project will continue over the next two fiscal years.



## BEST PRACTICES

The PPSC continued to focus on the development of best practices throughout the last fiscal year. In light of the new Jordan framework, the organization has established points of contact in each regional office for the purpose of sharing best practices.

Through participation in Federal-Provincial-Territorial Heads of Prosecutions Committee meetings, PPSC employees shared knowledge and discussed matters of mutual interest with their provincial counterparts.

## COLLABORATION WITH PROVINCIAL PROSECUTION SERVICES

The PPSC and provincial prosecution services continued to implement and jointly manage major-minor agreements or arrangements with provincial counterparts to coordinate efficient use of prosecution resources within each jurisdiction. They also continued to work together to delegate files to each other when an actual, potential, or perceived conflict of interest makes it appropriate to do so.

## COLLABORATION WITH INTERNATIONAL PARTNERS

The PPSC continued to work with U.S. attorneys and the U.S. Department of Justice to increase collaboration on trans-boundary cases under the umbrella of the Border Operations Leadership Team.

As well, the organization played a key role in facilitating cross-border communication on issues such as cross-border undercover operations, migrant smuggling, and information sharing.

The PPSC continued to be consulted in relation to the prosecution implications of the Canada-U.S. Land Preclearance Agreement, which is awaiting parliamentary approval.

## EMPLOYEE TRAINING AND DEVELOPMENT

The PPSC is committed to providing its employees with access to the tools and opportunities they need to improve their skills, further their professional development, and tackle the complex challenges of today's prosecutions and operational requirements. The organization continued to offer formal and informal employee learning and developmental training in both the legal and non-legal employment streams. As well, training directed towards ensuring a respectful and healthy workplace was provided to employees.

## EMPLOYEE LEARNING AND DEVELOPMENT

The PPSC continued to enhance its employee learning and development framework through its *2016–2019 Strategic Workforce and Workplace Plan*, which commits to creating an employee-driven, continuous learning experience through clear organizational learning priorities.

Targeted legal training was provided to prosecutors both to meet the requirements set by the provincial bar associations, and to promote professional development. Prosecutors from across the country received approximately 36,000 hours of training in 2016–2017.

## USER-FRIENDLY LEARNING TOOLS

The PPSC rolled out four learning roadmaps to help employees and managers plan by identifying mandatory training and providing concrete links to available opportunities. A roadmap for all employees was developed, as well as specific roadmaps for supervisors, managers, and administrative professionals. Additional roadmaps are planned for 2017–2018.

In addition, the PPSC continued to increase its use of user-friendly learning tools, such as webinars and e-training, which allowed employees to have access to training from any computer at any time. For example, the organization launched an online training course on the *Prevention of Wrongful Convictions: Lessons from the Canadian Experience*. Online training regarding the use of subsection 540(7) of the *Criminal Code* was also provided in order to assist in expediting preliminary inquiries.



## TRAINING FOR MANAGERS AND SUPERVISORS

During the PPSC face-to-face Senior Advisory Board meeting in October 2016, a variety of topics were discussed, including performance management, mental health and wellness, and the Public Service Commission's *New Direction in Staffing*. In addition, the PPSC continued to allocate and manage its seats on the Canada School of Public Service supervisor and manager development programs as well as the *Aspiring Director Program*.

## TRAINING ON HARASSMENT AND DISCRIMINATION ISSUES

Throughout the year, the PPSC promoted a variety of training opportunities regarding mental health and wellness, including the Canadian Bar Association's *Mental Health and Wellness in the Legal Profession* online training course.

Furthermore, the Mental Health Commission of Canada's *Mental Health First Aid Canada Northern Peoples* course was offered to all PPSC staff in the Northwest Territories, Nunavut and Yukon Regions between January and March 2017.

Lastly, the PPSC continued to deliver the Joint Learning Program *Creating a Harassment-Free Workplace* workshop across the organization. In 2016–2017, the PPSC delivered 29 sessions to 491 employees.

## WORKING COLLABORATIVELY WITH INVESTIGATIVE AGENCIES

The PPSC continued to strengthen its relationships with investigative agencies through effective communication at both the local and national levels. This involved working collaboratively to ensure consistency and completeness in the investigation files sent to the PPSC and in the legal advice provided by the PPSC.

## ENSURING STRONG RELATIONSHIPS WITH OUR STAKEHOLDERS

The PPSC has taken steps to ensure ongoing communication and liaison with police and investigative agencies. It attended the RCMP's national priority-setting exercises and was present at the RCMP's External Advisory Committee on the re-engineering of the force. In addition, this past year, the PPSC attended quarterly meetings with the Canada Revenue Agency and met with each of the larger investigative agencies.

Chief Federal Prosecutors also maintained regular contacts with the heads or deputy heads of police forces, including the Criminal Operations Officers of the RCMP. Furthermore, crown prosecutors, both at Headquarters and in the regions, regularly met with their counterparts in investigative agencies with whom they most often collaborate. Participation in the foregoing activities has

facilitated the PPSC's ability to coordinate and prioritize the use of its resources according to stated investigative priorities and to predict demand for prosecutorial services.

