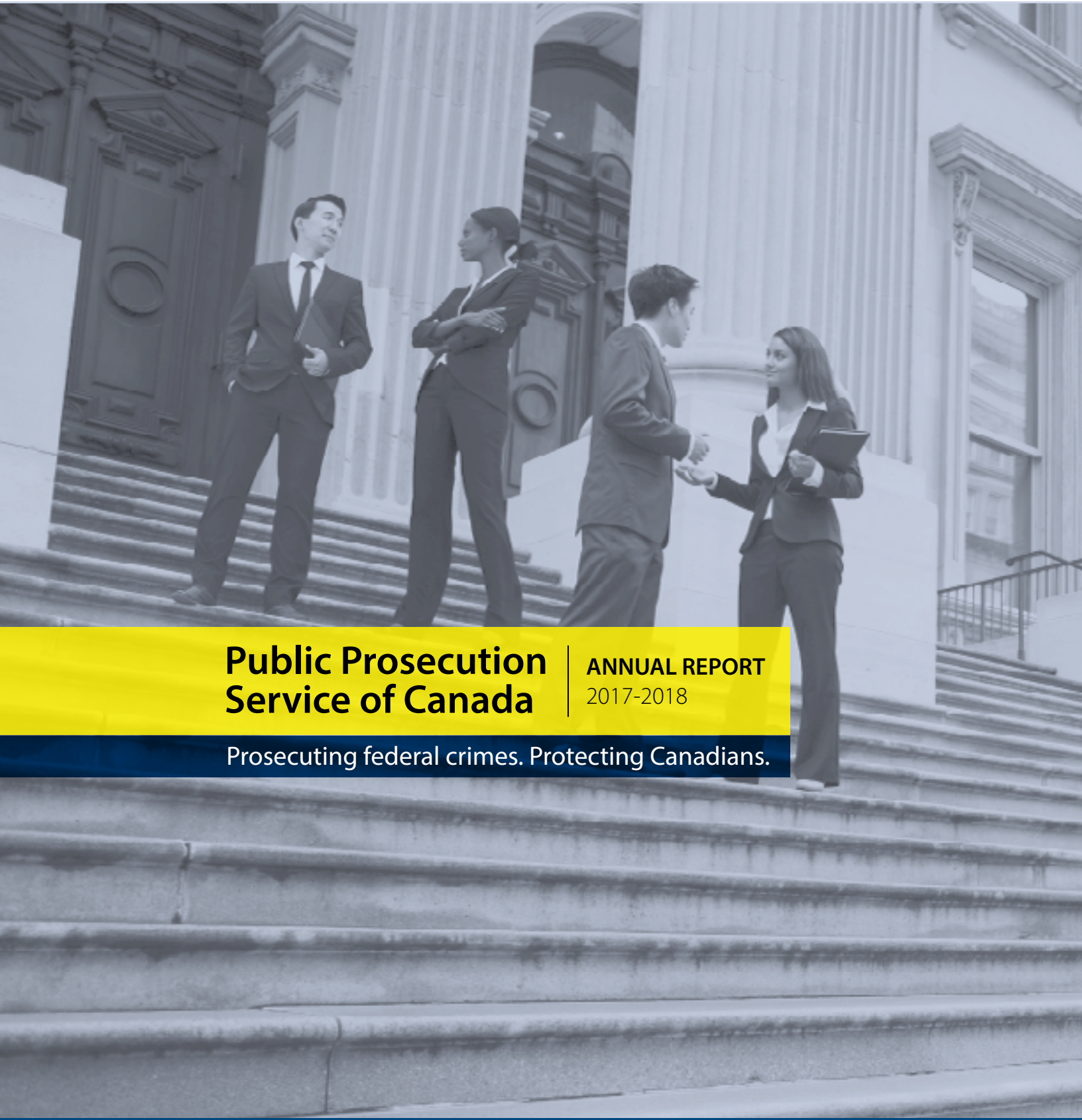




Public Prosecution  
Service of Canada

Service des poursuites  
pénales du Canada



# Public Prosecution Service of Canada

ANNUAL REPORT  
2017-2018

Prosecuting federal crimes. Protecting Canadians.



Public Prosecution  
Service of Canada

Service des poursuites  
pénales du Canada

Office of the Director  
of Public Prosecutions

Bureau du directeur  
des poursuites pénales

Ottawa, Canada  
K1A 0H8

JUN 29 2018

The Honourable Jody Wilson-Raybould, P.C., Q.C., M.P.  
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 2017–2018 Annual Report of the Public Prosecution Service of Canada. The report covers the period from April 1, 2017 through March 31, 2018.

Sincerely,

Kathleen Roussel  
Director of Public Prosecutions

If you would like to know more about the Public Prosecution Service of Canada (PPSC), please refer to the following documents, available on 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 2017-2018***

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This document is available in multiple formats upon request.

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1 | Message from the Director of Public Prosecutions



I am pleased to present the *Annual Report 2017-2018* 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.

The PPSC is a national organization that prosecutes federal offences impartially and objectively. We exist to protect the rights of Canadians and uphold the rule of law.

As the newly appointed Director of Public Prosecutions (DPP), a priority for me over the past year was to open up the channels of communication with all PPSC employees to fully understand our strengths and where we needed to improve to allow us to pursue excellence in our prosecutions. To help me in this endeavor, I travelled across the country to have face-to-face town hall sessions with every regional office. In addition, I started writing a column in our monthly internal newsletter, in which I addressed various topics of interest to us as a national organization and shared information about my activities. Our employees responded with frank and forthright feedback, which will guide our decision-making over the coming years.

Over the past year, the PPSC continued to modernize and implement new practices to strengthen its prosecution services and ensure they are effectively managed. This has meant some changes to the *PPSC Deskbook*, and the constitution of a few committees to provide me with recommendations on the implementation of the *Cannabis Act*, and on how to reflect the 94 recommendations of the Truth and Reconciliation Commission in our practice. Meanwhile, our Employment Equity and Diversity Committee has been very active, looking into gender

issues in our senior ranks, and providing me with input on the recent employee survey.

Following the Jordan decision, the PPSC took active steps to manage delays in our prosecutions and we continue to actively track the results of the practices put in place both prior to and following the decision. I appreciate the professionalism and dedication with which staff at all levels of the organization have responded to the increased responsibilities placed on them for front-end management of prosecution files.

Following consultations with regional Chief Federal Prosecutors (CFPs), Headquarters Directors, and representatives from various functional areas, four strategic organizational priorities for 2018-2019 and 2019-2020 have been approved by the PPSC’s Executive Council, namely:

- Growing our talent for the future
- Modernizing the legal case management system and tools to support timely prosecutions
- Fostering a healthy and respectful workplace
- Enhancing communication and opportunities for employee engagement

We have placed significant emphasis on the importance of a healthy and respectful workplace. I have asked all employees to commit to helping create a meaningful dialogue in this area in order to make sustainable progress. The priorities we have set for the future recognize that people have to come first in the PPSC, and that a healthy corporate culture is crucial in our ability to fully deliver on our mandate.

Once again, I’d like to thank the PPSC’s dedicated and professional employees, whose commitment to our key values of respect, integrity, excellence, and leadership have made our success possible. I look forward to their continued input as we work on continuing to improve our workplace and on delivering results for Canadians.

  
Kathleen Roussel  
Director of Public Prosecutions



# 2 | At a Glance

## Total Number of Employees at PPSC

1,040



## Total Employees by Region

British Columbia	101
Alberta	120
Saskatchewan	27
Manitoba	44
Ontario	188
National Capital Region	87
Headquarters	189
Quebec	89
Atlantic	65
Yukon	36
Northwest Territories	42
Nunavut	52

## Mission

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

## Values

**Respect**  
**Integrity**  
**Excellence**  
**Leadership**

## Roles and Responsibilities

- Prosecutes charges with respect to offences created by federal law and statutes
- Provides legal advice and assistance to law enforcement

# 3 | PPSC – An Overview

## 3.1 | Introduction

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

As of March 31, 2018, the PPSC had 1,040 employees. In addition to staff prosecutors, the PPSC retained the services of 432 agents.

## 3.2 | Mandate

The mandate of the PPSC is prescribed 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 purpose 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.

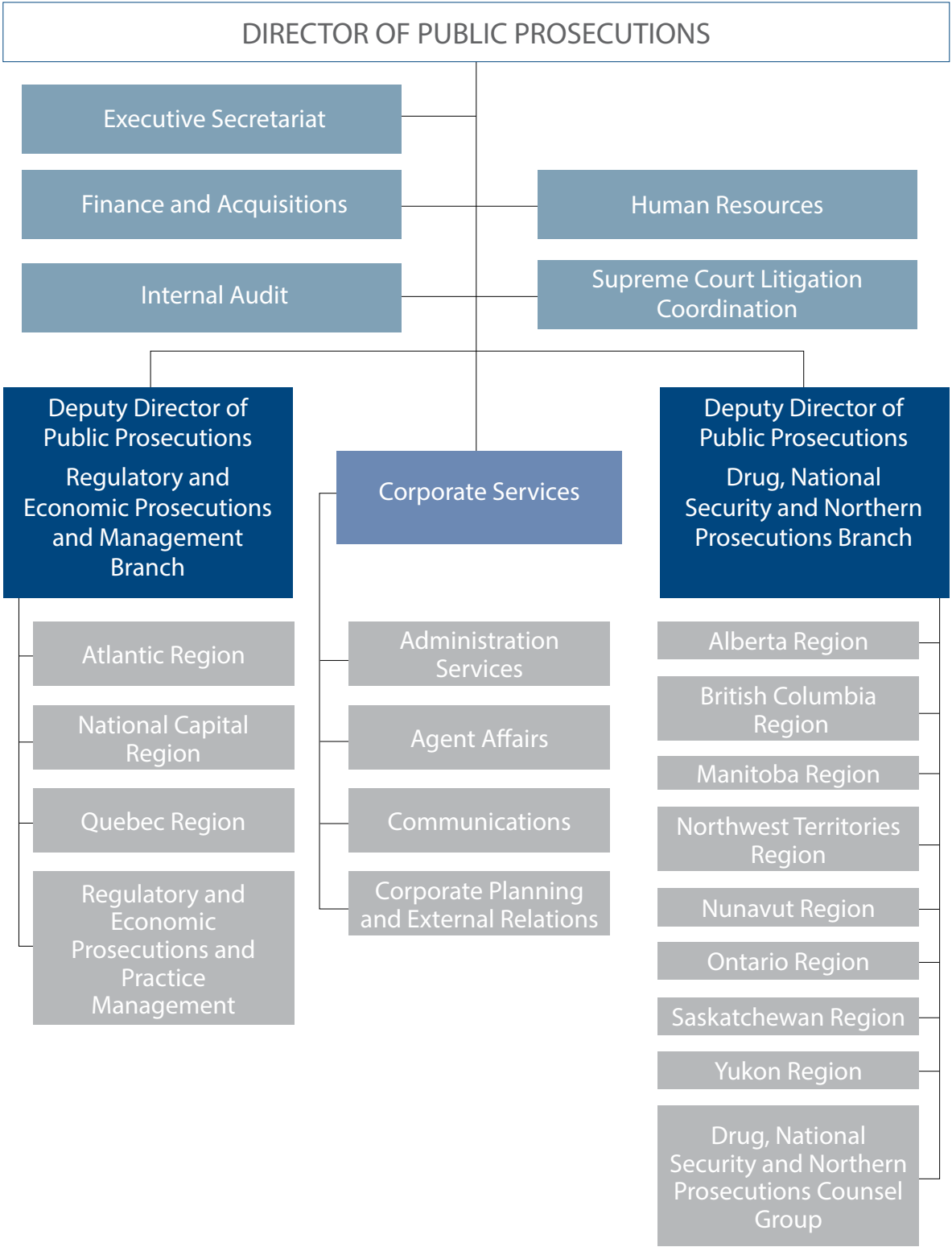
With the exception of *Canada Elections Act* matters, the Attorney General of Canada can issue a directive to the DPP about a prosecution or assume conduct of a prosecution, but must do so in writing and a corresponding notice must be published in the *Canada Gazette*. In turn, the DPP must inform the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

### 3.3 | 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 always 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 seek 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.



