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Ministry Transition Binder  
Transition Team  
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FINAL**

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**Ministry of Attorney General**  
**OVERVIEW OF FEDERAL AND PROVINCIAL/TERRITORIAL RESPONSIBILITY**  
**FOR THE JUSTICE SYSTEM**

Responsibility for the justice system is divided between the federal and provincial and territorial governments.

### **The Courts**

The provinces and territories are authorized to establish, maintain and organize courts in their jurisdictions for criminal and civil matters. In B.C., cases heard in the provincial court fall into four main categories: criminal and youth matters; family matters; small claims; and traffic and bylaw matters. Provincial and territorial court judges are appointed and paid by the jurisdictions in which they sit. The federal government appoints judges for superior courts in B.C. such as the Supreme Court of British Columbia and the Court of Appeal of British Columbia. The support for these courts is administered by B.C. (facilities, clerks, registry, and sheriffs).

The federal government is also responsible for the federal court and the Federal Court of Appeal. The federal court hears and decides legal disputes dealing with matters that are assigned to the federal government under the constitution such as immigration, citizenship, admiralty, and taxes as well as some criminal law matters of national concern. The federal court may sit anywhere in Canada and the court's orders are binding in every province and territory. The federal government is also authorized to establish the Supreme Court of Canada as the final court of appeal in the country.

### **The Civil Resolution Tribunal**

British Columbia's Attorney General is also responsible for the Civil Resolution Tribunal (CRT). The CRT is Canada's first online tribunal and is one of the first examples in the world of online dispute resolution being incorporated into the public justice system. The CRT was established under the *Civil Resolution Tribunal Act*. The CRT, which operates online 24/7, has the authority to resolve disputes involving: strata property, societies and co-operative associations; small claims valued at \$5,000 and under; and motor vehicle personal injury cases valued at \$50,000 and under.

### **Law Making**

The provinces/territories and the federal government have authority to establish and enforce laws in relation to matters within their jurisdictional responsibilities.

### **Prosecution**

In B.C., Crown counsel approves and conducts prosecutions and appeals under the *Criminal Code of Canada* and for offences under provincial enactments. Federal prosecutors conduct prosecutions for offences under the *Controlled Drugs and Substances Act* and violations of other federal statutes such as the *Fisheries Act*, *Income Tax Act*, *Customs Act*, and *Canadian Environmental Protection Act*. They also prosecute terrorism and certain criminal organization offences under the *Criminal Code* as well as money laundering and proceeds of crime charges.

## **Policing**

The provinces' and territories' constitutional jurisdiction for the administration of justice includes oversight and management of provincial/territorial policing services. Police services under the B.C. government are performed in rural and unincorporated areas by an RCMP provincial police force and in municipalities by local police departments or RCMP municipal police services. In addition, the Stl'atl'imx (Stat-la-mic) Tribal Police Service is the only First Nations administered police force in British Columbia. The Stl'atl'imx Tribal Police Service is a designated policing unit under the *Police Act*. It is like an independent municipal police department and has a police board comprised of community members.

The Government of Canada has jurisdiction over the federal RCMP police force which includes members of the federal force operating in B.C. Under the *Royal Canadian Mounted Police Act*, the federal force is required to enforce all federal laws, including those related to national security, illicit drugs, organized crime, financial crime and international policing.

## **Correctional Services**

The provinces and territories are constitutionally responsible for establishing, maintaining and managing prisons for adult offenders awaiting trial, an immigration review or in custody sentenced to terms of less than two years. The federal government is responsible for penitentiaries for adult offenders serving sentences of two years or longer. The provinces and territories administer court ordered community sentences and accused on bail. The provinces and territories are also responsible for youth justice services and in B.C. youth custody and youth community corrections are administered by the Ministry of Children and Family Development.

**Ministry of Attorney General**  
**ROLE OF THE ATTORNEY GENERAL**

The Attorney General exercises administrative and ministerial functions of a Cabinet minister. In this capacity, the minister is responsible for representing the interests and perspectives of the ministry at Cabinet, as well as representing the interests and perspectives of Cabinet, and accordingly the government, to the ministry and the ministry's communities of interest. The minister introduces policies and programs that not only change the law but are intended to influence the way the law is applied, how the legal system functions and how individuals interact with the system.

The Attorney General role is the official legal advisor of the Lieutenant Governor and the legal member of the Executive Council. As Attorney General, the constitutional and traditional responsibilities associated with this role are distinctive and beyond that of any other Cabinet member. The Attorney General has unique responsibilities to the Crown, the courts, the Legislature and the executive branch of government.

The statutory responsibilities of the office are found in section 2 of the *Attorney General Act* [RSBC 1996] chapter 22:

**2 The Attorney General**

- (a) Is the official legal advisor of the Lieutenant Governor and the legal member of the Executive Council;
- (b) Must see that the administration of public affairs is in accordance with law;
- (c) Must superintend all matters connected with the administration of justice in British Columbia that are not within the jurisdiction of the government of Canada;
- (d) Must advise on the legislative acts and proceedings of the Legislature and generally advise the government on all matters of law referred to the Attorney General by the government;
- (e) Is entrusted with the powers and charged with the duties which belong to the office of the Attorney General and Solicitor General of England by law or usage, so far as those powers and duties are applicable to British Columbia, and also with the powers and duties which, by the laws of Canada and of British Columbia to be administered and carried into effect by the government of British Columbia, belong to the office of the Attorney General and Solicitor General;
- (f) Must advise the heads of the ministries of the government on all matters of law connected with the ministries;
- (g) Is charged with the settlement of all instruments issued under the Great Seal of British Columbia;
- (h) [Repealed 1997-7-17.];
- (i) Has the regulation and conduct of all litigation for or against the government or a ministry in respect of any subjects within the authority or jurisdiction of the legislature, and
- (j) Is charged generally with duties as may be assigned by law or by the Lieutenant Governor in Council to the Attorney General.

## **Official Legal Advisor and Legal Member of Executive Council**

The role of official legal advisor is linked to the Attorney General's overall responsibility as the independent legal member of the Executive Council. The independence of the role is fundamental to the position and well established in common law, statutes and tradition.

The Attorney General has a special responsibility to be the guardian of the rule of law, which protects individuals and society from arbitrary measures and safeguards personal liberties. The Attorney General also has a particular role to play in advising Cabinet to ensure the rule of law is maintained and that Cabinet actions are legally and constitutionally valid. This role does not necessitate, however, that the post must be held by a person entitled to practice law. The British Columbia Court of Appeal (*Askin v Law Society of British Columbia*, 2013 BCCA 233) upheld the BC Supreme Court decision and confirmed that there is no “express or necessarily implied requirement that a person appointed to the office of the Attorney General be a member of the Bar of British Columbia for five years or even be qualified to practice law.”

In providing advice, it is important to keep in mind the distinction between the Attorney General's policy advice and preferences and the legal advice being presented to Cabinet. The Attorney General's legal advice or constitutional advice should not be ignored; however, when providing policy advice, the Attorney General's recommendations have the same authority as that of other ministers.

## **Legislative Responsibilities**

The Attorney General is responsible for overseeing that all legislative enactments are in accordance with principles of natural justice, fairness, civil rights, and consistent with other provincial legislation. Significantly, the Attorney General advises also on the constitutionality of legislation, including consistency with the Charter of Rights and Freedoms.

The Attorney General's legislative responsibilities are manifested in a variety of roles, including the relationship with Legislative Counsel, which plays a key role in ensuring the legal integrity of government legislation. Although Legislative Counsel's reporting relationship to the Attorney General does allow the Attorney General to provide guidance and set standards, individual pieces of legislation are drafted on instructions from client ministries and are not within the sole control of Legislative Counsel or the Attorney General. In addition, legislation must meet requirements in some treaties such as the requirement for consultation.