At the individual file level, the PPSC continued to work with police and investigative agencies to enhance the use of the Report to Crown Counsel to assist in fulfilling the Crown's constitutional obligations to provide timely disclosure of the prosecution case to the accused. Moreover, the organization has worked with these entities to develop training programs for investigators in keeping with the demands arising from current trends in the law and the ongoing evolution of investigative tools and techniques. In 2016–2017, PPSC prosecutors provided approximately 9,000 hours of training to investigative agencies across the country.

In follow-up to the *2014 Survey of Investigative Agencies*, an action plan to address the feedback received from police services and regulatory agencies was developed. A copy of this action plan was shared with federal investigative agencies. The PPSC will continue to monitor the implementation of the measures outlined in the action plan to ensure that the PPSC adheres to its commitments.





## FINANCIAL INFORMATION

### OPERATING BUDGET

In 2016–2017, the PPSC's total budget (i.e. authorities available for use) was \$214.9 million, which included the authority to collect revenues up to \$22.7 million. At year-end, the actual spending (i.e. use of authorities) amounted to \$195.6 million, with earned revenues of \$18 million. As a result, the PPSC total of net lapsed funds is \$14.6 million.

### SPENDING BY PROGRAM

The PPSC has four programs, which are grouped under two strategic outcomes. The first strategic outcome relates to the prosecution functions of the PPSC, while the second relates to the compliance and enforcement functions of the Commissioner of Canada Elections. In addition to these programs, the PPSC also has a number of administrative services grouped under the heading "Internal Services".

Information about the spending for each program and for internal services is provided in the following table:

Programs	Authorities available for use		Authorities used		Lapsed funds
	Operating budget	Revenues netted against expenditures	Operating budget	Revenues netted against expenditures	
	(A)	(B)	(C)	(D)	(E)= (A-C)+(B-D)
<b>Program 1.1</b>	139,108		134,975	-	4,133
<b>Program 1.2</b>	49,289	(22,542)	36,757	(17,927)	7,917
<b>Program 2.1</b>	3,664		3,539	-	125
<b>Program 2.2</b>	1,113		1,043	-	70
<b>Internal Services</b>	21,804	(200)	19,283	(85)	2,406

(amounts in thousands of dollars)

## MAJOR VARIANCE

Program 1.2: Regulatory Offences and Economic Crime Prosecution Program

The variance of \$7.9 million between the total operating budget of \$26.7 million and actual spending of \$18.8 million is mainly due to unspent funding for the collection of outstanding federal fines.





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1-877-505-7772  
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Government  
of Canada

Gouvernement  
du Canada

Commissioner of  
Canada Elections

Commissaire aux  
élections fédérales

# 2016-2017 ANNUAL REPORT

COMMISSIONER OF CANADA ELECTIONS



## CONTACT US

### ONLINE:

[www.cce-cef.gc.ca](http://www.cce-cef.gc.ca)

### SECURE ONLINE COMPLAINT FORM:

[https://www.cce-cef.gc.ca/  
complaint/index\\_e.aspx](https://www.cce-cef.gc.ca/complaint/index_e.aspx)

### TELEPHONE:

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### FAX:

1-800-663-4906 or  
819-939-1801

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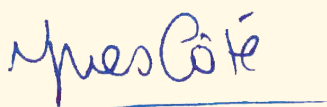
May 12, 2017

Ms. Kathleen Roussel  
Acting Director of Public Prosecutions  
160 Elgin Street, 12<sup>th</sup> Floor  
Ottawa, Ontario  
K1A 0H8

Dear Ms. Roussel:

Pursuant to subsection 16 (1.1) of the *Director of Public Prosecutions Act*, I am pleased to submit the 2016-2017 Annual Report for my office. In accordance with the requirements described in subsection 16 (1.1), this report provides an overview of our activities and operations from April 1, 2016 to March 31, 2017, but contains no details of any investigations.

Sincerely,



Yves Côté, QC  
Commissioner of Canada Elections

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# COMMISSIONER'S MESSAGE

I am pleased to present the 2016-2017 annual report for the Office of the Commissioner of Canada Elections (CCE).

Although the majority of complaints are received and resolved during an election period, our Office does not sit idle between elections: we use the time between elections to pursue more complex and in-depth investigations and to review the referrals we receive from Elections Canada's political financing division.

We also use this time to reflect, provide input and propose solutions to some of the challenges we face now, or may face in the future.

This year, we provided advice to the Chief Electoral Officer and his staff as they compiled their report on recommendations for legislative amendments following the 42nd general election. These included recommendations regarding:

- the ability to negotiate broader terms for compliance agreements and the creation of a regime of administrative monetary penalties (AMPs); and
- the power of the Commissioner to seek a court order to compel witness testimony in appropriate circumstances and subject to strict conditions.

Although the report provides for separate recommendations for compliance agreements and the AMPs regime, these tools could be used together. This would allow

for a coordinated use of both mechanisms in a manner that leveraged the compliance effects of each of these tools.