### 3.4 | Organizational Structure







# 4 | The Year in Review

## 4.1 | Introduction

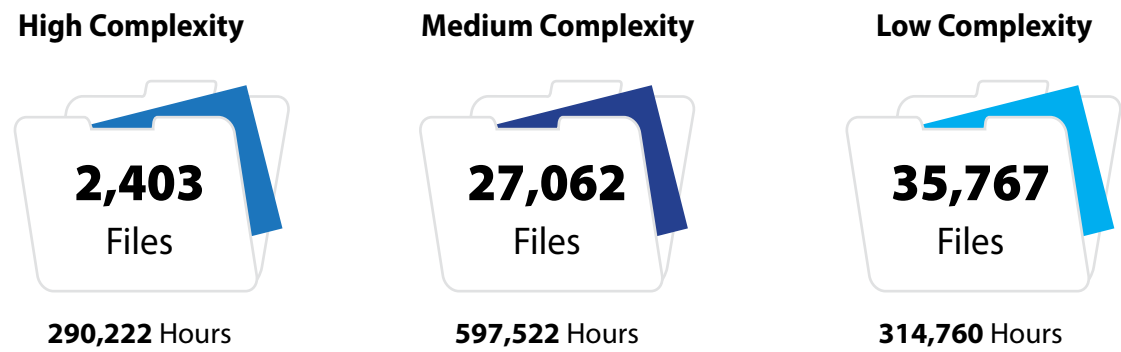
In 2017-2018, the PPSC worked on 65,898 files. This figure includes 36,873 files opened during the year, as well as 29,025 files carried over from previous years. Overall, PPSC prosecutors and paralegals, legal support staff, and legal agents working on behalf of the PPSC spent a total of 1,202,719 hours working on prosecution files during the year. PPSC prosecutors and paralegals spent an additional 238,468 hours providing legal advice to investigative agencies, participating in various committees, both national and regional, and assisting with other important corporate work, as well as providing or receiving training.

A file typically consists of 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



### File Complexity and Hours



\* A small percentage of files have not yet been assigned a complexity level and, as a result, they are not included in this visual.

## 4.2 | Prosecution Activities

### Top 5 Federal Statutes

Number of Federal Statutes Regularly Prosecuted = 34

Statute	# of Charged Persons	# of Charges
Controlled Drugs and Substances Act	130,228	99,949
Criminal Code	110,767	93,873
Fisheries Act	6,632	4,801
Income Tax Act	2,212	1,814
Employment Insurance Act	2,107	2,094

### Disposition of Charges (by accused)\*

	2017-2018
Stay of Proceedings (Crown) / Withdrawal of Charge	48,033
Guilty Plea	25,332
Other Dispositions**	3,540
Conviction After Trial	2,557
Acquittal After Trial	1,862
Judicial Stay of Proceedings	305

\* An accused facing multiple charges will have more than one outcome.  
\*\* Other dispositions includes absolute and conditional discharge after trial and discharge at preliminary hearing.

Types of Offences

	Hours	% of Hours
Drug Related Offences	863,116	49.6%
Criminal Code Offences	616,629	35.4%
Regulatory Offences and Economic Offences	238,269	13.7%
Other Offence Types	23,342	1.3%

\* Percentages in the visual may not add to 100% due to rounding.  
\*\* There may be some overlap in the hours spent between the various categories of offences, such as when a person is charged with a drug offence and a Criminal Code offence on the same information or indictment.

NATIONAL SECURITY PROSECUTIONS

The PPSC has the jurisdiction to prosecute terrorism offences, crimes against humanity and war crimes, as well as offences contrary to the *Security of Information Act*.

Project Slype

Ali Omar Ader was charged in relation to his role in the hostage-taking of the Canadian journalist Amanda Lindhout in Somalia in 2008. He was charged with and convicted of one count of hostage-taking pursuant to s. 279.1 of the *Criminal Code*. Ms. Lindhout and Nigel Brennan, an Australian photographer, were held in captivity in Somalia for 15 months. As a result of a police investigation and an undercover operation, Mr. Ader travelled to Canada, where he was arrested by the RCMP in June 2015. His trial took place in Ottawa in October 2017 and he was found guilty in December 2017. Mr. Ader was sentenced to 15 years' imprisonment in June 2018.

ANTI-TERRORISM

Since 2001, 55 individuals have been charged with terrorism offences in Canada. As of March 31, 2018, four individuals are awaiting trial for terrorism offences or proceeding through pre-trial motions. Warrants are outstanding for nine more individuals.

In each regional office, counsel are assigned to support this work and also receive support from 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 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 once in 2017-2018.

The PPSC worked on two terrorism-related files in 2017-2018 that resulted in verdicts after trial. On March 11, 2016, Ismael Habib was charged with attempting to leave Canada for the purpose of committing terrorist activity. He was also facing provincial charges of criminal harassment, uttering threats, and uttering a forged document. After a trial held in Montreal, Mr. Habib was found guilty in June 2017. He was sentenced to 9 years on the s. 83.181 *Criminal Code* offence, and one year on the offence of uttering a forged passport.

Sabrine Djermane and El Mahdi Jamali were charged in April 2015 with four terrorism offences: attempting to leave Canada to commit terrorist activity; facilitating terrorist activity; committing an indictable offence for the benefit of a terrorist group; and possessing explosive substances with intent to endanger life or cause serious bodily harm. A trial before a judge and jury took place in Montreal from November to December 2017. Ms. Djermane was found not guilty on all counts; one count is being appealed. Mr. Jamali was found not guilty of the counts as charged, but guilty of the lesser and included offence of possession of explosive substances and was sentenced to time served.

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 *Controlled Drugs and Substances Act*, *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.

PPSC prosecutors and Crown Witness Coordinators (CWCs), who are based in each of the regional offices (Iqaluit, Yellowknife, and Whitehorse) attend court in over 60 communities across the North. Court is held at varying but regular intervals in each of the communities, some of which are accessible only by

air. All three regional offices must also occasionally use the services of fly-in counsel from southern Canada.

A significant percentage of the population, particularly in the communities other than the territorial capitals, is Indigenous. In 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 in the Northern offices to participate in training aimed at increasing cultural awareness.

The PPSC has arrangements in place in each Northern office to provide all PPSC staff with annual on-site counselling, as well as telephone counselling in relation to vicarious trauma. We do this because the vicarious trauma that prosecutors and CWCs may experience due to their constant exposure to persons who have witnessed and experienced trauma and violence can over time have varying and significant implications on PPSC employees' personal and professional lives. Additional counselling opportunities are available and are 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 homicides. In 2017-2018, the PPSC had a

Restorative Justice

Restorative justice processes can take place at all stages of the criminal justice system. The PPSC is an active supporter of providing an opportunity for healing, reparation, and reintegration. PPSC regional offices across the country support or are involved with various programs in support of restorative justice, such as domestic violence treatment option courts, community wellness courts, mental health courts, Indigenous peoples' courts, and drug treatment courts. These courts are therapeutic-based and provide treatment and the means for rehabilitation for offenders to allow them to reintegrate into society and help them avoid future offences.

People at PPSC | **Crown Witness Coordinator**

Seventeen years ago, I became a Crown Witness Coordinator in the Nunavut Regional Office. My job includes preparing victims and witnesses for court, reading files, contacting the RCMP for additional information, writing memos, referring people to various other service providers like Social Services, helping people fill out victim impact statements and translating those statements for the prosecutors. I think my work has made a difference to the people I served over that period of time. The largest part of my job, and sometimes the most difficult, is working hard to make my people understand the justice system better and building trust between the victim and the prosecutor who has to examine them on the witness stand. Being born and raised in Cape Dorset helps me do my job better. On many occasions, I find myself educating our Southern lawyers about why the culture is different from theirs and giving them useful tips about how to do their jobs better.

The best part of my job is helping my fellow Inuit, getting thank you notes from witnesses, helping the southern lawyers and meeting people. The worst part of my job is being away from home for long periods of time and having to fly in small airplanes. In Nunavut, there are no roads between communities. Regardless, I really enjoy doing my job as I feel I am being rewarded by helping my fellow Inuit.

**Crown Witness Coordinator  
Iqaluit, Nunavut**

total of 26 active homicide prosecutions before the courts (nine homicides in Nunavut, nine homicides in the NWT and eight homicides in the Yukon). Five homicide prosecutions were concluded during the year (one in Nunavut, one in the NWT, and three in the Yukon).

Dangerous offender applications relating to seven accused were dealt with resulting in determinations that five accused should be declared to be dangerous offenders (one determination was vacated after a new trial, resulting in an acquittal, another accused was found to be a long-term offender, and one application is pending). Dangerous offender applications involve accused who have demonstrated through their violent criminal history that they represent an ongoing threat of violence if released into the community. In one case, eleven girls known by the offender to be under 14 years of age were sexually assaulted or voyeuristically videotaped for the purpose of creating pornography over a five year period. The offender had no pre-existing criminal record.

In light of the high rate of violent crime involving offenders with significant rates of recidivism, a coordinated high-risk offender flagging process has been implemented 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.

**DRUG PROSECUTIONS**

Drug prosecution files continue to represent the most significant portion of the PPSC’s total caseload. In 2017-2018, the PPSC handled 50,089 prosecution files related to offences under the *Controlled Drugs and Substances Act* (CDSA). Of those, 26,860 files were new and 23,229 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 organized 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. The PPSC has handled approximately 4,700 fewer cannabis-related prosecutions under s. 4(1) of the CDSA in 2017-2018 than in the preceding year.

Over the past year, high-complexity drug cases involved a substantial amount of PPSC resources. In these prosecutions, there are typically challenges

raised in court proceedings related to the conduct of investigations, the constitutionality of legislation, or broad requests for further disclosure. There may also be allegations of abuse of process or, in particular, since the decision in *R. v. Jordan*, allegations of unreasonable delay. While high-complexity files represented only 2.5% of counsel’s drug caseload in 2017-2018, they took up 27.7% of the time dedicated to drug prosecutions.

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 leading to the forfeiture of proceeds of crime and of the property used to commit the crime (“offence-related property”). 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 crimes always create diverse challenges for prosecutors when it comes to sentencing an accused. To attempt to address the addiction and to decrease the crimes committed in support of it, there are a number of Drug Treatment Courts (DTCs) located across Canada. Currently, there are DTCs located in Vancouver, Edmonton, Calgary, Regina, Winnipeg, Toronto, Kitchener-Waterloo, Durham, Peterborough, Halton, London, Kenora, Perth, Ottawa, Montreal, Halifax and Kentville, Nova Scotia. 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

**Project Sideshow**

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. In 2016-2017, after a failed attack on the intercept authorization, a series of trials saw seventeen of the accused convicted of trafficking offences and receiving sentences ranging from 4.5 years to 9.5 years’ incarceration. Over 2017-2018, two additional people were convicted on all counts and one remaining accused pleaded guilty. The Manitoba Court of Appeal has unanimously dismissed all appeals, except for two which are still under reserve. An application for leave to appeal to the Supreme Court of Canada has been filed on the wiretap issue.

recent years. Sadly, the crisis has worsened in 2017-2018, as statistics illustrate that fentanyl overdose deaths in Canada are still on the rise. This increase has 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.