The Attorney General has a further role to play as part of the Legislative Review Committee to review legislation and regulations and to comment on the technical issues related to legislation and regulations prior to Cabinet consideration.

The Attorney General's role on legislative matters is as an advisor to the Cabinet. Although unlikely, Cabinet could, in theory, receive the Attorney General's legal opinion on legislation and choose to disregard it. Such a situation could, however, in extreme circumstances, result in the Attorney General tendering a resignation. Failure to accept and comply with the advice provided could be construed as lack of confidence in the Attorney General's counsel or an attempt to compromise the independent determinations of the Attorney General. Such a situation occurred in 1988 when the Honourable Brian R. Smith Q.C. resigned as Attorney General on the basis that then Premier William Vander Zalm apparently lacked confidence in him and sought to weaken the independence of the office of the Attorney General, which Mr. Smith described as one of "great sensitivity and neutrality in the administration of justice".

### **Civil Litigation**

In addition to specific responsibilities to conduct civil litigation on behalf of the government and its agencies, the Attorney General has broader litigation responsibilities. These powers are based on the Crown's *parens patriae* (parental) authority. The Attorney General's authority is not only to conduct litigation in cases directly affecting the government or its agencies but also to litigate cases where there is a clear matter of public interest or public rights at stake.

This has been characterized as a constitutional responsibility to ensure that the public interest is well and independently represented. It may involve interventions in private litigation or Charter challenges to legislation, even if the arguments conclude that the legislation does contravene constitutionally protected rights.

In other circumstances, factors such as the complexity of a case; the gravity of potential penalties; the accused's age, ability to understand the proceedings, and to express themselves; and the accused's limited familiarity with the trial process may impel the court to appoint an *amicus curiae* ("friend of the court"). The role of an *amicus curiae* is to protect the proper administration of justice and the fairness of the trial by making submissions so that the court is aware of all relevant points of law or fact. If an *amicus curiae* is appointed by the court, the Attorney General will likely be responsible for providing funding to support that individual's or organization's participation.

### **Court Administration**

A key component of the Attorney General's constitutional responsibilities to ensure the administration of justice in the province is the administration of the courts. This includes responsibility for maintaining liaison with the judiciary.

Given the fundamental importance of the independence of the judiciary, the responsibility for court administration is often a very sensitive and delicate issue. Great care and respect for the principles of judicial independence must be exercised in this area. A Memorandum of

Understanding between the Attorney General and the three courts has been developed to provide clarity regarding roles and responsibilities applicable to this relationship.

## **Criminal Prosecutions**

One of the most publicly scrutinized aspects of the Attorney General's role is the responsibility for criminal prosecutions encompassed in s. 92 of the *Constitution Act*, 1867. Section 92 gives provinces the authority to legislate in matters related to the administration of criminal justice and thereby gives the provincial Attorney General authority to prosecute offences under the *Criminal Code*.

It is an accepted and important constitutional principle that the Attorney General must carry out the criminal prosecution responsibilities "independently of political pressures from government" and of any external partisan pressures (*Miazga v. Kvello Estate*, 2009 SCC 51, para.46; *Krieger v. Law Society of Alberta*, 2002 SCC 65, paras.30-32). The Attorney General's responsibility for individual criminal prosecutions must be undertaken – and seen to be undertaken – on rigorously objective and legal criteria, free of any political considerations, and in accordance with the accused's constitutional right to full and complete disclosure of all relevant information pertaining to the Crown's case (*R. v. Stinchcombe*). This ensures that the Attorney General's agents, Crown counsel, can properly fulfill their quasi-judicial role as ministers of justice.

Whether to initiate or stay a criminal proceeding is not an issue of government policy. This responsibility has been characterized as a matter of the Attorney General acting as the Queen's Attorney, not as a minister of the government of the day.

While a wide range of policy considerations may be weighed in executing this responsibility, and the Attorney General may choose to consult the Cabinet on some of these considerations, any decisions relating to the conduct of individual prosecutions must be the Attorney General's alone and independent of the traditional Cabinet decision making process. The Attorney General's independence is "so fundamental to the integrity and efficiency of the criminal justice system that it is constitutionally entrenched" (*Miazga* para.46).

In practice, the BC Prosecution Service, which is the Criminal Justice Branch of the Ministry of Attorney General, administers the prosecution service under the leadership of the Assistant Deputy Attorney General and is responsible for approving and conducting all prosecutions in British Columbia that are not within the jurisdiction of the federal prosecution service, as well as appeals and ancillary proceedings arising out of these same prosecutions. Crown counsel are appointed to represent the Attorney General before the courts on prosecution files. Subject to direction from the Assistant Deputy Attorney General, Crown counsel have authority to approve criminal charges, conduct prosecutions and appeals, and take conduct of private

prosecutions. In doing so, they must not act for improper purposes, such as purely partisan motives. This principle is a basic tenet of our legal system that safeguards the rights of the individual and the integrity of the justice system. As such, it satisfies the criteria for a principle of fundamental justice (*R. v. Cawthorne*, 2016 SCC 32, para. 26)

An important part of the Crown's – and thus the Attorney General's – responsibility in conducting criminal prosecutions is associated with the responsibility to represent the public interest, which includes not only the community as a whole and the victim, but also the accused. The Crown has a distinct responsibility to the court to present all the credible evidence available.

The responsibility is to present the case fairly, not necessarily to seek a conviction. This is a fundamental precept of criminal law, even if it is not a particularly well-understood concept among the general public. One of the Attorney General's responsibilities in fostering public respect for the rule of law is to assist the public in understanding the nature and limits of the prosecutorial function.

Ultimately the Attorney General is accountable to the people of the province, through the Legislature, for decisions relating to criminal prosecutions. Such accountability can only occur, of course, once the prosecution is completed or when a final decision has been made not to prosecute. The sub judice rule strictly prohibits the Attorney General from commenting on a matter before the courts. Given the stature of the Attorney General's position, any public comment coming from the office would be seen as an attempt to influence the case.

Although the Attorney General can become involved in decision making in relation to individual criminal cases, such a practice would leave the minister vulnerable to accusations of political interference. Accordingly, it is traditional to leave the day-to-day decision-making in the hands of the Attorney General's agents, the Crown attorneys, except in cases of exceptional importance where the public would expect the Attorney General to be briefed.

The *Crown Counsel Act* provides that, if the Attorney General or Deputy Attorney General gives the Assistant Deputy Attorney General a direction with respect to the approval or conduct of any specific prosecution or appeal, that direction must be given in writing to the Assistant Deputy Attorney General and published in the Gazette. If, however, the Attorney General or Deputy Attorney General wishes to issue a directive respecting the BC Prosecution Service policy on the approval or conduct of prosecutions, that directive must be given in writing to the Assistant Deputy Attorney General, but publication in the Gazette is at the discretion of the Assistant Deputy Attorney General. If the Attorney General or Deputy Attorney General wishes to issue a directive respecting the administration of the BC Prosecution Service, that direction must, if requested by the ADAG, be given in writing and may, in the discretion of the ADAG, be published in the Gazette.



## **Ministry of Attorney General**

### **ROLE OF SOLICITOR GENERAL**

British Columbia's Solicitor General is the province's top public safety and law enforcement official. The statutory responsibilities of the office are derived from the Solicitor General's portfolio as a minister of the Crown.

The Solicitor General is the minister responsible for the administration of the *Police Act* and must ensure that an adequate and effective level of policing and law enforcement is maintained throughout the province. This role includes responsibility for agreements between the Province, Government of Canada, and municipalities in B.C. whereby the RCMP act as the provincial police force for parts of the province.

The Solicitor General is the minister responsible for the *Correction Act* which provides for provincial correctional facilities for adult men and women awaiting trial and sentenced to two years less a day and community corrections. These responsibilities stem from the exclusive powers of provincial legislatures under sections 92(6) and (14) of the *Constitution Acts, 1867 to 1982* for jurisdiction for the administration of justice and establishing, maintaining and managing prisons in and for the province.