These recommendations are currently under consideration by the House of Commons Standing Committee on Procedure and House Affairs. I hope that Parliament will see the value of these recommendations and will move to adopt them in the near future.

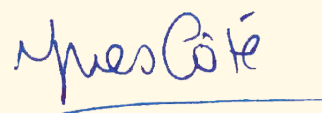
2016-2017 also brought with it the introduction of new legislation, which, if adopted, would bring about a number of changes to the *Canada Elections Act* (the Act). Among the changes proposed by Bill C-33, which was tabled in Parliament on November 24, 2016, is the transfer of the CCE back to the Office of the Chief Electoral Officer. This amendment would reduce some of the impediments to obtaining information that currently exist as a result of the CCE being a separate institution. From an operational perspective, any change to the placement of our Office within the machinery of government that Parliament could choose to make, should be adopted at the earliest opportunity, to ensure that all related work is completed well in advance of the 43rd general election.

Elections in other countries captured the attention of many Canadians last year. They have given rise to, among others, allegations of voter fraud and foreign interference. In addition, a number of issues have arisen

in connection with the impact of fake news. Clearly, what happened abroad raises questions for the conduct of future elections here at home. These questions should be carefully considered in any review of our electoral legislation.

I close with a comment on the resources allocated to my Office. To ensure that we can continue to effectively carry out our work, we must have the proper resources in place. The Act allows us to supplement the relatively small number of indeterminate positions within the Office with individuals appointed on a temporary or contractual basis. However, the original intent was for these authorities to be used to fulfill short-term needs. Unfortunately, over the years, we have resorted to using them to ensure that ongoing functions of the office are performed. This is clearly not cost-effective and, in addition creates real recruitment and retention issues. I would hope that this can be addressed in the coming year.

None of the work we accomplished would have been possible without the dedicated efforts of the CCE team. My sincere thanks go out to each of them for their continued hard work in support of our mandate.



Yves Côté, QC  
Commissioner of Canada Elections

## ABOUT US

The position of Commissioner of Canada Elections was originally created in 1974.

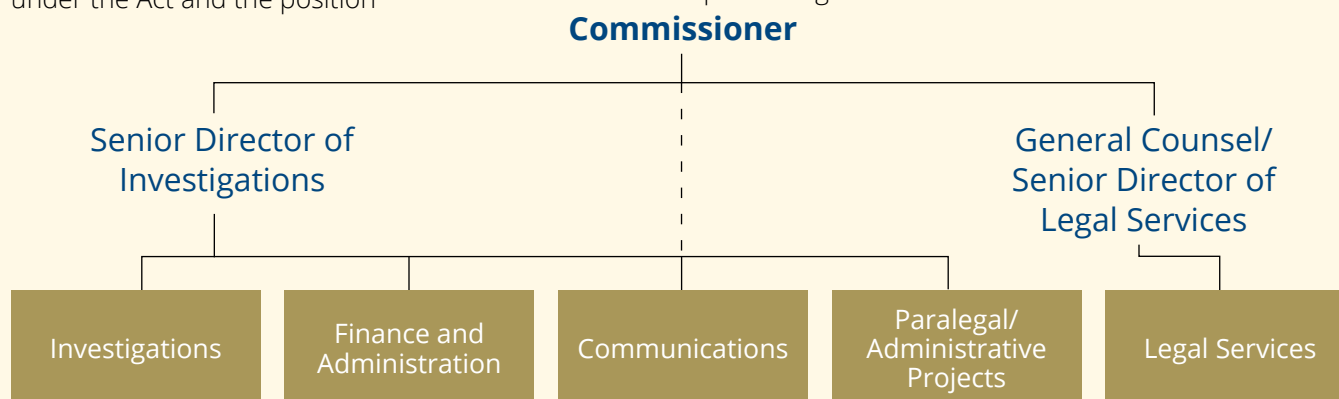
The powers of the Commissioner of Election Expenses (as it was known at the time) were limited to compliance and enforcement of rules relating to election expenses. In 1977, the Commissioner's powers were significantly expanded to include all provisions under the Act and the position

formally became known as the Commissioner of Canada Elections.

Today, the CCE continues to play an important role in safeguarding Canadians' trust in the democratic process. As an independent officer, the Commissioner's dual roles of ensuring compliance with, and enforcement of, the Act and the federal *Referendum Act*, are carried out with the aim of promoting the

integrity of the electoral process.

The Commissioner is supported by approximately 30 people, including federal public servants and independent contractors.



## COMPLAINTS AND REFERRALS

All complaints received by the Commissioner with respect to the Act are assessed to determine if they fall within the mandate of the office. The Commissioner also receives referrals from Elections Canada. These are mainly files from both its electoral integrity and political financing divisions. In addition, Elections Canada transfers some complaints it receives from the public to the Commissioner.

Individuals whose complaints or allegations do not fall under the Commissioner's area of responsibility are advised and, wherever possible, are redirected

to the appropriate complaint mechanism.