As a result of the fentanyl crisis in Canada, the PPSC 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



R. v. Shaheen

In 2017-2018, Waseem Shaheen, a pharmacist and owner of three pharmacies in Ottawa, began illegally supplying fentanyl to a customer for cash. Because of the large volume of fentanyl being supplied, the customer began to provide fraudulent prescriptions in an attempt to cover the illegal dispensing. An employee became suspicious at the excessive amount of fentanyl being ordered at the pharmacy and confronted Mr. Shaheen. Shortly after being confronted by the employee, Mr. Shaheen, together with his co-conspirator customer, planned a fake robbery to cover up the trafficking scheme, claimed the loss to his insurance company and then fraudulently accepted a cheque for more than \$35,000 from the insurance company to cover the loss. Ultimately the co-conspirator cooperated with the police and disclosed a recording of the planning of the fake robbery. Mr. Shaheen was sentenced in March 2018, after trial, to 14 years' imprisonment for trafficking in fentanyl and 5 years concurrent for each of the fraud and mischief charges. Estimates of the street value of the fentanyl illegally supplied by Mr. Shaheen total approximately \$1,000,000. Mr. Shaheen has appealed his conviction.

record before the courts in fentanyl sentencing cases, including expert evidence, in order to educate the judiciary as to the appropriate sentencing range for this very dangerous drug. Members often provide training as well as input to partners on best practices to deal with the opioid crisis. The PPSC also maintains a national website of fentanyl sentencing decisions, facts, expert reports, and other scientific data related to fentanyl to aid prosecutors across the country with their sentencing submissions.

The PPSC has also provided guidance to the police and its prosecutors in the application of the so-called *Good Samaritan Drug Overdose Act* added to the *Criminal Code* to permit those at the scene of a potential overdose to call for emergency assistance without risk of being charged with an offence.

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 defeating these activities, and police access to data stored or located outside of Canada all 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

Project Roadmaster

Project Roadmaster was a Niagara Regional Police-led joint-forces investigation into the multi-tonne importation of cocaine into Canada. The investigation concerned the activities of an Ontario-based criminal organization with ties to Mexico that imported into Canada multiple shipments of granite boulders, each concealing hundreds of kilograms of cocaine, totalling approximately 2,000 kg in the year 2013 alone. Several members of the group laundered the proceeds of the organization's criminal activity. More than \$13 million was transmitted to Mexico in connection with the cocaine, including bulk cash drops totaling at least \$5.375 million. Of these, there were four instances of undercover police officers posing as money brokers. The investigation involved more than 100 judicial authorizations, including three s. 184.2 one-party consent wiretap authorizations and four s. 185 non-consent-based wiretap authorizations. Partner agencies included the Royal Canadian Mounted Police, the Canada Border Services Agency, the Ontario Provincial Police, Peel Regional Police and the Toronto Police service, as well as Homeland Security Investigations and the United States Drug Enforcement Agency.

On September 22, 2014, fourteen individuals were arrested and thirty charges were laid. Three direct indictments were subsequently filed against nine individuals, pursuant to s. 577 of the *Criminal Code*. A four-month jury trial against the top two ringleaders concluded in June of 2017 with convictions imposed for offences relating to cocaine trafficking, conspiracy to import cocaine, proceeds of crime and criminal organizations. Ultimately, thirteen individuals have been convicted, with sentences imposed totaling 133 years' incarceration, including sentences of between 17 and 22 years imprisonment imposed on the top four members of the criminal organization. Forfeiture and fines in lieu of forfeiture were imposed in respect of approximately \$685,000 cash proceeds of crime, two residences with equity worth approximately \$830,000, ten mortgages with equity in excess of \$325,000, eight vehicles, industrial equipment, jewelry, three firearms, and part of the proceeds of sale of the Port Colborne cocaine warehouse. Appeals by several of the accused and by the Crown are pending.

provided advisory assistance to police in respect to a number of significant organized crime investigations. Project O-Phoenix was an agent-driven investigation into the criminal activities of several Greater Toronto Area cells of the Calabrian organized crime group known as the 'Ndrangheta. The police used a member of the 'Ndrangheta as an agent to expose the inner workings of the organization. The investigation was concluded in June 2015. Initially, there were twenty members and associates of this organized crime group arrested and charged for numerous offences relating to the sale and conspiracy to import cocaine and other drugs.

The disclosure package was voluminous, consisting of hundreds of surveillance reports and agent briefing/debriefing reports, and transcripts of intercepted communications. A direct indictment was secured in September 2016 for three separate proceedings in the Ontario Superior Court of Justice of 10 accused. One proceeding, involving one accused, charged with trafficking cocaine, remains to be tried in early 2019. A second proceeding was resolved by guilty pleas. The prosecution highlighting the 'Ndrangheta involved the jury trial of Pino Ursino and Cosmin Dracea, which was held from March to April 2017. Mr. Ursino was convicted of trafficking and conspiring to import cocaine in association

Project Forseti

Project Forseti was a lengthy investigation into the activities of an outlaw motorcycle group called the Fallen Saints. This group was affiliated with the Hells Angels. The investigation involved a series of wiretap authorizations and eventually led to one of the targets being recruited as a police agent. Over the course of the investigation the agent successfully purchased large quantities of several controlled substances including marihuana, cocaine, methamphetamine, heroin and fentanyl from several of the targets, resulting in numerous drug, weapons, assault and criminal organization charges. Many of the charges proceeded by way of direct indictment. With the exception of a few, all of the accused have been dealt with by trial or guilty plea, resulting in numerous convictions and penitentiary sentences.

Project Nightlife targeted trafficking in fentanyl and other drugs in Coquitlam, British Columbia, between June 2016 and June 2017. Intercepted calls during the investigation established that Andrew Leach was the head of a drug trafficking organization that had a lengthy and profitable history of fentanyl trafficking. This specific fentanyl trafficking took place after a public health emergency was declared in British Columbia in regards to fentanyl. Mr. Leach's organization operated a busy drug line that sold a substantial volume of fentanyl pills. Mr. Leach's drug network had clear shifts, working hours, sales goals, employees, customers and organizational rules. At the conclusion of the investigation, a number of search warrants were executed and the police seized over 11,000 fentanyl pills, five pistols, two silencers, a shotgun, ammunition and approximately \$750,000. Mr. Leach ultimately pleaded guilty in December 2017 to conspiracy to traffic, possession of fentanyl for the purpose of trafficking and weapons offences. He was sentenced to 16 years of jail time and an order for delayed parole eligibility was made requiring him to serve half of the conspiracy sentence before being eligible for parole.

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

with the 'Ndrangheta and Mr. Dracea was convicted of trafficking cocaine and conspiring to import it in association with a criminal organization. Expert evidence from the Italian *Carabinieri* was presented and accepted as to the operations of the 'Ndrangheta criminal organization in Italy and in Canada. The sentencing is scheduled for later this year.

R. v. Shah

In 2016, Safdar Haider Shah was apprehended flying his drone within less than three kilometers of the main runway at Calgary International Airport, at night. The PPSC successfully prosecuted Mr. Shah for this dangerous operation under the *Aeronautics Act*, partnering with Calgary Police and Transport Canada to provide the Court with an expert understanding of why drones can pose a serious threat to commercial aircraft. A trial was held resulting in a conviction which the accused appealed. The Court of Queen's Bench ordered a new trial, which resulted in a 12-month conditional discharge, which included a condition of not possessing or operating a model aircraft.

Knowledge House Inc.

In *R. v. Colpitts and Potter*, the Supreme Court of Nova Scotia convicted both the Chief Executive Officer of the defunct technology start-up company, Knowledge House Inc. (KHI), and the company's counsel, with fraud in a stock market manipulation scheme for a corporation that, prior to the stock's collapse, had a capitalization value on the Toronto Stock Exchange of \$100 million. The defendants and others manipulated the public market price for KHI shares with an intent to defraud. The manipulative techniques included collaboratively purchasing over \$11 million dollars of stock to maintain the share price, discouraging and frustrating attempts by sellers to sell their shares, and high closing the stock (artificially raising market prices through late-day purchases).  
  
The trial of this large-scale public-markets fraud took over 20 months to conclude, and involved 5,855 documents as exhibits and some 75 Crown and defence witnesses. Sentencing is set for later in 2018.

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 2017-2018, the PPSC handled 5,184 files involving regulatory and economic offences, of which 2,566 were carried over from previous years.

REGULATORY PROSECUTIONS

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*.  
  
On August 12, 2010, over 490 Sri Lankan migrants arrived off the coast of British Columbia from the Gulf of Thailand onboard the cargo vessel MV Sun Sea. As a result, Lesly Emmanuel, Nadarajah Mahendran, and Thampeernayagam Rajartnam were charged with human smuggling contrary to s. 117 of the IRPA. The PPSC, asking the British Columbia Court of Appeal to provide guidance on the exceptions to the crime of human smuggling, has appealed their

acquittal at trial in the light of the Supreme Court of Canada decision in *R. v. Appulonappa*, and on the constitutionality of s. 36 of the *Mutual Legal Assistance in Criminal Matters Act*. The appeal is scheduled to be heard early summer 2018.

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 *Canada Shipping Act*, and the *Migratory Birds Convention Act, 1994*.  
  
In February 2017, following an oil spill into Vancouver Harbour that occurred in April 2015, M/V Marathassa and Alassia Newships Management Inc. was charged with pollution offences contrary to the *Canada Shipping Act*, the *Fisheries Act*, the *Canadian Environmental Protection Act, 1999* and the *Migratory Birds Convention Act, 1994*. The Crown is proceeding to trial against the vessel and has also tried to proceed against Alassia, the Greek company that manages the operations of the vessel. Alassia did not appear in the provincial court but sought to prohibit the PPSC from proceeding against it on the basis of a



Lac-Mégantic

Following the tragedy that occurred in Lac-Mégantic on July 6, 2013, when a Montreal, Maine & Atlantic Canada Co. (MMAC) train derailed and exploded in the downtown area, Transport Canada (TC) and Environment Canada opened a joint investigation, and charges were laid for offences under the *Railway Safety Act* (RSA) and the *Fisheries Act* (FA). On February 5, 2018, a settlement was reached with the parties. Six of the accused, all employees or directors of MMAC, pleaded guilty to one count under the RSA. In accordance with a joint submission, five of them were sentenced to pay a fine of \$50,000, the maximum fine provided by law. The sixth accused, the train engineer, was given a conditional sentence of 6 months' imprisonment with strict conditions. Fines collected, \$250,000 in total, were paid into the *Fonds Avenir Lac-Mégantic*, a fund to help rebuild and revitalize the downtown area.

MMAC was also found guilty of an offence under the FA. It was sentenced to pay the maximum fine, \$1 million, of which \$400,000 was payable upon conviction and directed to the Environmental Damages Fund to be used for the decontamination of Mégantic Lake and Chaudière River that were directly impacted by the spill of crude oil.

summons served on the master of another ship also managed by Alassia. The arguments by Alassia about the validity of the summons have occupied time in the British Columbia Provincial Court, the British Columbia Supreme Court, the British Columbia Court of Appeal, as well as the Federal Court – Trial Division in Vancouver.