The Solicitor General and Attorney General work together but each have distinct responsibilities. The Solicitor General is responsible for policing and public safety while the Attorney General is government's chief law officer. It has not been uncommon in B.C.'s history to have one minister in both roles. When the roles are combined the minister is responsible for the administration of justice as it relates to the portfolio of the Solicitor General and Attorney General.

In England, the office of Solicitor General has a long history and was held by some influential persons, including Sir Frances Bacon, the 17<sup>th</sup>-century lawyer, philosopher and member of the House of Commons. Traditionally, both the Solicitor General and Attorney General held appointments by Crown prerogative and appeared on behalf of the sovereign in the courts as law officers. By the 17<sup>th</sup> century the positions had evolved into political offices, with the Attorney General being the lead legal advisor to the Crown. By the mid-19 century, as the concept of responsible government matured, the roles of Solicitor General and Attorney General also grew into a wider responsibility for the administration of justice which remains evident today in B.C.

Canada adopted the English common law tradition of dual law officers. In 1892, Canada created the office of Solicitor General to assist the Attorney General. Over time, Canada departed from the role of law officer for the Solicitor General. By 1985, the office's responsibilities included federal prisons, parole, RCMP and national security. Additional responsibilities of emergency management and border strategies came in later years. In 2005, the federal *Department of Solicitor General Act* was repealed and the portfolio for national public safety was assigned to the Minister for Public Safety Canada.

## 30/60/90 DAY DECISION NOTE

**Issue:** Association of Legal Aid Lawyers (ALL) Negotiations (30-day decision)

- Cabinet Submission for improvements to legal aid policy

**Background:**

- Per the Agreement reached on August 30, 2019 between the Province, Legal Aid BC, and the Association of Legal Aid Lawyers (ALL), the ministry is developing a Cabinet Submission outlining agreed upon options, following the first year of consultations with ALL, for improvements in legal aid policy.
- Three areas have been identified in which significant improvements in legal aid policy could be made:
  - an investment in the development of junior counsel;
  - enhanced availability of expert opinions; and
  - providing representation in cases where an initial investment has been made and access to justice remains an issue.

Cabinet Confidences; Advice/Recommendations

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Cabinet Confidences; Advice/Recommendations; Government Financial Information

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Cabinet Confidences; Advice/Recommendations

## 30/60/90 DAY DECISION NOTE

**Issue:** BC First Nations Justice Council (30-day decision)

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Advice/Recommendations; Intergovernmental Communications

**Background:**

- The Strategy was approved by Cabinet on February 26, 2020

Cabinet Confidences;  
Advice/Recommendations

Cabinet Confidences; Advice/Recommendations; Intergovernmental Communications

- The Strategy was endorsed by the Province and the BCFNJC and announced to the public on March 6, 2020 at a signing ceremony in Nanaimo, BC.

Cabinet Confidences; Advice/Recommendations; Intergovernmental Communications; Legal Information

**Decision required:**

- The Province is seeking approval to:

Cabinet Confidences; Advice/Recommendations; Intergovernmental Communications

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Cabinet Confidences; Advice/Recommendations; Intergovernmental Communications

## 30/60/90 DAY DECISION NOTE

### Issue:

Cabinet Confidences; Advice/Recommendations

### Background:

- In May 2020, Ministers Eby and Farnworth approved a decision to allow CRS licensees to offer online sales <sup>Advice/Recommendations</sup>
- Implementation of online sales <sup>Advice/Recommendations</sup> by CRS licensees has been phased. The regulatory changes allowing online sales came into force August 4, 2020.
- The Liquor Distribution Branch (LDB), through its BC Cannabis Stores (BCCS) online store, is currently the only non-medical cannabis retailer in B.C. authorized to offer delivery.

Cabinet Confidences; Advice/Recommendations

### Decision required:

Cabinet Confidences; Advice/Recommendations

### **30/60/90 DAY DECISION NOTE**

**Issue:** Cannabis Worker Security Verification (30-day decision)

Advice/Recommendations

**Background:**

- The Worker Qualification Regulation (WQR) currently requires all cannabis workers to obtain a security verification and renew their security verification every five years.
- The worker security verification was established to support the transition from the illegal to legal market and to reduce the involvement of organized crime in the industry.
- Post-legalization evidence indicates the current level of screening is disproportionate to the risk of organized crime infiltration into the legal cannabis industry through cannabis workers.
- Industry complaints have referenced that delays in screening resulted in lost employment opportunities for workers and difficulties identifying security verified staff for licensees to hire.
- Security verification screening is conducted by Security Programs Division (SPD), Ministry of Public Safety and Solicitor General.
- Applicants for security verification pay a \$100.00 fee to the LCRB. Government Financial Information

Government Financial Information

**Decision required:**

Advice/Recommendations



## 30/60/90 DAY DECISION NOTE

**Issue:** Craft Distilleries Direct Delivery to Duty-Free Stores (30-day decision)

Advice/Recommendations; Intergovernmental Communications; Government Financial Information

**Background:**

- Recommendation #20b of the Business Technical Advisory Panel (BTAP) Final Report (the “Report”) calls for the elimination of the current restriction preventing BC craft distilleries from selling directly to duty-free stores in BC.
  - BC distilleries must produce less than 100,001 liters annually (in addition to other criteria) to qualify for a BC craft distillery designation.

Advice/Recommendations; Intergovernmental Communications
  - Currently, non-BC liquor manufacturers and distributors are not permitted to direct deliver to any customers in BC.

Advice/Recommendations; Intergovernmental Communications; Government Financial Information

**Decision required:**

Advice/Recommendations; Intergovernmental Communications; Government Financial Information

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<sup>1</sup> For clarity, “non-BC” refers to Canadian (other than BC) and international manufacturers

## 30/60/90 DAY DECISION NOTE

**Issue:**

Advice/Recommendations

**Background:**

- In response to the negative economic impact resulting from the global COVID-19 pandemic, BTAP put forward a number of emergency recommendations to support the BC liquor industry.
- Emergency recommendation #4 requests that BC liquor manufacturers be granted temporary authority to direct deliver to “all customers, including retail customers, from their off-site storage locations.”
- The long-standing policy provides that BC manufacturers are permitted to store product in their off-site storage locations (which must be registered with the LCRB) and are authorized to direct deliver to other licensees from these locations if permitted under their license. Deliveries to retail customers (direct-to-consumer delivery) however, can only be direct delivered from the manufacturer’s on-site store.
- On July 20, 2020, a temporary authorization was granted by Minister Eby, allowing BC manufacturers to direct deliver to retail customers from their off-site storage locations until October 31, 2020, with no provision for extensions. This change was implemented through LCRB’s amendment of Manufacturer T&Cs.

Advice/Recommendations; Legal Information; Intergovernmental Communications; Government Financial Information

**Decision required:**

Advice/Recommendations

## 30/60/90 DECISION NOTE

**Issue:** Courthouse Asset Management Plan (30-day decision)

- The Courthouse Asset Management Plan (CAMP) Priority Projects: Victoria Law Courts (Vic LC) and Fort St. John Law Courts (FSJ LC) Concept Plan

Cabinet Confidences

Cabinet Confidences

**Background:**

- In FY17/18, CAMP was developed in collaboration with Ministry of Citizens' Services (CITZ), the Ministry of Attorney General (AG) including direct consultation with the Judiciary, the Ministry of Public Safety and Solicitor General (PSSG) and Infrastructure BC.
- Vic LC was identified as the highest priority for investment in the 2018 Courthouse CAMP 10-year plan. The primary reason for this priority rating is the facility condition assessment, **Advice/Recommendations**

**Advice/Recommendations**

- The Vic LC has been in operation at its present location since 1962.