If, following a preliminary review, the Commissioner concludes that the allegations made in connection with a complaint or referral may have merit, an investigation may be conducted to clarify the facts and gather evidence related to the alleged offence. At all times throughout the process, the Commissioner ensures that decisions are guided by the principles of independence, impartiality and fairness. Additional information regarding the Commissioner's mandate can be found in the *Compliance and Enforcement Policy of the Commissioner of Canada Elections* available on the Commissioner's Web site at: [www.cce-cef.gc.ca](http://www.cce-cef.gc.ca).

## Submitting a Complaint

The Commissioner receives complaints from a variety of sources. Anyone with a complaint or allegations of wrongdoing under the *Canada Elections Act* may contact the Commissioner's office:

by web form: [www.cce-cef.gc.ca](http://www.cce-cef.gc.ca),

by e-mail: [info@cef-cce.gc.ca](mailto:info@cef-cce.gc.ca),

by fax: 1-800-663-4906 or 819-939-1801, or

by postal mail:  
Commissioner of Canada Elections  
P.O. Box 8000, Station T  
Ottawa, Ontario  
K1G 3Z1



# THE YEAR IN REVIEW: 2016-2017

## Bill C-33

In November 2016, the Government introduced Bill C-33, which, if adopted, would make a number of changes to the Act including several that could have a direct effect on the CCE.

In 2014, with the adoption of amendments to the Act, the CCE was transferred to the Public Prosecution Service of Canada. The implementation of Bill C-33 would move the Office back so that would be within the Office of the Chief Electoral Officer. The proposed legislation would also see the Commissioner appointed by the Chief Electoral Officer, following consultation with the Director of Public Prosecutions (DPP), for a term of ten years. The Commissioner currently serves a seven-year term and is named by the DPP.

The bill also contains new reporting requirements for the CCE. These include the publication of:

- an annual report in the manner and form the Commissioner considers appropriate; and
- a report outlining any amendments to the Act that would strengthen the compliance and enforcement regime, which report would be included in a separate section in the Chief Electoral Officer's report on recommended changes to the Act following a general election.

## RECOMMENDATION REPORTS AND PARLIAMENTARY RESPONSES

### *An Electoral Framework for the 21<sup>st</sup> Century: Recommendations from the Chief Electoral Officer of Canada Following the 42<sup>nd</sup> General Election*

In September 2016, the former Chief Electoral Officer tabled a report in Parliament containing 132 recommendations stemming from the October 19, 2015 general election.

In addition to recommendations in support of both the adoption of an AMPs regime and granting the Commissioner the power seek a court order to compel witness testimony—both of which have long-standing and well-documented support from the Commissioner, the Chief Electoral Officer and the OSCE<sup>1</sup>—the report also made recommendations aimed at modernizing the Act and granting the Commissioner the use of additional mechanisms through which to ensure compliance and enforcement of the Act. Other notable recommendations include:

- **Ballot selfies, the secrecy of the vote and social media**

The Chief Electoral Officer and the Commissioner agreed that the addition of prohibitions on taking, disclosing or sharing a photograph or digital image of a marked ballot were necessary to guarantee the secrecy of the vote. This proposed change would apply to photographs taken of one's own ballot or

that of another individual and would extend to social media platforms both during and after voting had occurred.

- **Impersonation offence**

At the request of the Commissioner, the report contains a recommendation that a new provision be added to include a specific offence for the creation and distribution of false candidate or party campaign communication material, including false websites or other online or social media content, with the intent to mislead electors.

- **Authority of Commissioner to lay charges**

Prior to 2006, the Commissioner had the power to lay charges in relation to his investigations. However, once the position of the DPP was created, that power was removed from the Commissioner. The report recommends that the Act be amended to reinstate the Commissioner's ability to lay a charge under the Act. Removing the requirement for the Commissioner to seek the DPP's approval before laying charges would reduce delays and increase transparency in the decision-making process and increase public trust in the system. This recommendation would not change the role traditionally carried out by the DPP: he would continue to be solely responsible for the conduct of the prosecutions before the courts.

<sup>1</sup> Organization for Security and Cooperation in Europe: OSCE/ODIHR Election Assessment Mission - Final Report.

- **Compliance agreements**

Although compliance agreements are one of the compliance tools most frequently used by the Commissioner, the terms that can be negotiated as part of these agreements are currently extremely limited. For that reason, compliance agreements are often perceived as not carrying real consequences for offenders. The report recommends that the Act be amended so that the terms and conditions of a compliance agreement are broadened to allow for any measures or sanctions that are negotiated with the contracting party. It is important to note that if the Office was to administer an AMPs regime, the use of compliance agreements with negotiated AMPs would allow for the optimal use of these two compliance tools, as is provided for in many other federal regimes.

The full report, including each of the 132 recommendations can be found on Elections Canada's website at: [www.elections.ca](http://www.elections.ca).