In June 2017, Prairie Mines & Royalty ULC was sentenced under the *Fisheries Act* for harm to fish and fish habitat as result of the release of 670 million litres of water and 90,000 tonnes of sediment into the Athabasca River watershed in October 2013 as a result of a failed settling pond at Obed Mountain Coal Mine. At the time of the offence, it was the largest single release of a deleterious substance in Canadian history. Prairie Mines & Royalty ULC pleaded guilty and were sentenced to a \$3.5 million monetary penalty, of which over \$2 million went to the Environmental Damages Fund for fish and fish habitat conservation and over \$1 million went to the University of Alberta for research into effective fish habitat restoration. Creative sentencing provisions

were used to raise the penalty over the legislated \$300,000 maximum fine per count per day. The offence involved two counts over two days, which would have meant a maximum fine of \$1.2 million. In addition, Prairie Mines & Royalty ULC was responsible for the rehabilitation of five kilometers of destroyed creek and was required to pay over \$600,000 in compensation to Fisheries and Oceans Canada for the cost of hiring experts to devise a rehabilitation plan. This was a joint prosecution with the Province of Alberta, which obtained a \$925,000 fine for significant adverse harm to the environment under the *Environmental Protection and Enhancement Act*.

Canadian National Railway Company (CN Rail) is one of the first corporate offenders sentenced under the new increased fine provisions of the *Fisheries Act*. The maximum fine for corporate repeat offenders, such as CN Rail, is \$8 million per day. CN Rail pled guilty in June 2017 and was fined \$2 million for the release of 90 litres of diesel that travelled from a failed oiled-water separator through eight kilometers of storm drain into the North Saskatchewan River. CN Rail

Irving Oil Commercial GP

Following the tragedy that occurred in Lac-Mégantic on July 6, 2013, a parallel investigation by Transport Canada (TC) and the RCMP showed that the oil in the tank cars had been imported from the United States by Irving Oil Commercial GP (GP) and that this oil had been incorrectly classified in the train's shipping documents.

GP failed to ensure that the oil had been properly classified before its importation by train into Canada and for the return of the rail cars to the suppliers. GP staff had not been trained in the transportation of dangerous goods, and as a result the shipping documents on board the trains contained errors. These offences occurred repeatedly over an eight-month period, from November 2012 to July 2013. They concerned the transportation of oil in approximately 14,000 rail cars.

On October 26, 2017, GP pleaded guilty to 34 counts under the *Transportation of Dangerous Goods Act*, 1992 (TDGA). In accordance with a joint submission on sentencing, the Court sentenced GP to pay fines totalling \$400,320, as well as more than \$3.6 million to a fund for the implementation of research programs in the field of safety standards under the TDGA. In addition, GP is subject to a three-year order requiring it to submit a corrective action plan and follow up with TC.

was fined an additional \$500,000 for three charges under the *Canadian Environmental Protection Act*, 1999 arising from the investigation of the *Fisheries Act* incident. The three charges included: use of a centrifugal pump to transfer oil-contaminated water, failure to have an Emergency Response Plan available for staff, and failure to remove an illegal underground pipe. The sentence also included removal of over two kilometers of underground piping by December 2017.

**Canada Labour Code**

The PPSC prosecutes *Canada Labour Code* offences following investigations conducted by health and safety officers of Employment and Social Development Canada. It also prosecutes matters that ensure the safety of Canada's transportation industry.

In January 2018 in the New Brunswick Provincial Court, Her Majesty the Queen in Right of Canada, as represented by the Commissioner of the RCMP was found guilty of one offence contrary to s. 124 of the *Canada Labour Code* for failing to ensure the health and safety of its officers by not providing its members with appropriate use of force equipment and related user training when responding to an active threat or active shooter event. The RCMP was sentenced to pay a total of \$550,000, including a fine of \$100,000. The remaining \$450,000 in donations included \$300,000 for scholarships at the University of Moncton, \$60,000 towards an educational trust fund, \$75,000 to the Threads of Life, which supports families after workplace tragedy, and \$15,000 to the Valour Place Society, which supports injured soldiers, RCMP, veterans, and their families. The charges were laid in 2015 following an investigation into a shooting where three officers were killed and two others wounded while responding to an active shooter situation.



R. v. ORNGE

In November 2017, in the Ontario Court of Justice, ORNGE air ambulance was found not guilty of two offences of failing to ensure employee safety, contrary to s.124 of the *Canada Labour Code* Part II, for failing to provide pilots with a means to enable them to maintain visual reference while operating at night, resulting in the deaths of Captain Donald Mark Filliter and co-pilot Jacques Dupuy.

They were also found not guilty of failing to ensure the health and safety of their employees contrary to s.124 of the *Canada Labour Code* Part II by failing to provide adequate supervision for daily flight activities at Moosenee, Ontario, by eliminating the position of Base Manager.

The charges were laid in 2014, following an investigation into the 2013 crash of an air ambulance helicopter during a night-time flight, resulting in the deaths of the pilots as well as flight paramedics Chris Snowball and Dustin Dagenais.

Corruption of Foreign Public Officials

In 2017-2018, 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).

The prosecution of 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 has ended. As part of the ongoing obligation to apply PPSC's guideline "Decision to prosecute" throughout the proceedings, the prosecutor reached the conclusion that there was no longer a reasonable prospect of conviction in this case.

SNC-Lavalin Inc. is charged in relation to the alleged payment of bribes to secure an advantage for the company in relation to major construction projects in Libya. The prosecution is ongoing, with a preliminary inquiry scheduled to begin in fall of 2018. Two individuals, Stéphane Roy and Sami Bebawi, are also charged in relation to the matter. The accused are being prosecuted separately and each has unsuccessfully argued that his charges should be dismissed due to delay. Mr. Roy's trial is scheduled to begin in September 2018 and Mr. Bebawi's trial is set to commence in April 2019.

Nazir Karigar was convicted under the CFPOA in 2013 and sentenced to three years' imprisonment. Mr. Karigar appealed his conviction and sentence. In July of 2017, the Ontario Court of Appeal upheld both the conviction and the sentence. Mr. Karigar then sought leave to appeal to the Supreme Court of Canada, which was denied in March 2018.

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 2017-2018, 465 prosecutions were concluded.

The PPSC began providing investigative advice in 2010 in the matter of Lawrence Watts. He was charged in 2012 with making false statements on 241 of his customers' tax returns. The fraud would have cost Canada over \$10.5 million if not detected. A trial was held in the fall of 2015. The offender invoked "tax protestor" arguments in his defence, but these were rejected at trial and at the Ontario Court of Appeal. His appeal against conviction and sentence was dismissed by the Ontario Court of Appeal in February 2018. He is now serving his 6 year sentence. An appeal was filed with the Supreme Court of Canada in March 2018.

In British Columbia, in November 2017, Debbie Arlene Anderson was convicted, following a trial, for offences committed in relation to her role counselling tax evasion in conjunction with the Paradigm Education Group. She received a sentence of 4.5 years' imprisonment plus fines totaling \$35,026.71.

OTHER PROSECUTIONS

From time to time, the PPSC accepts delegations from provincial prosecution services, where the provincial prosecution service has an actual, potential, or perceived conflict of interest. In 2017-2018, two prosecutions delegated from the Ministry of the Attorney General of Ontario attracted considerable public interest. In Sudbury, Patricia Sorbara and Gerry Lougheed, Jr., were acquitted of directly or indirectly giving, procuring or promising or agreeing to procure an office or employment to induce two people to refrain from becoming a candidate or withdrawing candidacy contrary to the *Elections Act* following a directed verdict.

In Toronto, Laura Miller was acquitted and David Livingston was found guilty of attempting to commit mischief in relation to data, by attempting to delete data from the computers of the Office of the Premier of Ontario. Mr. Livingston was also found guilty of fraudulently and without colour of right, using or causing to be used, directly or indirectly, a computer system with intent to commit the offence of mischief in relation to data. He was sentenced to 4 months' imprisonment followed by 12 months' probation and 100 hours of community service.

4.3 Supreme Court of Canada Litigation

Federal prosecutors appeared before the Supreme Court of Canada in six cases in 2017-2018 and presented 24 applications for leave to appeal. Of these 24, two applications for leave were granted by the Supreme Court.

In *R. v. Cody*, federal prosecutors alleged, unsuccessfully, that there was no breach of the accused's right to be tried within a reasonable time, as guaranteed under paragraph 11(b) of the

*Canadian Charter of Rights and Freedoms*. This was the first decision rendered by the Supreme Court on the right to be tried within a reasonable time since the adoption of the new framework developed in *R. v. Jordan*. The Court upheld the Jordan framework while adding a number of useful clarifications.

In *R. v. Jones*, federal prosecutors successfully argued that a wiretap authorization issued under Part VI of the *Criminal Code* is not required to obtain historical text messages stored with a telecommunication service provider. While subscribers have a reasonable expectation that service providers will maintain the privacy of their electronic conversations, state authorities can obtain historical text messages by virtue of a production order or a search warrant issued pursuant to the provisions of Part XV of the *Criminal Code*.

4.4 Corporate Activities

Many employees working in various internal services support PPSC prosecutors. 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 2017-2018.

HUMAN RESOURCES

The PPSC continued the implementation of the 2016-2019 Strategic Workforce and Workplace Plan and Human Resources is working closely with management to address strategic needs and future capacity. The PPSC continued to leverage the flexibilities available through the New Direction in Staffing by redefining its approach, with a focus on finding more effective and efficient ways to identify, attract, and appoint new talent. For example, the PPSC completed two large-scale collective staffing processes, resulting in qualified pools for Legal Assistant (CR-05) and Counsel (LP-01/LP-02) positions.

## COMMUNICATIONS AND MARKETING

The PPSC identified the need to increase public awareness of the organization and its role in the criminal justice system. Over the past year, a corporate branding committee was created to explore this need. In collaboration with an external consultant, the committee identified the PPSC's public awareness levels and assembled a phased communication strategy that the organization will be implementing over the next two years. The corporate branding committee followed a rigorous and collaborative process. They consulted with senior management, the regional offices, the Employment Equity and Diversity Committee, and employees working in a variety of job types, as well as with various external stakeholders. The branding strategy lays out the means for the PPSC to deliver an engaging and consistent brand experience across all external- and internal-facing communications, including the PPSC website, reports, and recruitment advertising.



## CORPORATE PLANNING AND EXTERNAL RELATIONS

In 2017-2018, the PPSC finalized the Departmental Results Framework, the Program Inventory, and the Performance Information Profiles pursuant to the new Treasury Board Secretariat *Policy on Results*. The PPSC also prepared the 2018 Survey of Investigative Agencies, which will be launched in 2018-2019. In addition, the division began the evaluation of the National Fine Recovery Program.

### 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.

On March 1, 2016, the PPSC entered into a service contract with Partners in Credit Inc., a private collection agency, for the collection of the PPSC's outstanding federal fines. Partners in Credit has been collecting federal fines on behalf of the PPSC since April 1, 2016. In February 2018, the PPSC exercised its option to extend the contract until February 2019.

More than 30,000 files were updated by PPSC staff to input missing information.

Between April 1, 2017 and mid-March 2018, Partners in Credit recovered \$2.3 million, in comparison to the previous year's recovery of \$1.32 million. The PPSC also recovered \$333,000 through the CRA's set-off program during 2017-2018. Over 6,300 accounts, representing \$8.4 million in fines, are registered with the CRA.