**Advice/Recommendations; Cabinet Confidences**

**Advice/Recommendations; Cabinet Confidences**

- In FY 20/21, AG and CITZ completed the Vic LC priority capital concept plan that establishes the need for investing by demonstrating rationale for the redevelopment; describing service delivery options; and assessing these options for implementation.

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**Advice/Recommendations; Cabinet Confidences**

- Investment in the Vic LC will ensure access to justice is maintained for all justice participants.
- Economic benefits associated with the Project would be anticipated during the construction phase as well as the ongoing operation of the Facility.
- The FSJ LC was identified in the CAMP 10 Year Plan for priority investment to resolve historical case backlog (supported by the FSJ LC courtroom projection model) as well as space and building condition deficiencies.
  - FSJ LC has 2 courtrooms (1 Supreme Court and 1 Provincial Court courtroom) as well as 1 modified (due to limited space) temporary Provincial Court non in-custody hearing room. The Supreme courtroom is shared between both levels of court.
  - The FSJ LC Courtroom Projection Model was updated in January 2020 and supports the current projected space and accommodation requirements that includes 2 Provincial

Court In-custody courtrooms and 1 Settlement Conference room and 1 Supreme Court Jury courtroom.

- FSJ LC is a hub location supporting five other courthouses: Fort Nelson (satellite), Atlin, Good Hope Lake, Hudson's Hope and Lower Post (circuit courts).
- In FY 20/21, AG and CITZ completed a priority capital concept plan supporting the FSJ LC CAMP recommendations that establish the need for investing by demonstrating rationale, describing service delivery options and assessing these options for implementation.
- The FSJ LC 3 service delivery options reviewed in the concept plan and proposed for review in the business case include: renovate existing facility, renovate and expand existing facility and build a new facility.

#### Cabinet Confidences

- The backlog of hearings has impacted the median time to case conclusion which has increased at FSJ LC from 148 days in fiscal 2015/2016 to 206 days in fiscal 2018/2019.
- Roughly 16 percent of active cases at FSJ LC are at risk of a judicial stay to maintain the accused's right to be tried within a reasonable time.
- Economic benefits associated with the Project would be anticipated during the construction phase as well as the ongoing operation of the Facility.
- Investment in the FSJ LC will ensure access to justice is maintained for all justice participants.

#### Decision Required:

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Cabinet Confidences; Government Financial Information

## **30/60/90 DAY DECISION NOTE**

**Issue:** Ministry of Attorney General Legislation Plan for 2021-2024 (30-60-day decision)

**Background:**

- The Ministry of Attorney General has responsibility for over 100 statutes. It has the largest legislative program in government.

Cabinet Confidences; Advice/Recommendations

**Decision required:**

- Direction on a proposed legislation plan:

Cabinet Confidences; Advice/Recommendations

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Cabinet Confidences; Advice/Recommendations

## 30/60/90 DAY DECISION NOTE

Issue:

Advice/Recommendations

Advice/Recommendations

Background:

- Hospitality customers (pubs, restaurants, bars, etc.) purchase their product via B.C. Liquor Stores (BCLS), the LDB's Wholesale Customer Centre or from private distributors or manufacturers that are permitted to sell direct to them. There are also currently 69 Rural Agency Stores (RAS) authorized to service hospitality customers.

Advice/Recommendations

Advice/Recommendations      one of the original recommendations presented in BTAP's April 2018 report, which proposed that hospitality licensees be permitted to purchase *all* product from any licensed source in B.C. (recommendation #11).

Advice/Recommendations; Legal Information

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Withheld pursuant to/removed as

Advice/Recommendations



## 30/60/90 DAY DECISION NOTE

### Issue: Rural Agency Store Transition (30-day decision)

- Transitioning Rural Agency Store (RAS) authorizations under the Liquor Distribution Branch (LDB) to regulation under the Liquor and Cannabis Regulation Branch (LCRB) by establishing a new class of retail liquor licence in the Liquor Control and Licensing Regulation.

### Background:

- The LDB currently administers the RAS program.
- Under this program, a full-service general grocery store may apply to the LDB to operate a RAS in a community or tourist destination resort where retail liquor service is not readily available and a standalone liquor store (i.e., a BC Liquor Store or Licensee Retail Store) is not economically viable.
- There are currently 225 RAS authorizations in the province.
- In 2018, the government-appointed Business Technical Advisory Panel (BTAP) recommended the conversion of RAS authorizations to a new rural retail liquor licence class (recommendation #22).
- In May 2020, government announced LCRB would proceed with work on recommendation #22, targeting Cabinet approval in fall 2020 followed by the transition before year end.
- LCRB intends to transition all existing RAS authorizations with minimal business disruption.
- Some current RAS businesses do not meet the program criteria as they have been in place for many decades.

#### Advice/Recommendations

#### Advice/Recommendations

- LCRB has engaged with the Rural Agency Store Advisory Society and RAS operators to provide education about liquor licence requirements and to seek input regarding the transition.
- RAS operators must prove they meet liquor licensing requirements set out in the Liquor Control and Licensing Act (LCLA); LCRB has contacted all RAS operators regarding the required information.
- If the transition is delayed, RAS operators will need to resubmit their information (which must be current to issue a licence) resulting in administrative burden for business owners and the LCRB.
- LCRB is prepared to launch the new licence class and transfer RAS authorizations to the new Rural Licensee Retail Store licence immediately following Cabinet approval.

### Decision required:

- Cabinet approval is required to bring the regulation of RAS under the LCRB by the establishment of a new Rural Licensee Retail Store licence class.

## 30/60/90 DAY DECISION NOTE

**Issue:** Cabinet Confidences; Government Financial Information

**Background:**

- The Early Resolution and Case Management Model (the Model) under the Provincial Court (Family) Rules is currently being prototyped in Victoria Provincial Court and will be implemented in Surrey on December 7, 2020. The launch will provide opportunities for communications and possible Minister involvement in a launch event.
- The Model includes an early resolution process which aims to prioritize non-adversarial early resolution for family court matters through assessment and mediation services provided through Family Justice Services Division (FJSD).
- Funding for 2020/21 for the expansion of the early resolution process to Surrey Provincial Court has been provided through the Pandemic Response and Economic Recovery as part of the Justice Recovery Initiative in response to court backlogs created due to the COVID-19 pandemic.
- The early resolution process is a component of the Provincial Court Family Rules (the new Rules) which will be implemented May 17, 2021.
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Cabinet Confidences; Advice/Recommendations; Government Financial Information

- The Provincial Court considers the investments in the early resolution registries to be cornerstones to its COVID-19 recovery plan to divert as many family law cases as possible to non-adversarial family programs and services.
- This diversion will create capacity in the courts to address criminal and child protection matters as well as family cases that require the court's attention. It more importantly provides families with less adversarial approaches better suited for their needs.
- Early evaluation results from the Model implemented in the Victoria Provincial Court since May 13, 2019 suggest the Model will achieve significant improvements to the experience of families using the court process and will also reduce the number of cases going to court overall.