***An Interim Report in Response to the Chief Electoral Officer's Recommendations for Legislative Reforms Following the 42nd General Election (Parts I and II)***

In March 2017, the Standing Committee on Procedure and House Affairs tabled two interim reports that addressed some of the recommendations put forth by the Chief Electoral Officer.

The Standing Committee members expressed unanimous agreement with a number of key recommendations. Specifically, the Standing Committee supported the recommendations with respect to the inclusion of provisions

that would protect the secrecy of the ballot and the distribution of false candidate or party campaign material. Standing Committee members also supported the creation of an AMPs regime.

As of March 31, 2017, other recommendations, including the one giving the Commissioner the power to apply to the courts for an order to compel witness testimony, were still being considered by the Standing Committee.

Both reports are available on the Standing Committee on Procedure and House Affairs page of the Parliament of Canada website at: [www.parl.gc.ca](http://www.parl.gc.ca).

## **ISSUES OF PARTICULAR INTEREST**

The Act covers a wide array of topics and some can pose compliance and enforcement challenges for the CCE. Throughout 2016-2017 a number of issues arose that, while they may not be the subject of a high volume of complaints, are worth underscoring. Parliament may wish to examine these issues with a view to making the legislative changes required to clarify these areas of the Act.

### **Third Parties**

Many questions were raised in 2016-2017 regarding the participation of third parties—and the financing of their activities in particular—in the electoral process. Currently, the financing of third party activities is regulated only to the extent that the financing is used to fund election advertising during an election period. This is limited to expenses incurred in the production and transmission of an advertising message. It does not include many other types of expenses,

such as those incurred for holding rallies, research and policy development, provided that they are independent expenditures not coordinated with a party or candidate. Given this, the following issues related to third parties have been identified:

- **Third party activities and financing**

The CCE received a significant number of complaints about third parties carrying out non-advertising activities to promote or oppose candidates or parties. A lack of regulation in the case of third parties incurring significant non-advertising expenses to promote or oppose candidates or parties may not be consistent with the need to maintain a level playing field. Further, complaints were received about third parties having received foreign funds to finance their election activities. Currently, foreign funds can be used to fund election advertising, if the contributions were made to the third party outside of the period beginning six months before the issue of the writs and ending on polling day. Moreover, foreign contributions can be used to finance any third party activity not related to election advertising.

- **Election Advertising Reports from Third Parties**

In 2016-2017, the CCE received a number of referrals from Elections Canada regarding third parties that failed to provide an election advertising report. The Act does not require registered parties to provide election advertising reports if they did not incur election advertising expenses. The CCE does not know whether a third party is in breach of the Act's

reporting requirement until after it looks into the matter. Absent a requirement that all registered third parties provide a report, even a nil report, there will continue to be unnecessary referrals from Elections Canada and unnecessary investigations carried out by our Office.

#### • **False and misleading returns**

The Act requires that third parties that incurred \$500 or more in election advertising expenses submit an election advertising report to the Chief Electoral Officer within four months of polling day, which report must contain specific information about expenses incurred and contributions received, among other things. During 2016-2017, the CCE received complaints alleging that certain third parties had not submitted accurate election advertising reports with respect to their activities during the 42nd general election. Contrary to the rules that apply to the various returns required of the five political entities regulated under the Act<sup>2</sup>, the legislation does not make it an offence for a third party to submit a false, misleading or incomplete report. This should be corrected.

### **Replacing the Official Agent**

Obtaining compliance in some cases where an official agent has failed to submit the candidate's return has been very difficult because the official agent considered themselves to be unable or unwilling to act. The requirement for a candidate to replace his or her official agent currently only arises in the event of

the death, incapacity, resignation or ineligibility of the official agent. In some cases, compliance could be much more quickly obtained if the candidate was required to replace his or her official agent where the latter refuses or is unable to act.

### **Transfer or sale of capital assets**

The Act requires candidates to transfer any capital assets that constitute an election campaign expense, to the party or association before disposing of the surplus. Alternately, they may sell the property at fair market value and transfer the proceeds to the party or association as part of surplus disposal. However, the wording in the Act expressly prohibits anyone but the official agent from transferring goods. Although the intent was likely to refer to the candidate in the context of "the campaign of the candidate" when the duty to dispose of the capital asset was adopted—and that is clearly the best interpretation of the provision considering that the offence provision only names the official agent as the person who commits the offence—the ambiguity of the text could create an enforcement challenge.

### **Candidates' campaign expenses**

In 2016-17, referrals were received that showed that certain candidates had paid campaign expenses other than their personal expenses. Currently, the Act only allows for campaign expenses to be paid by the candidate's official agent except in two specific instances: (1) a person authorized by the official agent can pay petty

expenses; and (2) the candidate can pay his or her personal expenses. The Act also only allows the candidate, the official agent or a person authorized by the official agent to enter into contracts or incur expenses in relation to the campaign. Parliament chose to make all of these rules enforceable through the adoption of a single offence-making provision. Unfortunately, this provision contains several important drafting anomalies that create enforcement difficulties. Specifically, the offence provision:

- does not exempt from its application a person who received written authorization from the official agent to pay petty or incidental expenses;
- completely exempts any person who paid or incurred expenses, provided that they obtained an authorization from the official agent to incur even a single expense; and
- completely exempts a candidate who paid non-personal expenses, despite the fact that the exception to the prohibition was only intended to apply to the payment of personal expenses (i.e., the only expenses that candidates are entitled to pay).