### INTERNAL AUDIT

In 2017-2018, the PPSC published two internal audit reports, the *Audit of Human Resource Management – Phase 1* and the *Audit of Security Governance*. The Internal Audit Division also conducted follow-up on management action plans addressing prior audit recommendations; this resulted in the implementation of a number of action plans. The Departmental Audit Committee, currently chaired by the DPP, welcomed new members, met three times

during the year and reviewed a number of audit-related items, including risk management, internal controls, governance, and financial reporting.

## OFFICIAL LANGUAGES

The PPSC continues to prioritize official languages and to ensure an effective implementation of its Official Languages Strategic Plan 2016-2019. This strategic plan includes two components: providing information and training to prosecutors and paralegals about the language rights of the accused and ensuring compliance with PPSC obligations as a federal institution regarding the development of official language minority communities. As a result, the PPSC added a module on language rights and prosecutors' obligations in this regard under the *Criminal Code* to the School for Prosecutors program. It also modified its computerized timekeeping system to account for activities that PPSC prosecutors undertake in support of minority communities, in particular with regard to college and university training for professional succession.

The PPSC also provides its French-English lexicon of federal prosecutions to the general public through the Jurisource.ca legal information site. The co-champions and the Official Language Committee review and launch various initiatives related to the implementation of Parts IV, V, VI and VII of the *Official Languages Act*. The PPSC participates in the Interdepartmental Justice-Security Network and the Council of the Network of Official Language Champions. It has also launched various activities for Linguistic Duality Day and the *Rendez-vous de la francophonie*.

## MENTAL HEALTH AND EMPLOYEE WELLNESS

Employee wellness is essential and serves as a foundation for delivering the PPSC Strategic Workforce and Workplace Plan for 2016-2019 and the Implementation Plan for 2017-2020, which includes a commitment to promote a healthy workplace that enables the physical, mental and social well-being

of employees. The PPSC further consolidated its joint management/bargaining agent Mental Health and Wellness Steering Committee and approved its Terms of Reference and Governance and the Committee met to establish its priorities. A mental health and wellness portal with resources for all employees was created. In addition, the organization hosted speakers from the Federal Speakers Bureau, held a variety of training sessions, and promoted special observances throughout the year.

## EMPLOYMENT EQUITY AND DIVERSITY

The PPSC continued its efforts to support diversity and inclusion by engaging senior management in the development of strategies to support an inclusive workplace. In order to meet that goal, the PPSC Senior Advisory Board held a half-day meeting in November 2017 that was devoted to equity, diversity, and inclusion-related subjects. The PPSC Senior Advisory Board was provided an overview on all employment equity groups with a focus on gender equity at senior counsel levels.

The PPSC Employment Equity and Diversity Committee members were also engaged this year in the development of communications to educate employees and promote special observances throughout the year. In order to do so, specific criteria such as incorporating a legal angle and linking with our core mandate were adopted. In addition, analysis has started on the results of the Women and Career Development Survey conducted in the previous year. The Committee has also started to develop an action plan to communicate and act on those results. The Committee benefited from renewing its membership and decided it would expand its areas of focus in 2018-2019 in order to align with the recommendations from the final report of the Joint Union/Management Task Force on Diversity and Inclusion in the Public Service.



OUTREACH

During 2017-2018, 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 Prosecution Committee brings together the directors of prosecution services in Canada. Its goal is to promote mutual assistance and cooperation for operational issues. The PPSC’s DPP is the permanent co-chair of the Committee and the PPSC provides secretarial services.

The Committee held two meetings in 2017. The first was in April in Regina, and was organized jointly with Saskatchewan Public Prosecution. The second, organized jointly with the Criminal Law Division of the Ministry of the Attorney General of Ontario, was held in Toronto in October, and included the National Prosecutor Awards ceremony, during which Hafeez S. Amarshi, PPSC Counsel at the Ontario Regional Office received the Humanitarian Award. The Committee also organized teleconferences throughout the year to address new issues arising between meetings.

INTERNATIONAL ASSOCIATION OF PROSECUTORS

The International Association of Prosecutors (IAP) is a non-governmental and non-political organization that works to promote effective, fair, impartial, and efficient prosecutions of criminal offences through the application of high standards and principles, in particular measures that aim to prevent or correct judicial errors. The PPSC’s DPP is an elected member of the Executive Committee of the IAP and a PPSC

representative sits as vice-president of the *Association internationale des procureurs et poursuivants francophones*, a sister organization of the IAP. In September 2017, the PPSC participated in the 22<sup>nd</sup> Annual Conference and General Assembly of the IAP in Beijing (People’s Republic of China), where the DPP chaired a meeting of one of the specialized groups and participated in a meeting of the Executive Committee.

FOREIGN DELEGATIONS

The PPSC met with various foreign delegations this past year. This included participating in a meeting with officials from the Attorney-General’s Department of Australia during their visit with Justice Canada to research Canada’s espionage and foreign interference laws.

The PPSC was also pleased to host a joint visit of senior representatives of the national public prosecution services of the Netherlands and Belgium. The delegation spent time at the PPSC Headquarters in Ottawa, as well as with officials of the PPSC’s Quebec Regional Office in Montreal. Coordinated by the RCMP’s Human Source Unit, PPSC counsel and senior management had the opportunity to share information on evidentiary and other practice issues in relation to the use of civilian (police) agents and confidential informants in judicial proceedings.

In the fall, the British Columbia Regional Office welcomed Mr. Kentaro Takai, who was in Canada as part of a Japanese Public Prosecutor fellowship program. Mr. Takai is conducting research on the operation of organized crime legislation in Canada.



5 | 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. Building on the work and successes of recent years, the organization continued to focus on excellence in prosecution management, employee training and development, and working collaboratively with investigative agencies.

5.1 | Strategic Organizational Priorities 2017-2018

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.



BEST PRACTICES

In 2016, the Supreme Court of Canada in *R. v. Jordan* outlined a new approach for determining whether a prosecution is completed within a reasonable time. In response to the Jordan decision, the organization has established points of contact in each regional office for the purpose of sharing developing case law and best practices. In late 2017, this group of Jordan contacts participated in a conference call in order to share developments and best practices occurring in their region. This resulted in the development of a document summarizing the results, which was distributed to all regional offices in early 2018. Moreover, the PPSC worked collaboratively with its justice system partners to identify and implement best practices in order to comply with the new presumptive deadlines for the completion of trials. The implications of the new Jordan framework are also a standing item on the regular Senior Advisory Board meetings, and the PPSC has added a chapter to the *PPSC Deskbook* outlining the steps to be taken to ensure timely prosecutions.

FILE ASSIGNMENT AND MANAGEMENT

Operationally, the PPSC takes steps to identify prosecutions that may be at risk of exceeding the presumptive ceilings and develops mitigation strategies. Numerous cases at risk of exceeding the Jordan guidelines have been expedited through the use of direct indictments. In 2017-2018, work was undertaken on the development of a tracking tool in our current case management system, iCase, to automatically monitor and alert counsel and management to cases which are at risk under Jordan. This tool is being developed to be compatible with and eventually integrated into our new legal case management system (LCMS).

The PPSC continued to make strides in developing a new LCMS. The current system, iCase, is at the end of its lifespan and does not fully address the PPSC’s business requirements. In particular, the LCMS project team has developed migration strategies to transfer file information from iCase to the new system. Work on this project is continuing.

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 the efficient use of prosecution resources within each jurisdiction. They also continued to work together with respect to terrorism investigations and prosecutions to ensure seamless coverage regardless of jurisdiction.

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

COLLABORATION WITH INTERNATIONAL PARTNERS

Throughout 2017-2018, the PPSC continued to work with United States Attorneys and the United States Department of Justice to increase collaboration on cross-border cases under the umbrella of the Border Operations Leadership Team. As well, the PPSC maintained its focus on 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 implementation.

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.

LEGAL TRAINING

PPSC prosecutors participated in legal training to promote professional development and to meet the requirements set by their respective bar associations. This included training provided at the School for Prosecutors and specialized conferences throughout the year. In all, PPSC prosecutors participated in over 32,000 hours of training in 2017-2018.

SCHOOL FOR PROSECUTORS

The PPSC School for Prosecutors offers annual training designed to promote professional development relevant to the prosecution function. The teaching methods for each of the courses included a combination of lectures, seminars, panel discussions, and small group problem solving and workshop sessions. In 2017, the School delivered three courses: one for junior counsel, one for senior counsel, and a legal writing course.

- **Prosecution Fundamentals** (Level One) focused on criminal law topics including the role of the Crown, the law and procedure on *voir-dires*, the trial, Charter issues, and ethical issues in practice.
- **Advanced Issues for Prosecutors** (Level Two) explored the intricacies of advising on, preparing for, and prosecuting cases with electronic evidence.
- **Written Advocacy** helped counsel perfect their factum-writing skills.

WEBINAR ON CANADIAN VICTIMS BILL OF RIGHTS

The PPSC developed a webinar that explains when and how rights afforded by the *Canadian Victims Bill of Rights* (CVBR) apply and the extent of those rights, including victims’ rights to information, protection,

People at PPSC

Crown Counsel

Prosecutors play a key role in the Canadian criminal justice system. As a Crown Counsel at the PPSC, I conduct prosecutions on behalf of the Director of Public Prosecutions on many significant and complex cases. Prosecutors in the PPSC work on cases related to drugs, organized crime, terrorism, money laundering, human trafficking, war crimes, regulatory offences, and economic offences. I have gained a breadth of knowledge and experience as I have worked on a variety of prosecutions early on in my career.

I feel professionally fulfilled when I am able to successfully argue a novel point of law, hear a jury render a verdict after weeks of evidence, or teach a classroom of police officers how to properly obtain a search warrant. I know that I am helping British Columbia in a meaningful way when I argue for the detention or a lengthy sentence for fentanyl traffickers, terrorists or people involved in an ongoing gang conflict because it makes my community a safer place to live.

Crown Counsel, British Columbia

participation, and restitution, in regulatory prosecutions.

CROWN WITNESS COORDINATORS

The Northern regional offices organized specific training for Crown Witness Coordinators to equip them in their crucial role. The PPSC delivered two training sessions: *Implementation of the Canadian Victims Bill of Rights*, and *Dealing with Grief and Homicide Victims in the Criminal Justice System*. In addition, training on *Mental Health First Aid for Northern Peoples* was organized in partnership with the Mental Health Commission of Canada, with an aim to reduce stigmatization attached to mental illness and to support mental wellness in the workplace.

TRAINING FOR SUPERVISORS AND MANAGERS

Back to Basics

The 2017-2018 PPSC learning priority for supervisors and managers was people management. Supervisors and managers were expected to update their human resources knowledge of leading practices in leadership, team building and employee engagement by completing the following Canada School of Public Service programs: Becoming a Supervisor - The Basics, Manager Development Program - Phase 1, and Introduction to Organization and Classification.

The Supervisors' Network

The PPSC created a community of practice for PPSC supervisors. A workshop was planned and held to identify the community needs and priorities, to establish a governance structure and to develop an action plan to deliver a sustainable supervisors' community that will enable support, knowledge sharing, networking, and development opportunities. The Network's vision is to "Be the go-to place for PPSC supervisors to empower, support and inspire one another and to be a collective voice for PPSC supervisors." The Network is supported by a core team of ambassadors to deliver the action

plan: learning and development opportunities, communication strategies, tools and technology opportunities.

The PPSC Supervisors' Network also held two "Speaker Series" events to provide opportunities for supervisors to learn about mental health and performance management.