**Decision required:**

Cabinet Confidences

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Withheld pursuant to/removed as

Cabinet Confidences; Advice/Recommendations; Government Financial Information

## 30/60/90 DAY DECISION NOTE

**Issue:** BC First Nations Justice Strategy (60 day decision)

**Background:**

- In September 2017, the Attorney General, Public Safety and Solicitor General, and the BC Aboriginal Justice Council (BCAJC), now the BC First Nations Justice Council (BCFNJC), signed an MOU, under which the partners agreed that they would make best efforts to develop an Indigenous Justice Strategy within two years of the signing of the MOU, which was not to preclude mutually agreed upon immediate actions improving outcomes for Indigenous people in the justice system.
- In March 2019, the BCAJC announced that they had received formal endorsement through resolutions from its three founding organizations, the First Nations Summit, the Union of BC Indian Chiefs and the BC Association of First Nations (collectively First Nations Leadership Council-FNLC), to change its name to the BC First Nations Justice Council (BCFNJC), to change its mandate to focus on First Nations specific justice issues and to develop a First Nations Justice Strategy.
- This change recognized that Indigenous peoples in BC (First Nations, Métis, and Inuit) have different cultures, priorities and histories with the Province, that the BCFNJC could not speak for all Indigenous groups and has resulted in the development of two Justice Strategies, one for the First Nations and one for the Métis and Inuit. Intergovernmental Communications
- The BC First Nations Justice Strategy was approved by Cabinet on February 26, 2020. Cabinet Confidences;  
Advice/Recommendation

Cabinet Confidences; Advice/Recommendations; Intergovernmental Communications

- The Strategy was endorsed by the Province and the BCFNJC and announced to the public on March 6, 2020 at a signing ceremony in Nanaimo, BC.

Cabinet Confidences; Advice/Recommendations; Intergovernmental Communications

**Decision required:**

Cabinet Confidences; Advice/Recommendations

### 30/60/90 DAY DECISION NOTE

**Issue:** The *Electoral Boundaries Commission Act* requires an independent electoral boundaries commission be appointed within one year of the election, i.e. by October 24, 2021 (**60-day decision**)

Cabinet Confidences; Advice/Recommendations

#### Background:

- The Act provides that the commission may recommend a maximum of 87 electoral districts.
- The Act requires that to advance the principle of representation by population, electoral district populations be within +/-25% of the “electoral quotient” (average electoral district population). Exceptions are allowed for the purposes of effective representation where the commission considers that “very special circumstances” exist.
- The Act also specifies that commissions may not recommend a reduction in number of electoral districts within three regions identified in the Act (Cariboo-Thompson; Columbia-Kootenay; North). Population growth in several electoral districts in these regions has not kept pace with that of more urban areas. Several electoral districts are now well below -25% of the average electoral district population.
- Rapid population growth in some urban areas (Surrey, particularly) means that several electoral districts will be at more than +25% of the average electoral district population at the time the commission is appointed.

Cabinet Confidences; Advice/Recommendations

#### Decision required:

Cabinet Confidences; Advice/Recommendations

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Withheld pursuant to/removed as

Cabinet Confidences; Advice/Recommendations

## 30/60/90 DAY DECISION NOTE

### Issue: BC's Horse Racing Industry (60-day Decision)

- Horse racing is regulated by the Gaming Policy and Enforcement Branch (GPEB).
- Government provides financial support to the industry by sharing 25% of slot machine revenue from gaming facilities located at horse racing tracks.
- As a result of COVID-19, GPEB supported Great Canadian Gaming Corporation's (GCGC) decision on March 18, 2020 to temporarily suspend all racing at Fraser Downs and Hastings Racetracks. Horseracing has since re-opened without spectators at both tracks; however, gaming facility closures and limits upon reopening have posed financial difficulties for the industry.

### Background:

- GPEB's statutory authorities related to horse racing extend only to the integrity and safety of horse racing.<sup>1</sup> GPEB is responsible for setting and enforcing rules for horse racing; regulating horse racing events; licensing and registering all participants and workers in the industry; and enforcing and adjudicating the rules and regulations related to racing.
- The operation of horse racetracks is done by licensed private sector entities and not by the BC Lottery Corporation (BCLC). Two horse racetracks currently conduct regular live racing in BC: Fraser Downs Racetrack in Surrey (exclusively Standardbred racing) and Hastings Racecourse in Vancouver (exclusively Thoroughbred racing). Both tracks are operated by GCGC and have co-located casino gambling.
- The horse racing industry across North America, including BC, has been in decline for the past two decades.
- Government provides direct support to the industry through revenue generated from slot machines at the tracks (25% of net revenue).
  - In 2019, Standardbred and Thoroughbred sectors were given \$10,946,918 from slot machine revenue. The track operator, GCGC, does not receive a portion of this money.

### Business Information

- In 2009, government established the Horse Racing Industry Management Committee (HRIMC) with a mandate to direct the financial management of the industry towards long-term sustainability. The HRIMC includes representatives from the Standardbred and Thoroughbred horse racing sectors and GCGC; a GPEB director attends HRIMC meetings but is not a member of the committee. The HRIMC has recently renewed their revenue sharing agreement (2020-2024). The agreement sets out how GCGC and Standardbred and Thoroughbred sectors will share revenue (Appendix A) from slot machines and wagering.

### COVID Impact

- On March 18, 2020, GCGC temporarily suspended all racing at BC's two racetracks.
- GCGC and the Horse Persons' Associations from both breeds have subsequently reached a solution to allow stabling, training, and racing to resume at both tracks under certain protocols that respect the Provincial Health Officer's directives. With these measures in place, both Hastings and Fraser Downs were able to hold a condensed racing season this year without spectators in attendance.

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<sup>1</sup> Betting on horse races is regulated by the Canadian Pari-Mutuel Agency, a federal special operating agency within Agriculture and Agri-Food Canada.

- Racing commenced at Hastings on July 6, 2020, losing 26 of 51 days due to COVID-19. The typical season for Thoroughbred Racing is May to October.
- Racing commenced at Fraser Downs on September 30, 2020, losing 17 of 65 days due to COVID-19. The typical season for Standardbred Racing is mid-September to April.
- In addition, racing without spectators has an added financial impact on horse racing. Business Information

#### Business Information

- As a result of closures due to COVID-19 and limits on reopening, industry revenue has fallen far short of projected totals:

#### Business Information

- As a not-for-profit organization, the Horsemen's Benevolent and Protective Association (HBPA), which supports those in the Thoroughbred Industry, is not eligible for current provincial COVID-19 recovery funding sources. The only potential source of funding for which the HBPA may qualify is for a Community Gaming Grant; however, the 2020 intake period has passed.
- Individual owners may qualify for the provincial government's Small and Medium-Sized Business Recovery Grant.

#### Decision required:

- The Standardbred and Thoroughbred Associations have recently approached the BC government to discuss the financial impacts of COVID on their industries.

#### Cabinet Confidences

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<sup>2</sup> The horse racing industry uses a calendar year budget. The revised forecast is based on actuals for January to August 2020 and assumes some slot machine revenue from November and December 2020; however, slot machine revenue is dependent on timing of the re-opening of gambling facilities.

<sup>3</sup> The horse racing industry uses a calendar year budget. The revised forecast is based on actuals for January to August 2020.



## 30/60/90 DAY DECISION NOTE

**Issue:** OIC for Professional Governance Act

- Bringing the *Professional Governance Act* into force (30-60 days)

**Background:**

- Serious public health and environmental concerns arising from professional reliance and governance issues resulted in a Professional Reliance Review (the Review) in 2018. Two recommendations in the Review were on professional governance: (a) Establish an Office, independent from the natural resource sector ministries, and (b) Standardize critical elements of professional governance through umbrella legislation. These led to the enactment of the *Professional Governance Act* (PGA - November, 2018) and the creation of the Office of the Superintendent of Professional Governance (OSPG - June, 2019) in the Ministry of Attorney General.
- The PGA strengthens government oversight and provides a consistent governance framework for self-regulating professions that incorporates best practices of professional governance. The OSPG is responsible for administering the PGA, overseeing the designated regulatory bodies and for ensuring that best practices for professional governance are implemented.
- The PGA currently governs the five professional regulators overseeing agrologists, applied biologists, applied science technologists and technicians, engineers and geoscientists, and forest professionals but has the scope to consider any profession. The Architects will be transferring to the Ministry of Attorney General and the oversight of the OSPG at the first opportunity.
- When the PGA became law, only certain transition provisions were brought into force to allow for implementation, the transition of regulatory bodies, and the development of regulations and policies. When the PGA is fully brought into force, the OSPG will be able to fully exercise its oversight authority and the statutes that still govern the five professional bodies will be repealed.