### **COMPLIANCE AND ENFORCEMENT**

The integrity of the electoral process depends in large measure on the good faith of participants and their willingness to follow the requirements set out in Canadian election law. The Commissioner's mandate reinforces and strengthens oversight of the electoral system, ensuring that

<sup>2</sup> These are: registered parties, registered associations, nomination contestants, candidates and leadership contestants.

all participants can confidently participate in the electoral process. The *Compliance and Enforcement Policy of the Commissioner of Canada Elections*<sup>3</sup> outlines how the Commissioner exercises his mandate under the Act.

## Caution Letters

Caution letters are an informal means of encouraging future compliance with the Act. Between April 1, 2016, and March 31, 2017, the Commissioner issued 175 caution letters to address minor contraventions or inadvertent non-compliance. Currently, caution letters are not made public. However, in order to ensure greater transparency and maintain public confidence in the integrity of the enforcement scheme, Parliament may wish to consider providing the Commissioner with the discretion to publicly disclose the contents of some of these letters.

## Compliance Agreements

The Act provides that the Commissioner may enter into a compliance agreement with anyone who he has reasonable grounds to believe has committed, is about to commit or is likely to commit an act or omission that could constitute an offence. Compliance agreements are voluntary and set out the terms and conditions the Commissioner considers necessary to ensure compliance with the Act.

Between April 1, 2016 and March 31, 2017, the Commissioner entered into ten compliance agreements:

- Four compliance agreements were entered into with employers who had failed to either provide their employees

with time off to vote or who had failed to pay employees for the time off work necessary during their hours of work to vote. The Act requires that employers provide the time required for the employee to dispose of three consecutive hours to vote and that no deduction can be made from an employee's pay with respect to time granted to vote.

- Two compliance agreements were entered into with individuals who removed ballots from a polling station. The Act makes it an offence for a person to alter, deface or destroy a ballot, or to take a ballot out of a polling station.
- One compliance agreement was entered into with a company for illegal contributions made to political entities. The Act specifically prohibits any person or entity other than an individual who is a citizen or permanent resident from making a contribution. Further, it prohibits any person or entity from circumventing or attempting to circumvent this prohibition or acting in collusion with another person or entity for this purpose or from concealing or attempting to conceal the identity of the source of a contribution, or acting in collusion with another person or entity for this purpose.
- One compliance agreement was entered into with a municipality for removal of a third party's election advertising messages during the campaign period of the 42nd general election. Under the Act, it is an offence to prevent or impair the transmission of an election advertising message to the public without the consent of a person with the power to authorize the transmission.

- One compliance agreement was entered into with an individual who acknowledged having committed offences under the Act related to the production and dissemination of election advertising after he created and displayed his own signs in a personal effort to support a candidate in the 42nd general election. The signs created confusion and led some to believe that they belonged to the candidate. The Act requires that a third party advertiser must identify itself in any election advertising and indicate that it has authorized the advertising. Further, the Act makes it an offence to prevent or impair the transmission of an election advertising message without the consent of a person with authority to authorize the transmission.
- One compliance agreement was entered into with a political party on the basis of the party's distribution of misleading polling information. The Act makes it an offence to use a pretence or contrivance to induce electors to vote or not vote for a particular candidate. It is also an offence to fail to provide a survey's methodological information.

Compliance agreements are published in the *Canada Gazette*. The full text of the agreements also appears on the CCE's website at: [www.cce-cef.gc.ca](http://www.cce-cef.gc.ca)

## Charges and Prosecutions

If the Commissioner believes on reasonable grounds that an offence has been committed under the Act, he may refer the matter to the DPP, who has sole authority to decide whether charges will be laid. The DPP acts as an independent

<sup>3</sup> The Compliance and Enforcement Policy of the Commissioner of Canada Elections is available online at [www.cce-cef.gc.ca](http://www.cce-cef.gc.ca).



prosecution authority, with a mandate to prosecute cases under federal law and to provide legal advice to investigative agencies.

Two charges were laid on January 18, 2017 in the Provincial Court of New Brunswick against Mr. Martial Boudreau. The charges against Mr. Boudreau relate to wilfully altering, defacing or destroying a ballot, and taking a ballot out of a polling station.

On February 3, 2017, a charge was laid against Mr. Cameron Hastings in the Ontario Court of Justice. Mr. Hastings was charged with circumventing the former statutory contribution limit in relation to his electoral campaign for the general election in 2011.

Five charges were filed in the Provincial Court of Nova Scotia on March 16, 2017, against Mr. Joseph Shannon, regarding contributions to registered associations and candidates of registered parties. These contributions, made between January 1, 2008 and December 31, 2015, exceeded the contribution limits established under the Act.