CREATING A HARASSMENT-FREE WORKPLACE

The Joint Learning Program's "Harassment-Free Workplace" session has been implemented at the PPSC since 2015 to raise awareness, to address harassment issues and to promote a respectful workplace. While over 80% of employees were trained in 2016-2017, these sessions continued to be offered to over 100 new and returning employees in 2017-2018. The PPSC has also piloted the Joint Learning Program "Mental Health in the Workplace" sessions over the past year.

TRAINING ON PHOENIX

As part of the efforts to stabilize the pay services in the Public Service, PPSC employees were provided with online courses to better understand the pay system and process for all Government of Canada 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.

In 2018, the PPSC launched a new annual reporting tool for CFPs to identify work being done in their regions and support the collaborative efforts with investigative agencies. In addition to the regular meetings held between the senior leadership of the PPSC regional offices and investigative agencies, regional offices have developed creative, collaborative structures to strengthen communications with investigative agencies. For example, the British Columbia Regional Office has established police-crown committees in local detachments to help deal with specific issues emerging in those localities. Similarly, the Manitoba Regional Office assigns a special liaison counsel for regulatory and economic matters to meet regularly with investigative agencies and discuss case preparation and testimony.

Providing training to investigative agencies remains as an ongoing focus of the PPSC. Training may be formal, with topics identified by both the PPSC and/or investigative agencies, or informal, with prosecutors providing "on the job" training to staff in investigative agencies over the course of a case. In addition, for several years, an experienced PPSC Crown Counsel has been providing legal training at the Canadian Police College.

The PPSC has continued its efforts to consult with investigative agencies, whenever it is feasible, prior to staying or withdrawing charges, or conducting plea agreements. CFPs make use of their regular meetings with their counterparts in investigative agencies to get feedback on these efforts and address any issues that may emerge. CFPs have continued to work with their offices to support preparation of disclosure and promote the increased use of electronic disclosure. For example, in the National Capital Region, senior leadership meets monthly with Court Liaison personnel to identify and address any issues related to disclosure. Other regions have established disclosure working groups with investigative agencies to share best practices and identify ways to improve disclosure.





In 2018, the PPSC will be launching the latest iteration of the Survey of Investigative Agencies to get feedback from investigative agencies on the PPSC’s ongoing efforts to strengthen collaboration. The results of the survey will shape the efforts of the PPSC going forward to further enhance collaboration with investigative agencies.

## 5.2 | Looking Forward to 2018-2019

It is time to move forward and build on these successes. This year, the organization changed its process by implementing a collaborative approach to determining our priorities. Consultations were

held with regional CFPs, Headquarters Directors, and representatives from various functional areas to get their views on what they see as key priorities to improve our ability to deliver on our mandate. Following this collaborative process, four strategic organizational priorities for 2018-2019 and 2019-2020 have been approved by the PPSC’s Executive Council:

- Growing our talent for the future
- Modernizing the legal case management system and tools to support timely prosecutions
- Fostering a healthy and respectful workplace
- Enhancing communication and opportunities for employee engagement



# 6 | Financial Information

## Overview

During fiscal year 2017-2018, the Parliament allocated an operating budget of \$184.5 million and an additional \$9 million specific to the collection of outstanding federal fines. Moreover, the PPSC recovered \$17.6 million from other government departments and agencies (OGDA) for prosecution activities related to their mandates. At year-end,

there was a net spending of \$181.5 million and a total carryover of \$12 million. From that carryover, an amount of \$3 million resulting from the operating budget can be spent in the next fiscal year.

The variance between the budget allocation and net spending is mainly due to unspent funding for the collection of outstanding federal fines.



Information about funding and spending is summarized in the following graph:

2017-2018



\*(amounts in thousands of dollars)

SPENDING BY CORE RESPONSIBILITY

The PPSC has two core responsibilities. The first 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 functions, the PPSC has a number of administrative services grouped under the heading “Internal Services”. Information about the spending for each core responsibility and for internal services is provided in the following table:

(amounts in thousands of dollars)	Budget Allocated by Parliament		Amounts recovered from OGDA	Total Available Funding	Total Expenditures		Carryover	
	Operating	Fine Recovery			Net Operating Spending	Fine Recovery Spending	Operating	Fine Recovery
	(A)	(B)		(D) (A) + (B) + (C)	(E)	(F)	(G) (A) - (E)	(H) (B) - (F)
Prosecution Services	157,936	9,000	17,519	184,455	155,112	398	2,824	8,602
Electoral Compliance and Enforcement	5,155	0	0	5,155	4,896	0	259	0
Internal Services	21,376	0	108	21,484	21,079	0	297	0
Total	184,467	9,000	17,627	211,094	181,087	398	3,380	8,602



# 7 | Contact Information

## PUBLIC ENQUIRIES

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160 Elgin Street  
Ottawa, Ontario  
K1A 0H8  
1-877-505-7772  
info@ppsc.gc.ca

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613-954-7803  
media@ppsc.gc.ca

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Deputy Director of Public Prosecutions  
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### Northwest Territories

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Public Prosecution Service of Canada  
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Public Prosecution Service of Canada  
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Public Prosecution Service of Canada  
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306-975-5477

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**Mr. John Phelps**  
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Public Prosecution Service of Canada  
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Y1A 2B5  
867-667-8100



2017-2018  
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.ccf-cce.gc.ca/complaint/index\\_e.aspx](https://www.ccf-cce.gc.ca/complaint/index_e.aspx)

**TELEPHONE:**  
1-855-759-6740  
**FAX:**  
1-800-663-4908 or 819-939-1801  
**MAIL:**  
Commissioner of Canada Elections  
P.O. Box 8000 Station T  
Ottawa, Ontario  
K1G 3Z1

**EMAIL:**  
[info@cef-cce.gc.ca](mailto:info@cef-cce.gc.ca)  
Follow us on Twitter @cef\_cce

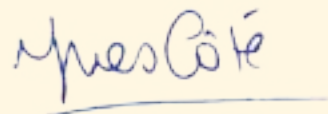


May 15, 2018  
Ms. Kathleen Roussel  
Director of Public Prosecutions  
160 Elgin Street, 12th Floor  
Ottawa, Ontario  
K1A 0H8

Dear Ms. Roussel:

Pursuant to subsection 16 (1.1) of the Director of Public Prosecutions Act, I am pleased to submit the 2017-2018 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, 2017 to March 31, 2018, but contains no details of any investigations.

Sincerely,



Yves Côté, QC  
Commissioner of Canada Elections

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# Commissioner’s Message

I am very pleased to present the 2017-2018 annual report for the Office of the Commissioner of Canada Elections (CCE).

The last year was a busy one for us – and while the details of much of that work are outlined in greater detail throughout this report, a number of important developments stand out in my mind.

The first of these is the fact that our investigations division was finally designated as an investigative body under the *Privacy Act*. This will greatly facilitate our access to information retained by other government institutions and will aid in our investigative work.

The second development was the announcement, in Budget 2018, of additional funds for our Office. For a number of years, I have identified a need to reduce our reliance on determinate and contractual resources, both to ensure that we attract and retain highly qualified personnel, as well as ensure good value for money. So I was very pleased to see that an additional \$1.5 million a year in additional permanent funding was allocated to our Office. This represents a significant increase to our base budget and will positively impact our Office going forward.

From an investigative standpoint, the last year was dedicated to finalizing our work on a number of political financing files and other complex investigations. This is in addition to other preparations – taking place across our organization – that have begun for the October 2019 general election, which are designed to anticipate and deal with the enforcement challenges that will arise. Of particular interest, and concern, to me and Canadians in general, are the inappropriate use of social media and possible interference by foreign actors.

Investigations into foreign interference raise a number of difficult issues, some of which are detailed later in this report. We have taken a number of steps to address this issue, including reaching out to other organizations that also have a role to play in the detection and prevention of such interference. We will be working closely with them to adopt an integrated approach that makes the most of other organizations’ experience and expertise.

The abuse of social media and its proven potential to create serious problems with democratic processes raise questions of fundamental importance. Political parties, candidates, Elections Canada, third parties, NGO’s, mainstream media and the social-media platforms themselves, all have a role to play in preventing the spread of misinformation. If we are to combat this problem, only a multifaceted approach, involving collaboration between and among all of these entities, can work.

I should mention that we have, for some time, been liaising with social media platforms and have established good relationships with them. This year, I sought undertakings from some key platforms that they will do everything they can to assist us in our work. The responses we have received have so far been positive. Yet, I recognize that there is much more that has to be done both on the social media front and with respect to foreign interference. These problems have no easy fixes. For our part, we are determined to remain vigilant and use all the tools at our disposal to ensure compliance.

In line with these observations, although it occurred just after the close of the fiscal year, the Government tabled Bill C-76 in April 2018. This legislation, if passed in its current form, would address a number of

serious issues I have repeatedly raised in the past. The adoption of these long-overdue changes would truly bring the enforcement of the *Canada Elections Act* into the 21st century.

I highlight that C-76 proposes to:

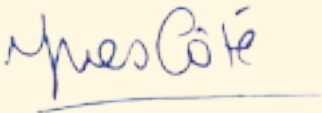
- create a system of administrative monetary penalties for violations that are currently offences under the Act;
- permit the entering into of compliance agreements with real consequences;
- authorize the Commissioner to apply to a superior court judge to obtain an order to compel a witness to provide information in connection with an ongoing investigation;
- give the Commissioner the power to lay charges without first seeking authorization from the Director of Public Prosecutions; and
- re-locate the CCE within the Office of the Chief Electoral Officer.

All of these proposed changes would greatly facilitate enforcement of the legislation: evidence would be more easily obtained; alleged offences would be dealt with much more efficiently (without adding workload on the overburdened criminal courts system); where the laying of charges was warranted, it would happen much more quickly;

etc. Ultimately—and, to me, that is the key—these changes would lead to much better and faster compliance and more efficient enforcement.

In the coming year we will, of course, support Parliament in its examination of Bill C-76 and prepare for its implementation which, given the significant changes proposed for our Office, would be a major undertaking for us.

In closing, I would like to express my sincere thanks to the dedicated group of individuals who make up our team. I look forward to continuing to work with them to defend and maintain the integrity of our electoral system.



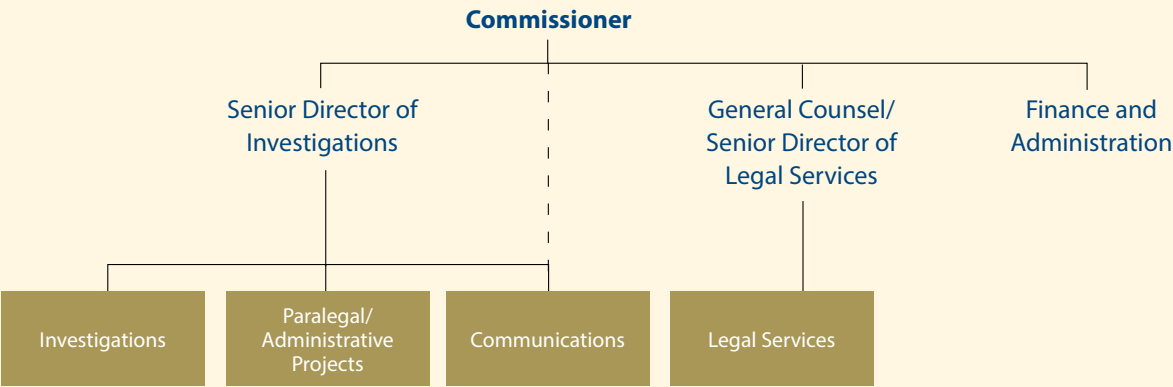
Yves Côté, QC  
Commissioner of Canada Elections



# 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 ensuring compliance with and enforcement of rules relating to election expenses. In 1977, the Commissioner's powers were significantly expanded to include all provisions of the *Canada Elections Act* (the Act) and the position formally became known as the Commissioner of Canada Elections (CCE).