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Cabinet Confidences; Advice/Recommendations

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- The current Ministry of Attorney General base budget for OSPG is \$587,000. The Ministry of Environment has committed to contribute \$406,000 for the 2020/21 and 2021/22 fiscal years only.

Cabinet Confidences; Advice/Recommendations; Government Financial Information

- The Third Reading of Bill 49-2018: The Professional Governance Act contains the full text of the statute, including sections that are not currently in force.

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Withheld pursuant to/removed as

Cabinet Confidences; Advice/Recommendations

## 30/60/90 DAY DECISION NOTE

**Issue:** Onsite Store Product (60-day decision)

- Products eligible for sale in a manufacturer's on-site store.

**Background:**

- An on-site store endorsement authorizes a liquor manufacture to establish a direct-to-consumer sales channel at their manufacturing site.
- The Liquor Control and Licensing Regulation (LCLR), s.35, establishes that licensees may sell liquor products that were "manufactured under their license" in their on-site store – this means products made at that manufacturing site. Advice/Recommendations; Cabinet Confidences
- However, the Manufacturer Terms and Conditions handbook states that licensees may sell products "registered to their license" in their on-site store, meaning products made by other manufacturers on behalf of the original manufacturer. 1 Cabinet Confidences
- Manufacturer licensees are both selling products "manufactured under" and "registered to" their licence in their on-site stores.
- The Liquor and Cannabis Regulation Branch (LCRB) has consulted with industry stakeholders seeking views on an effective resolution to the discrepancy:

Advice/Recommendations

Cabinet Confidences; Advice/Recommendations

**Decision required:**

Cabinet Confidences; Advice/Recommendations

## 30/60/90 DAY DECISION NOTE

**Issue:** Non-medical Cannabis Pricing Model (90-day decision)

**Background:**

Cabinet Confidences; Advice/Recommendations

- The mark-up rate adopted in August 2018 was intentionally set low in order to encourage legal participation and allow retailers a comfortable margin to keep prices competitive with the illegal market in order to make legal non-medical cannabis an attractive alternative for consumers, while generating positive net income for the LDB. This supports government's mandate to eliminate the illicit market, and LDB's mandate to generate revenue to support vital government programs such as health care and education.
- The current wholesale pricing model was also chosen for its simplicity and alignment with the existing liquor pricing model Advice/Recommendations  
Under the current model, a wholesale mark-up rate is applied to all non-medical cannabis products (dried flower, pre-rolls, extracts, edibles, topicals, and seeds) regardless of the product format or THC content.
- Under the current retail pricing model, public and private retailers are free to set their own retail prices but must ensure that the retail price is not lower than the wholesale price paid at the time of purchase from the LDB or the current LDB wholesale price, whichever is lower.

Cabinet Confidences; Advice/Recommendations

**Decision required:**

Cabinet Confidences; Advice/Recommendations

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Cabinet Confidences; Advice/Recommendations; Legal Information

## 30/60/90 DAY DECISION NOTE

**Issue:** Cullen Commission's interim report and impact on the provincial AML strategy (90-day decision)

- The Anti-Money Laundering Secretariat (AMLS) will require direction from the minister on how to advance the recommendations from the Cullen Commission's interim report in alignment with the provincial anti-money laundering (AML) strategy (90 days).
- Strategy 1.2.4 of the provincial AML strategy is to "Review and consider any recommendations resulting from the independent commission of inquiry into money laundering activities within B.C." Specifically, strategy 1.2.4a is to "Align the findings of the interim report of the [Cullen] commission."

### **Background:**

#### *The provincial AML strategy:*

- The AMLS, along with a multi-ministry working group, developed a provincial strategy that provides a framework to guide and support AML efforts for government, regulators and non-regulators.
- This strategy was developed to be agile and responsive to reflect the changing realities of money laundering, as well as future recommendations stemming from the two expected Cullen Commission reports.
- Through the tools and targeted actions contained within the strategy, the mission is to reduce money laundering in B.C. to the greatest possible degree for the safety and security of British Columbians and the protection and integrity of our economy.
- Actions to address the objectives of the strategy have already begun while implementation on other elements is expected to begin prior to the end of 2020.

#### *The Cullen Commission:*

- The Cullen Commission is expected to deliver an interim report to government by November 15, 2020.
- The Cullen Commission was provided documentation related to the provincial AML strategy as requested. These documents were discussed during testimony given by government staff on June 11 and 12, 2020.
- As such, the provincial AML strategy document, and supporting documents including a PowerPoint presentation and timeline, were all posted as exhibits on the Inquiry's website. These exhibits are #46, #44 and #45 respectively.

### **Decision required:**

- It is anticipated that one or more of the recommendations from the interim report may impact the implementation of some of the strategies of the provincial AML strategy as well as provide us with further actions that should be included within the strategy.
- While it is also expected that the final Cullen Commission report will contain additional recommendations and findings that may impact the direction and implementation of the provincial AML strategy, this report is not expected until spring 2021, at the earliest.
- The AMLS will require direction from the minister as to how to proceed in response to the interim report's recommendations as it relates to the implementation of the provincial AML strategy.

## 30/60/90 DAY DECISION NOTE

### Issue:

- Cabinet Confidences; Advice/Recommendations

### Background:

- As of September 30, 2020, there are 8,196 hospitality licensees (bars, pubs, restaurants and hotels serving liquor).
- Historically, hospitality licensees have purchased liquor at retail prices set by the LDB. Hospitality licensees are able to purchase draft or kegged beer at the wholesale price, without any retail mark-up, and land-based wineries can set their own prices on their direct sales of non-listed products to hospitality.
- In April 2018, the Business Technical Advisory Panel (BTAP), in their final report to government, recommended that "Hospitality licensees (restaurants/bars/hotels) should be sold liquor products at a proper wholesale price, as they are in other jurisdictions."

### Cabinet Confidences; Advice/Recommendations

- However, in April 2020, members of BTAP requested that government provide support to the hospitality sector due to the impact of the COVID-19 pandemic.
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### Cabinet Confidences; Advice/Recommendations

- In June, Treasury Board approved a temporary hospitality pricing model, to be in place from July 20, 2020 to March 31, 2021, that allows hospitality licensees to purchase liquor at the wholesale price.

### Cabinet Confidences; Advice/Recommendations; Government Financial Information

### Decision required:

### Cabinet Confidences; Government Financial Information

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Cabinet Confidences; Advice/Recommendations



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Cabinet Confidences; Advice/Recommendations; Legal Information

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Cabinet Confidences; Advice/Recommendations; Intergovernmental Communications

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Cabinet Confidences; Advice/Recommendations; Government Financial Information

## MINISTRY ISSUE/OPPORTUNITY NOTE

### Issue:

- Budget forecasting challenges for fiscal year (FY) 2021-2022 for the B.C. Lottery Corporation (BCLC) in the context of no definitive date for casino reopenings and uncertainty of the economic consequences of the pandemic.

### Background:

- On March 16, 2020, Attorney General David Eby following advice from B.C.'s Public Health Officer, Dr. Bonnie Henry, ordered all regulated gambling facilities in B.C. be closed indefinitely.
- Casino revenue historically makes up more than 70% of BCLC's total revenue.
- Due to the impacts of COVID-19 and gambling facility closures, BCLC expects

Advice/Recommendations; Government  
Financial Information

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Advice/Recommendations; Government Financial Information; Cabinet Confidences

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- To support the reopening of casinos and community gaming centres (CGCs) and resume associated revenue at the earliest possible opportunity, BCLC has worked with SPs to detail the operationalization of new practices and protocols that support player and employee safety. BCLC submitted robust draft health and safety guidelines to government in August 2020, including WorkSafe BC and the Public Health Officer.