As of March 31, 2017 all three of these cases were still before the courts.

On May 20, 2016, the Ontario Court of Justice found Mr. David Del Mastro not guilty of the charges that were sworn on October 2, 2014, that he had, during the 40th general election held in 2008, knowingly concealed or attempted to conceal the identity of the source of a contribution, and knowingly circumvented the campaign contribution limit. As reported last year, his co-accused, Ms. Tori-Lynn Manchulenko, pleaded guilty to

having concealed or attempted to conceal the identity of the source of a contribution, on January 29, 2016, and received an absolute discharge.

On April 11, 2016, a justice of the Ontario Court of Appeal granted leave to appeal to Mr. Dean Del Mastro, with respect to his conviction and sentence for the charges of having incurred election expenses in an amount more than the election expenses limit; of having wilfully exceeded the contribution limit for a candidate in his own election campaign; and of having provided the Chief Electoral Officer an electoral campaign return that he knew or ought reasonably to have known contained a material statement that was false or misleading. At the time of the writing of this report, the appeal was still pending.

## **WRITTEN OPINIONS, GUIDELINES AND INTERPRETATION NOTES**

Under the Act, the Commissioner is required to provide comments on draft written opinions, guidelines or interpretation notes proposed by the Chief Electoral Officer.

Guidelines and interpretation notes discuss the application of a provision of the Act to registered parties, registered associations, candidates, and/or leadership or nomination contestants (referred to collectively as “regulated political entities”). A guideline or interpretation note is issued for information purposes only and is not binding on regulated political entities. Under the Act, the Commissioner has 15 days to comment on the drafts of these documents. When the guideline

or interpretation note is officially issued, the Chief Electoral Officer must publish the comments received from the Commissioner on the draft version.

Similar requirements exist when a registered party makes a request to the Chief Electoral Officer for a written opinion on the application of any provision of the Act. Here also, the Commissioner has 15 days to make comments on a draft opinion, and these comments are published along with the final written opinion. If all material facts submitted with the request were accurate, the final written opinion is binding on the Chief Electoral Officer and on the Commissioner with respect to the activity or practice of the registered party that made the request or of its affiliated regulated political entities. The written opinion has precedential value for the Chief Electoral Officer and the Commissioner.

During 2016-2017, the Chief Electoral Officer issued one guideline and interpretation note, and at the request of a registered party, issued one written opinion. The CCE provided comments on the drafts that were circulated for consultation. The guideline and interpretation note issued by the Chief Electoral Officer during this period dealt with the issue of determining what portion of an amount given during a fundraising activity constitutes a political contribution.<sup>4</sup> The written opinion requested by the registered party dealt with the issue of whether a registered party could charge exhibitors at a trade show or exhibit facilities set up at its conventions.<sup>5</sup>

<sup>4</sup> Fundraising: <http://www.elections.ca/content.aspx?section=res&dir=gui/app/2016-01&document=index&lang=e>

<sup>5</sup> Charging for trade show or exhibit facilities and setup at a party convention: <http://www.elections.ca/content.aspx?section=res&dir=gui/app/2016-06&document=ts&lang=e>



# LOOKING AHEAD

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## **SUPPORT TO PARLIAMENT ON ELECTION LAW REFORM BILLS**

As noted earlier in this report, Bill C-33 was tabled in Parliament on November 24, 2016, and as of the date of this report, had yet to receive second reading in the House of Commons. Moreover, the Government has indicated that other amendments to the Act would be forthcoming, to address issues identified in the February 2017 mandate letter to the Minister of Democratic