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 when they fall under the Commissioner's mandate.

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 website 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: 2017-2018

## Budget 2018

In keeping with the provisions set out in the Act, the Commissioner is able to hire employees and engage investigators or individuals with technical or specialized expertise, to advise and assist him in carrying out his mandate. In recent years, however, and as the Commissioner indicated on a number of occasions, these temporary resources were increasingly being used to carry out permanent functions of the Office. This reliance on term and contractual resources often led to turnover, a loss of corporate knowledge, time and energy being spent in recruiting activities, delays associated with the repeated transfer of files to new resources and higher investigative and staff costs.

In order to address this issue, in 2017-2018, the CCE formally requested—and was granted—an increase to its appropriation that would allow the Commissioner to convert positions that were previously temporary to indeterminate status and to significantly reduce the need for contractors. These new funds, in the amount of \$7.1 million over five years and \$1.5 million per year ongoing, will allow the Office to solidify the permanent in-house core of expertise it needs to address increasingly complex files arising out of the evolving electoral landscape.

## CCE's Investigations Division as an Investigative Body

Since the 1990s, the Commissioner of Canada Elections has sought to be designated as an investigative body for the purposes of the *Privacy Act*. This designation would make it possible for other federal government institutions to disclose information requested by the CCE in the course of its investigative work without having to obtain the consent of the individual concerned. The CCE's Investigations Division was granted this designation in March 2018. This is a positive development that will allow for investigations to be carried out more quickly.

## Committee Appearances

On April 13, 2017, the Commissioner appeared before the Senate Standing Committee on Legal and Constitutional Affairs as part of its examination of the Chief Electoral Officer's reports on the 42nd general election. During that appearance, the Commissioner highlighted a number of recommendations that had a direct bearing on his Office, including: the power to apply to a court to compel witness testimony; the adoption of a system of administrative monetary penalties for regulatory offences; and, broadening the scope of terms and conditions for compliance agreements. The Commissioner also used the occasion to explain current regulations governing third parties during an election period. He also recommended that the regulatory scheme applicable to third parties be reviewed.

The Commissioner was also invited to appear before the House of Commons Standing Committee on Procedure and House Affairs in June of 2017. The appearance was also in relation to the Chief Electoral Officer's reports.

## Status of Legislative Amendments

### Bill C-33

In November 2016, the Government introduced Bill C-33 in the House of Commons. The bill proposed changes to the *Canada Elections Act*, including the transfer of the Office of the Commissioner back within the Office of the Chief Electoral Officer. The bill, if adopted, would increase the Commissioner's term from seven years to ten years and provides that the appointment be made by the Chief Electoral Officer, after consultation with the Director of Public Prosecutions. The bill also proposes that the Commissioner publish an annual report in the manner and form that he or she considers appropriate, as well as a report outlining recommended amendments to the Act that would strengthen the compliance and enforcement regime. The latter would be provided to the Chief Electoral Officer after every general election, for inclusion in a

separate section of the Chief Electoral Officer’s report prepared under section 535 of the Act.

As of March 31, 2018, the House of Commons had yet to begin debate at second reading on Bill C-33.

**Bill C-50**

On May 31, 2017, the Government introduced Bill C-50 in the House of Commons, which proposed amendments to the *Canada Elections Act* that would enact an advertising and reporting regime for fundraising events attended by Ministers, party leaders or leadership contestants. The bill would also modify the rules applicable to campaign expenses for nomination contestants and leadership contestants so that they mirror those applicable to the election expenses of candidates, as had been recommended by the Chief Electoral Officer and the Commissioner in September 2016.

As amended by the House of Commons Standing Committee on Procedure and House Affairs on October 23, 2017, the bill also proposes 13 new strict liability offences to allow for enforcement of the new fundraising events advertising and reporting regime. The bill also provides for penalties on summary conviction for these offences that differ from the Act’s usual punishment scheme for strict liability offences. Instead of a maximum penalty of a fine of not more than \$2,000 or imprisonment for a term of not more than three months, or both, as currently exists for the Act’s other strict liability offences, these new offences would be punishable only by a fine of not more than \$1,000.

On February 13, 2018, the House of Commons adopted Bill C-50. As of March 31, 2018, the bill was at second reading in the Senate.

As previously noted by the Commissioner, the adoption of additional offences that are regulatory in nature—especially offences for which even softer penalties are provided—makes their enforcement through the criminal courts inefficient and costly. An Administrative Monetary Penalties system would make it possible to deal much more effectively with such regulatory offences.

**CCE and the Public Environment**

In 2014, with the adoption of Bill C-23, the CCE was transferred from Elections Canada to the Public Prosecution Service of Canada (PPSC). With that move came the creation and development of a website for the CCE. Prior to 2014, the CCE had no official, independent web presence and in the ensuing years, the organization has continued to build on, and improve its website. However, as more and more Canadians turn to online and social media sources for their information, the CCE recognized a need to not only build on its existing presence in the digital space, but to leverage that opportunity to reinforce its independence. To that end, in 2017-2018, the Office undertook a series of measures to re-brand the organization and make it clearly distinguishable from both the PPSC and Elections Canada. This brand will be applied to the CCE’s public-facing communications including social media accounts and the CCE website.

The CCE intends to formally launch its new brand and social media accounts early in the new fiscal year.

**Workshop on Social Science Research at Concordia**

Throughout 2017-2018, Concordia University’s Workshops on Social Science Research (WSSR) hosted a series of learning events focusing on democracy and its evolution in Canada over the last century and half. As part of the series, the Commissioner was invited to lead a one-day session highlighting his mandate and some of the key issues and challenges facing the Office. Among the issues the Commissioner and his General Counsel addressed with participants during the session were ideas surrounding whether or not the current compliance and enforcement regime was able to address 21st century challenges, the secrecy of the vote in the age of social media, the proliferation of fake news, false voting information and other modern mechanisms to attempt to manipulate the exercise of voters’ electoral choices, and whether or not the existing third party regime allows for a level playing field.

**Mental Health**

Over the last several years, the Government of Canada has prioritized mental health in the workplace. In support of this initiative, CCE employees at all levels of the organization were asked to take part in roundtable discussions to bring forward both concerns and possible strategies to address factors affecting mental health in the workplace. In the coming months, the Office will be examining these issues in greater detail with a view to fostering the mental well-being of its employees, developing plans to mitigate some of these risks and ensuring that all employees are aware of, and have access to, the tools and services they need should they be required.

**Issues of Particular Interest**

The Act covers a wide array of topics and some pose compliance and enforcement challenges for the CCE. Throughout 2017-2018, some 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 party activities during the 42nd General Election**

As previously reported, the CCE received a significant number of complaints about third parties carrying out non-advertising activities to promote or oppose candidates or parties during the 2015 general election. Where a third party carries out such activities independently from the campaign of a candidate or a registered party, the Act does not regulate its conduct. Conversely, where the third party carries out such activities in a coordinated manner with a candidate’s campaign or a registered party, the commercial value of the benefit given would, in most cases, constitute a non-monetary contribution to the candidate or registered party, by the third party.

As of March 31, 2018, the Office of the Commissioner had completed the review of many of these complaints. For all of those where the review had been completed, no evidence of coordination with

the campaign of a candidate or with a registered party was uncovered. Based on the evidence available, these third parties carried out their activities independently, and to the extent that they did not cause election advertising to be transmitted, these activities were not captured by the scope of the Act’s regulation of third parties.

As the Commissioner stated during his June 13, 2017, appearance before the Standing Senate Committee on Legal and Constitutional Affairs:

“Common to many of these complaints was the perception that third parties, in some ridings, were so significantly involved in the electoral contest that this resulted in unfair electoral outcomes. I would suggest that third-party engagement in Canada’s electoral process will likely continue to grow. For that reason, it may be time for Parliament to re-examine the third-party regime that was put in place 17 years ago with a view to ensuring a level playing field is maintained for all participants.”

As of the writing of this report, those comments continue to be relevant.

**Technology, Social Media and Elections**

The ever-increasing proliferation of social media offers Canadians a host of new ways to connect with news, events and people, both right outside their door and on the other side of the globe. Nowhere has this been more evident than in recent elections, both in North America and abroad, where technology has, or is suspected to have played a significant role – both legitimately and not so legitimately – in influencing the outcome of elections.

Following the 2015 general election, the Commissioner highlighted the fact that, at that time, emerging technologies had posed relatively little concern to the enforcement of Canada’s election laws. However, he cautioned that the shift towards the use of social media, both by political and non-political entities, would most likely give rise to issues that the Act is not currently designed to accommodate. These statements continue to be as relevant today as they were in 2015-2016.



Foreign components of electoral investigations

During the past year, and increasingly over the last few electoral cycles, the CCE has had to carry out investigations that involve some activities outside Canada, or the alleged participation of foreign persons or organizations.

The presence of foreign components in investigations almost always gives rise to delays, complexities and other challenges. For example, a significant amount of time and resources will often be required simply to obtain the production of evidence located outside Canada. In some cases, when the evidence is under the jurisdiction of a country with which Canada does not have cooperation agreements, it will simply be impossible to acquire the evidence. If agents of a foreign state were involved in the subject matter of the investigations, then the investigative work would become all the more arduous. This is, of course, not a challenge that is unique to the CCE: it is a modern reality of law enforcement common to most investigative bodies, and investigating offences under the Act when foreign actors and evidence are involved will always pose challenges that may, in some cases, prove insurmountable.

**False electoral promises**

In March 2018, the CCE received an influx of letters from concerned citizens who felt that a political party's decision not to follow through with campaign promises represented a contravention of paragraph 482(b) of the Act. Paragraph 482(b) makes it an offence to "by any pretence or contrivance" induce a person to "vote or refrain from voting for a particular candidate at an election." By failing to follow through with campaign promises, letter-writers alleged the political party used the promise as a pretence or contrivance to induce electors to vote for their party's candidates.

Upon examination, the Commissioner determined that Parliament did not intend that statements of intention expressed as election promises would

be captured by what is prohibited by paragraph 482(b). In a democracy, political discourse and electioneering activities (including the making of election promises) constitute a highly protected form of expression. In their attempts to win elections, parties and candidates try to convince electors of the merits of their platform, and of their ability and determination to implement it, if elected. If the legislative intent had truly been that investigative bodies and judges should have a role to play in punishing or sanctioning parties or candidates who allegedly have failed to live up to their electoral promises, one would have expected Parliament to have used much different and much clearer language than what currently appears in paragraph 482(b).

It is noteworthy that Canadian courts interpreting similar provisions in provincial statutes have concluded that they do not apply to statements of intention, such as election promises. For instance, in *Friesen v. Hammell* (1999) BCCA 23, the British Columbia Court of Appeal arrived at this conclusion when it interpreted section 256 of that province's *Election Act*, which shares the same legislative origins—in United Kingdom legislation first adopted in 1854—as paragraph 482(b) of the Act.

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 all participants can confidently participate in the electoral process. The *Compliance and Enforcement Policy of the Commissioner of Canada Elections*<sup>1</sup> outlines how the Commissioner exercises his mandate under the Act.