Cabinet Confidences

- The Attorney General's office and Treasury Board are aware of this situation and the significant impact the gaming facility closures have on BCLC's financials and net income to the Province.

### Issue/Opportunity:

- The indefinite closure of casinos and CGCs, and other variables related to COVID-19, have affected BCLC's ability to accurately forecast income to the provincial treasury.
- The next Annual Service Plan is scheduled to be tabled at the same time as the next provincial budget in the spring 2021.
- In 2019/20, BCLC's net income was \$1.347 billion; \$11 million was provided to the Government of Canada<sup>i</sup> and \$1.336 billion to the Province of B.C. This money was invested in services and supports, including community gaming grants and Host Local Government payments.

- In 2019/20, casinos and CGCs generated \$1.833 billion in revenues with a net income of \$929 million. These facilities closed in the last two weeks of the last fiscal year, which resulted in less revenue and income than forecast.
- There has been no revenue or income generated from these facilities in FY 2020/21 due to their temporary closures for public-health reasons.

#### *Lottery & eGaming*

- In the 2019/20, lottery and eGaming (online gambling) generated \$698 million in revenue, \$45 million more than budgeted.
- The net income for lottery and eGaming for this same period was \$418 million, which was \$35 million higher than budget.
- Although casinos and CGCs remain closed, BCLC reports that PlayNow.com, its eGaming website, has seen an increase in both registration and play activity in the first six months of the current fiscal year as some land-based casino players migrated online. This increase contributes to the ongoing year-over-year growth of PlayNow.com, the fastest growing channel of BCLC's business.

#### Advice/Recommendations; Government Financial Information

- Lottery channels resumed business in May 2020 Advice/Recommendations; Government Financial Information

#### Advice/Recommendations; Government Financial Information

\$ in millions			
Revenue	2019/20 Budget per FY20 Service Plan	2019/20 Actual	
Casino & Community Gaming	\$1,984	\$1,833	
Lottery	\$495	\$519	
eGaming	\$158	\$179	
<b>TOTAL REVENUE</b>	<b>\$2,637</b>	<b>\$2,531</b>	Cabinet Confidences; Advice/Recommendations; Government Financial Information
Net Income			
Casino & Community Gaming	\$1,023	\$929	
Lottery	\$294	\$313	
eGaming	\$89	\$105	
<b>TOTAL REVENUE</b>	<b>\$1,406</b>	<b>\$1,347</b>	

<sup>i</sup> The Interprovincial Lottery Corporation (ILC) makes inflation-adjusted payments to the Government of Canada as a result of an agreement between the federal and provincial governments, following the withdrawal of the Government of Canada from the lottery field. BCLC remits British Columbia's share of payments to the ILC.

## MINISTRY ISSUE/OPPORTUNITY NOTE

**Issue:** Establish Independent Gambling Control Office

- Amendments to the *Gaming Control Act* and establishment of the Independent Gambling Control Office (IGCO).

**Background:**

### *Context*

- In 2018, government received Dr. Peter German's report, *Dirty Money: An Independent Review of Money Laundering in Lower Mainland Casinos conducted for the Attorney General of British Columbia* (German Report).
- The German Report highlighted systemic weaknesses in BC's regulatory framework that hindered an effective response to the proliferation of money laundering through lower mainland casinos.
- Government accepted, in principle, all 48 recommendations from the German Report. To date, 37/48 recommendations have been fully addressed, nine will be addressed through amendments to legislation, and two remain underway.
- On December 11, 2019, the Attorney General announced government's intent to introduce legislation in spring 2021 to respond to Dr. German's recommendations, including replacing the Gaming Policy and Enforcement Branch (GPEB) with the IGCO and implementing a more flexible regulatory model for gambling in BC.
- Cabinet approved GPEB's Request for Legislation on July 8, 2020.

### *Proposed Amendments*

Cabinet Confidences; Advice/Recommendations

Cabinet Confidences; Advice/Recommendations

*Status/Next Steps*

Cabinet Confidences; Advice/Recommendations; Legal Information

Cabinet Confidences

- Work is also underway to transition GPEB to the IGCO, including the development of a new IGCO website and logo. It is anticipated that this work will be completed in spring 2021 to coincide with the proposed legislation coming into force.

**Issue/Opportunity:**

- Proposed amendments could be introduced in spring 2021. This will allow GPEB to transition to the IGCO and enable a more flexible regulatory framework for gambling in BC.



## MINISTRY ISSUE/OPPORTUNITY NOTE

### Issue:

Government Financial Information; Cabinet Confidences; Advice/Recommendations

### Background:

#### *Service Providers (SPs)*

- There are currently 16 casinos, 17 community gaming centres (CGC) and two commercial bingo halls located throughout British Columbia that are operated by 13 SPs.
- In B.C., Gateway Casinos & Entertainment Ltd. (Gateway) operates 14 casinos and CGCs in the province; six in the Greater Vancouver area, six in the Thompson/Okanagan region and two on Vancouver Island.
- The other two major SPs are Parq ULC, which operates Parq Vancouver, and Great Canadian Gaming Corporation (GCGC), which operates 10 casinos and CGCs in B.C.
- On March 16, 2020, Attorney General David Eby following advice from B.C.'s Public Health Officer, Dr. Bonnie Henry, ordered all regulated gambling facilities in B.C. be closed indefinitely.

#### Cabinet Confidences; Government Financial Information

- The casino industry also supports nearly 27,000 indirect jobs such as food providers, manufacturers, delivery services, entertainers and construction contractors.<sup>1</sup>

#### Cabinet Confidences; Government Financial Information

- The provincial government has provided temporary relief to the sector:
  - In May 2020, the Gaming Policy and Enforcement Branch's (GPEB) general manager extended gaming registrations to September 30, 2020 and has since extended this to March 31, 2021;
  - In June 2020, the B.C. government deferred the deadline for annual registration fees to September 30, 2020 and has since extended this deadline to March 31, 2021;

#### Cabinet Confidences

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<sup>1</sup> This figure is based on a 2010 economic impact assessment of the industry in Canada and B.C. The Canadian Gaming Association (2010), "Economic Impact of the Canadian Gaming Industry". [http://canadiangaming.ca/wp-content/uploads/media\\_releases/CGA\\_Economic\\_Impact\\_Report\\_Final.pdf](http://canadiangaming.ca/wp-content/uploads/media_releases/CGA_Economic_Impact_Report_Final.pdf)

Cabinet Confidences; Government Financial Information

**Issue/Opportunity:**

Cabinet Confidences; Advice/Recommendations; Government Financial Information

- As it stands, the temporary closure of casinos and community gaming centres (CGCs) has affected BCLC's ability to deliver net income to the province, which the Province of B.C. shares with Host Local Governments (HLGs) and First Nations.

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<sup>2</sup> Please refer to "Closures of Gaming Facilities" note included in the Premier's Office and Minister's transition binders.