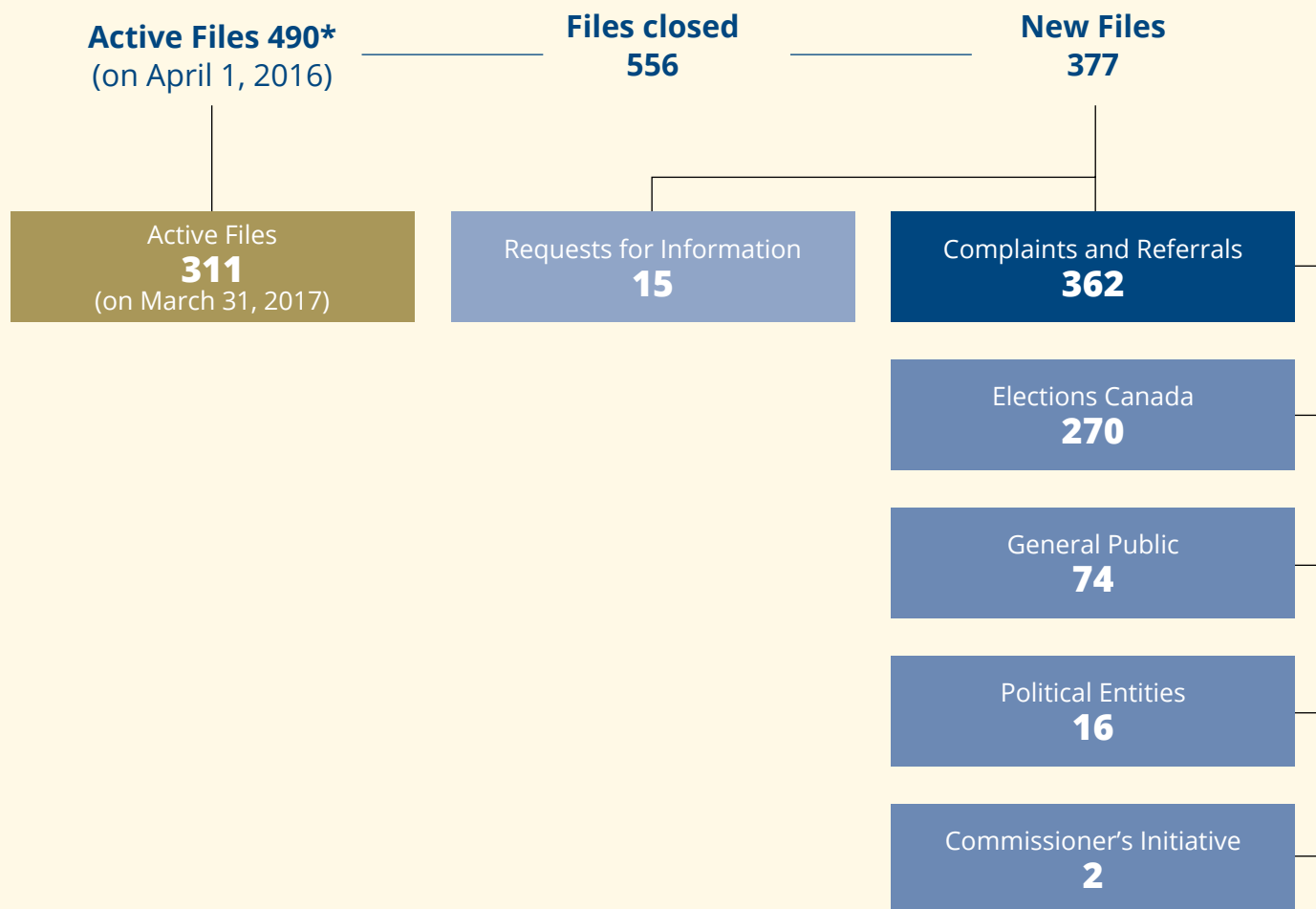
Institutions, and recommendations by the Chief Electoral Officer in his report following the 42nd general election. The Commissioner and his Office will be happy to offer any assistance to Parliament that it may request as it considers the proposed legislation.

## **SENATE COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

As of the writing of this report, the Commissioner had been invited to appear before the Senate

Standing Committee on Legal and Constitutional Affairs to discuss the recommendations contained in the Chief Electoral Officer's report on the 42nd general election. The appearance, scheduled for early April 2017, was expected to focus on recommendations related to the Commissioner's mandate as well as the third-party advertising regime.

# APPENDIX A – DISPOSITION OF CASES (APRIL 1, 2016 TO MARCH 31, 2017)



\* Following a review of the CCE case tracking system, this number was readjusted from 454 to 490.

**COMPARISON OF ACTIVE FILES:**

	2013-2014	2014-2015	2015-2016	2016-2017
<b>Active Files (as of March 31)</b>	346	254	490	311

All complaints and referrals received by the Office are reviewed to determine whether there is a basis for the allegation. The numbers outlined below reflect the number of complaints received prior to their evaluation. These numbers may also contain multiple complaints related to a single incident.

**MOST COMMON REFERRALS FROM ELECTIONS CANADA:**

- 84 files were referred as a result of possible irregularities and inconsistencies regarding potential instances of electors requesting a second ballot;
- 72 files were referred regarding the failure, on the part of a deregistered electoral district association, to provide financial reports or related documents;
- 41 files were referred regarding the failure to produce documents related to candidates electoral campaign accounts or related documents; and
- 14 files were referred regarding the failure, on the part of a registered association, to produce financial reports or related documents.

**MOST COMMON TOPICS FROM THE PUBLIC:**

- 17 complaints were received regarding election advertising expenses that were alleged to have exceeded the spending limits set out in the Act;
- 15 requests for information;
- 8 complaints were related to the failure to include an authorization statement on election advertising; and
- 6 complaints were related to preventing or impairing the transmission of election advertising.

## APPENDIX B – FINANCIAL TABLE (APRIL 1, 2016 TO MARCH 31, 2017)

Fiscal Year 2016-2017			
	Appropriation	Unappropriated Funds - CRF	
	Indeterminate Positions	Other	Total
<b>Salaries*</b>	\$1,339,563	\$925,248	\$2,264,811
<b>Expenditures</b>		\$2,316,624	\$2,316,624
			<b>\$4,581,435</b>

\* Employee benefits packages are included as part of unappropriated spending.