Caution and Information Letters

Caution and information letters are an informal means of encouraging future compliance with

the Act. Between April 1, 2017 and March 31, 2018, the Commissioner issued 160 caution and information letters to address minor contraventions or inadvertent non-compliance. Currently, these 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 *Canada Elections 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, 2017 and March 31, 2018, the Commissioner entered into five compliance agreements:

- Two compliance agreements were entered into with individuals who acknowledged having committed offences under the Act by failing to provide electoral campaign returns and related documents. The Act states that the official agent must provide, to the Chief Electoral Officer, a signed electoral campaign return and related documents, including an auditor's report on this return, within four months after polling day.
- One compliance agreement was entered into with a political party for failing to appoint a new chief agent when its chief agent became ineligible and providing false information to the Chief Electoral Officer. Under the Act, it is an offence for a registered party to fail to appoint a replacement chief agent without delay when its chief agent becomes ineligible. It is also an offence for a registered party that has appointed a replacement to fail to inform the Chief Electoral

Officer of the appointment within 30 days of the appointment. Furthermore, it is an offence for a registered party to provide false or misleading information about the validity of their registration information at the beginning of a general election, and annually, in the statements to the Chief Electoral Officer.

- One compliance agreement was entered into with an individual who acknowledged having committed offences under the Act related to nomination campaigns in 2009 and 2014. Under the Act as it existed before the adoption of Bill C-23, it was an offence for the financial agent of a nomination contestant to fail to open a separate bank account for the sole purpose of the contestant's campaign. It was also an offence for the financial agent of a nomination contestant to fail to dispose of surplus nomination campaign funds and to circumvent the prohibition for any person or entity other than an individual who is a citizen or permanent resident to make a contribution within the meaning of the Act. Moreover, at the time that the events occurred, the Act required that the financial agent of a nomination contestant pay a contestant's unpaid claim within four months after the selection date set for the nomination campaign.
- One compliance agreement was entered into with an individual who, as a federal minister, branded federal government funding announcements into partisan events to promote his registered party shortly before the 2015 general election was called. Under the Act, it is an offence to knowingly circumvent the prohibition on contributions to a registered party by ineligible contributors.

Compliance agreements are currently published in the *Canada Gazette*. This practice will be discontinued effective April 1, 2018. The full text of the agreements will continue to appear on the CCE's website at: [www.cce-cef.gc.ca](http://www.cce-cef.gc.ca) and will be transmitted via the CCE's social media accounts.

<sup>1</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).

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

Charges were laid in the Provincial Court of Ontario against two individuals on September 26, 2017, for events that took place during the election period for the 42nd general election. A charge was jointly laid against Ms. Clara Robyn Suraski and Ms. Lauren Bayla Suraski for having requested another ballot after already having voted. Furthermore, two charges each were laid against these individuals for offences related to applications to be included on more than one list of electors.

On December 14, 2017, two charges were laid in the Provincial Court of Ontario against Ms. Margot Doey-Vick. She was charged with failing to submit financial returns as well as submitting incomplete financial returns for a deregistered Electoral District Association.

Mr. Robert Cameron was charged on December 21, 2017, in the Provincial Court of Ontario, for knowingly providing the Chief Electoral Officer, on behalf of a registered party, with false or misleading information about the party’s eligibility to remain registered.

As of March 31, 2018, these three cases were still before the courts.

Mr. Henry N.R. Jackman was charged on April 11, 2017, in the Provincial Court of Ontario. The six charges against Mr. Jackman related to contributions to registered associations and candidates of registered parties between January 1, 2008 and December 31, 2013, which were in excess of the contribution limits established by the Act. On October 30, 2017, Mr. Jackman pleaded guilty to

one count of making contributions to registered associations and candidates that exceeded the contribution limit and paid a fine of \$1,500.

On June 20, 2017, Mr. Cameron Hastings, Green Party candidate in the electoral district of Richmond Hill for the purposes of the 2011 general election, pleaded guilty to circumventing the former statutory contribution limit by paying for expenses in relation to his electoral campaign for the general election of May 2, 2011, out of his own funds, and received an absolute discharge.

On September 11, 2017, Mr. Martial Boudreau pleaded guilty to wilfully altering, defacing or destroying a ballot, and taking a ballot out of the polling station during the 2015 general election. Mr. Boudreau was sentenced to pay, within a period of two years, a total fine of \$1,000 (\$500 for each charge).

On September 12, 2017, Mr. Joseph Shannon pleaded guilty to five counts of having wilfully or knowingly made excessive contributions to various political entities in the 2008 to 2015 period. Mr. Shannon received an absolute discharge.

On September 13, 2017, the Court of Appeal for Ontario unanimously dismissed Mr. Dean Del Mastro’s appeal of his conviction, under the Act, 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. A notice of application for leave to appeal to the Supreme Court of Canada was filed by the accused on September 15, 2017.

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 for similar activities or practices of other registered parties and their affiliated entities.

During 2017-2018, the Acting Chief Electoral Officer issued two guidelines and interpretation notes. The CCE provided comments on the drafts that were circulated for consultation. The guidelines and interpretation notes issued by the Acting Chief Electoral Officer during this period dealt with issues surrounding contributions and commercial transactions<sup>2</sup> as well as volunteer labour.<sup>3</sup>

<sup>2</sup> <http://www.elections.ca/content.aspx?section=res&dir=gui/app/2017-06&document=index&lang=e>

<sup>3</sup> <http://www.elections.ca/content.aspx?section=res&dir=gui/app/2017-04/17d&document=index&lang=e>



## Looking Ahead

### Preparations for the 43rd General Election

As part of preparations for the 2019 general election, the CCE has started work, in particular with its counterparts at Elections Canada, to ensure it is well positioned to handle the influx of complaints associated with a general election. In addition to this ongoing collaboration, once it receives the funds allocated to it in the Budget, the CCE will also begin staffing permanent positions with a view to ensuring the Office is well-placed to address issues arising out of the 2019 general election.

### Issues with Social Media Platforms

It is clear that we are entering a new era of campaigning in Canada, one where social media will play a greater role. As such, the CCE has been engaging with representatives of major digital platforms to better understand the new initiatives currently being undertaken and to discuss how they may have an impact on enforcement of the Act. These types of ongoing conversations are necessary

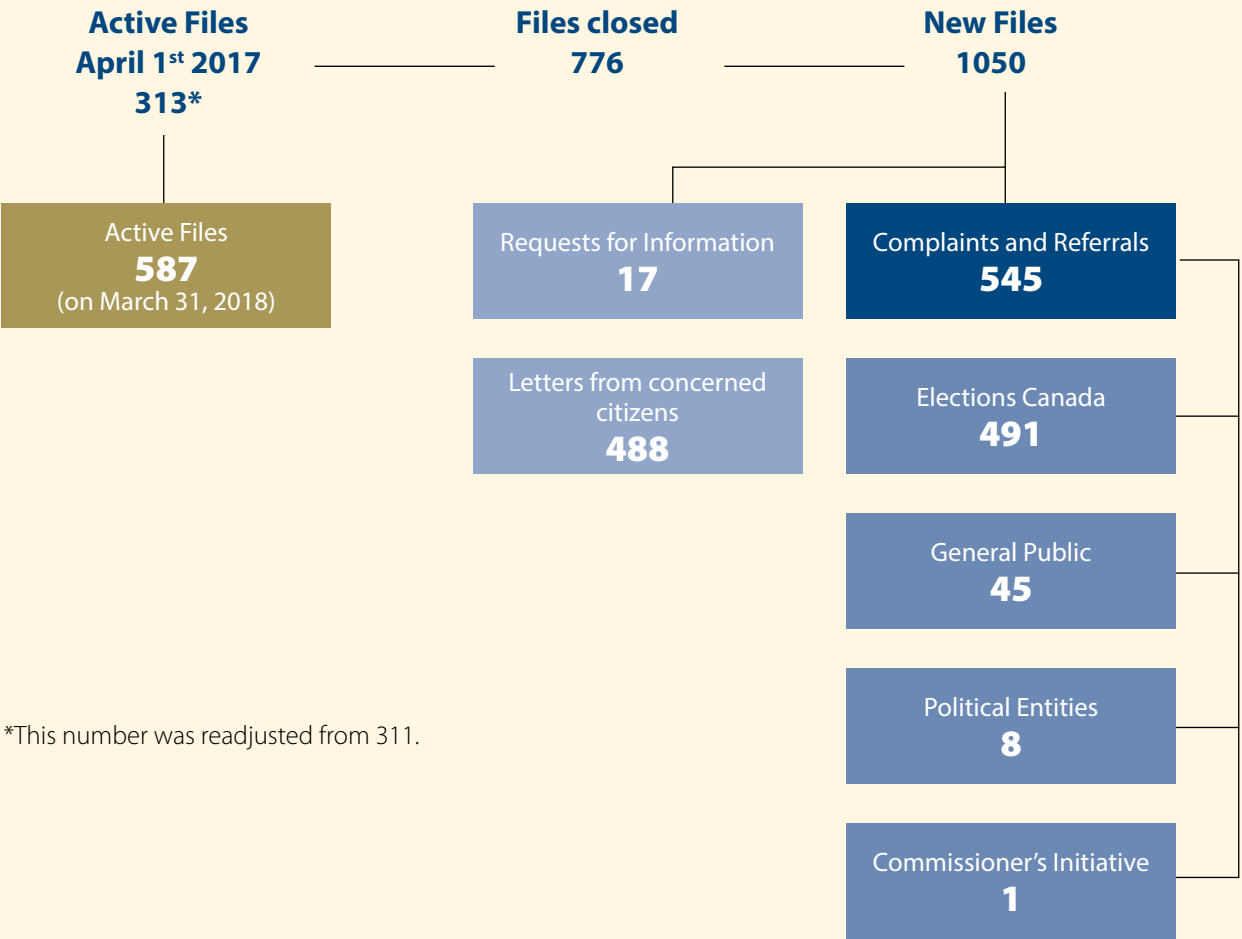
and extremely valuable. For that reason, as it prepares for the 2019 general election, the CCE will be communicating with various social media platforms to seek a firm commitment to doing everything in their power to facilitate the work of the Office, particularly as it relates to the gathering of all relevant evidence needed to carry out its investigations.

### Electoral Reform

In 2018-2019, the CCE will support Parliament as it reviews proposals to reform the Office and its mandate. Following the adoption of any bill affecting the CCE, the Office will proceed with the implementation of any and all required changes.

## Appendix A – Disposition of Cases

(April 1, 2017 to March 31, 2018)



\*This number was readjusted from 311.

COMPARISON OF ACTIVE FILES:

	2013-2014	2014-2015	2015-2016	2016-2017	2017-2018
Active Files (as of March 31)	346	254	489	311	587

Most common referrals from Elections Canada:

- 302 files were referred as a result of possible irregularities and inconsistencies related to illegal voting;
- 44 were related to a failure to dispose of surplus electoral funds;
- 20 were related to the failure to provide financial reports or related documents for a deregistered electoral district association;
- 35 were related to a failure to provide the candidates election expense return or related documents; and
- 20 were related to the failure to provide nomination campaign returns or related documents.

Most common complaints from the public

- 488 letters from concerned citizens;
- 7 complaints were related to allegations of using a pretence or contrivance to induce a person to vote or refrain from voting for a particular candidate at an election; and
- 5 complaints related to the failure to remove election signs following the 2015 general election or following by-elections.

Appendix B – Financial Tables

(April 1, 2017 to March 31, 2018)

Fiscal Year 2017-2018			
	Appropriation	Unappropriated Funds - CRF	
	Indeterminate Positions	Other	Total
Salaries*	\$1,302,446	\$1,220,614	\$2,523,060
Expenditures		\$2,372,718	\$2,372,718
			\$4,895,778

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