## MINISTRY ISSUE/OPPORTUNITY NOTE

### Issue:

Cabinet Confidences; Advice/Recommendations; Intergovernmental Communications

### Background:

- In January 2019, recommendation #16 of an external review of legal aid service delivery in BC was released (the Maclaren Report) supporting the iterative and scalable development of Indigenous Justice Centres (IJC) as culturally safe sites for wholistic legal aid service to Indigenous people.
- IJCs support provincial commitments to:
  - Indigenous reconciliation and self-determination of Indigenous justice organizations and institutions;
  - Indigenous-led solutions to accessing culturally relevant justice, social and poverty services; and,
  - Providing services to Indigenous clients in geographic areas where services do not exist or are insufficient.
- The BC First Nations Justice Strategy was approved by Cabinet on February 26, 2020 and announced to the public on March 6, 2020 at a signing ceremony in Nanaimo, BC.<sup>1</sup>
- Strategy #4 called for investing in a network of IJCs, as well as strategies #5 and #6 to deliver legal services and Gladue report programming from IJCs.
- The BCFNJC originally proposed the creation of up to 15 IJCs to be implemented at a rate of 3 IJCs per year. Cabinet Confidences the network of up to 15 IJCs was also supported in BCFNJS strategy #4.
- The first 3 IJCs became operational prior to the release of the BCFNJS.
- The 3 IJCs were selected through expressions of interests provided to the BCFNJC. The 3 sites selected were Prince George, Prince Rupert and Merritt/Nicola Valley.
- The 3 IJCs were fully staffed and operational by March 2020. Prince Rupert and Prince George held 'soft-openings' in January and in February 2020, respectively.
- The 3 IJCs were implemented through partnerships with existing organizations in geographic areas expressing service needs. If services already exist in a community, a referral will be made to those service providers that already exist.
- Due to the COVID-19 pandemic, in-person IJC services were suspended within weeks of start-up, and service levels have been significantly impacted. The COVID-19 pandemic continues to affect staff's ability to engage community members face-to-face, as many Indigenous communities are on self-imposed lockdown. The reliance on service provision by video and/or telephone limits trust building and the ability to engage with and to draw from the insights of Elders. Considering the importance of in-person communication for Indigenous clients, the COVID-19 pandemic is expected to continue to hinder client service levels.

<sup>1</sup> Province of British Columbia, First Nations organizations, Province endorse new First Nations Justice Strategy, *News Release*, March 6, 2020, [https://9c56a069-86c3-43b1-ad5b-8cdb6fae3682.filesusr.com/ugd/43baff\\_50a6fe2ed7464dfa80120183e6e1ac87.pdf](https://9c56a069-86c3-43b1-ad5b-8cdb6fae3682.filesusr.com/ugd/43baff_50a6fe2ed7464dfa80120183e6e1ac87.pdf).

- IJCs use traditional and holistic Indigenous approaches in the delivery of services. They provide legal support and advocacy based on a legal client model. Justice services focus on criminal and child welfare law using a legal clinic approach, guided by the principles of restorative justice and healing. They will also provide social and poverty support services that focus on mental health, addictions, and housing services.
- Going forward, IJCs intend to form the foundation for a culturally appropriate network of justice and related social services for Indigenous people. They are also part of a long-term effort to change the way that Indigenous people interact with the justice system.

Cabinet Confidences; Intergovernmental Communications; Advice/Recommendations

- The Indigenous Justice Policy and Legislation Division (IJPLD) works in partnership with the BCFNJC supporting the development and implementation of the BCFNJS and its related priority initiatives.

Cabinet Confidences; Intergovernmental Communications; Advice/Recommendations

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Cabinet Confidences; Intergovernmental Communications; Advice/Recommendations

## MINISTRY ISSUE/OPPORTUNITY NOTE

**Issue:** Judicial Compensation Commission

**Background:**

- The Supreme Court of Canada has affirmed, as a constitutional requirement, that judicial remuneration must not become the subject of negotiation between the judiciary and government. Instead, government and the judiciary make submissions to a constitutionally required independent commission.
- The commission has the statutory mandate to make recommendations to the Legislature regarding the compensation for Provincial Court judges after considering the statutory factors set out in the *Judicial Compensation Act*.
- The Legislature may accept the Commission's recommendations but is not bound by them. If the Legislature wishes to reject any of the Commission's recommendations, it must provide public reasons for doing so.
- If the Legislature rejects any of the Commission's recommendations, the Legislature's response is reviewable by the superior courts and must satisfy constitutional requirements. The response must articulate a legitimate reason for departing from the Commission's recommendation, rely upon reasonable factual foundation, and respect the commission process and the purposes of the commission – preserving judicial independence and depoliticizing the setting of judicial remuneration.
- The Legislature has rejected some of the recommendations from the last four JCCs (2010, 2013, 2016 and also 2019, including in each case the salary recommendations).
- Government's response to the 2010, 2013 and 2016 JCC's has each been subject to an application by the Provincial Court Judges Association (PCJA) to the superior court for judicial review.

**Issue/Opportunity:**

- 2016 Judicial Compensation Commission
  - The Provincial Court Judges Association filed for judicial review of government's response to the 2016 JCC.
  - During the judicial review, a Master of the Supreme Court of British Columbia ordered the confidential Cabinet Submission disclosed. Subsequent appeals were made to the Court of Appeal for British Columbia and the Supreme Court of Canada (SCC).
  - The SCC decision allowed the Attorney General's appeal without costs and the master's order for production of the Cabinet Submission was quashed.
  - The decision embraced the argument that judges associations must establish that there is some basis to believe that the document may contain evidence which tends to show that the government failed to meet one of the requirements described in Bodner.
  - On August 27, 2020, government received Chief Justice Hinkson's judgement with respect to the Legislative Assembly's response to the 2016 JCC's recommendations.
  - The Chief Justices' decision declared that government's response did not meet the three-part Bodner Test, and accordingly, the Chief Justice remitted the response back to the Attorney General and the Legislative Assembly for reconsideration.
  - Government is appealing the BC Supreme Court decision respecting government's response to the recommendations of the 2016 Judicial Compensation Commission and applying to stay the order of Chief Justice Hinkson.

- 2019 Judicial Compensation Commission
  - Government's response to the 2019 Judicial Compensation Commission recommendations was passed in the Legislative Assembly on July 8, 2020. The responses rejected, and substituted salaries for provincial court judges and judicial justices. The responses also rejected the recommendation that government pay 100% of the participation costs of the PCJA and JJABC.
  - At this time, neither the judge's association nor judicial justice's association have filed for judicial review.
- Future Processes
  - Advice/Recommendations

## MINISTRY ISSUE/OPPORTUNITY NOTE

### Issue:

- Cabinet Confidences

### Background:

- The executive branch of government has an obligation to support the administrative needs of the Courts.
- Urgent, driven by the pandemic, and guided by the [Court Digital Transformation Strategy](#), MAG in collaboration with the Courts and the broader sector, must modernize access to justice in British Columbia.

Cabinet Confidences; Advice/Recommendations

### Issue/Opportunity:

- The pandemic emphasized the crisis in justice across the country, brought on by years of limited funding for and a lack of coordinated attention to modernizing court processes. Aware of this significant limitation, in 2018/19 Court Services Branch (CSB) and Information Services Branch (ISB) led a thorough review, stakeholder and judiciary engagement, and strategic planning process to develop the [Court Digital Transformation Strategy](#). This document has become an invaluable guide.
- The pandemic, which instigated a collective need to act, provided a remarkable and rare opportunity for modernization in justice; made possible by a convergence of viewpoints by government, the judiciary, legal professionals, and the public.
- The first phase of this work involved addressing the immediate needs of the judicial system in response to the pandemic (moving from a state where access was limited significantly to closer to normal levels of access).

Advice/Recommendations



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Cabinet Confidences; Advice/Recommendations

Cabinet Confidences; Advice/Recommendations

Cabinet Confidences; Advice/Recommendations

Current funding initiatives include:

- \$2M in emergency operational funds were provided in May 2020 to the sector through the newly established Justice Electronic Delivery Initiative (JEDI), a JSB led cross sector collaborative initiative to assist/promote/require collaboration among various technology groups. Thus far the \$2M has funded work in JSB, ISB, CSB, BC Prosecution, Corners, and BC Corrections and is considered fully subscribed.

Cabinet Confidences; Advice/Recommendations; Government Financial Information

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Cabinet Confidences; Advice/Recommendations

## MINISTRY ISSUE/OPPORTUNITY NOTE

**Issue:** Legal Aid Services for Indigenous Clients

- Legal Aid Services for Indigenous Clients

**Background:**

- On February 26, 2020, Cabinet approved the Strategy of the BC First Nations Justice Council (BCFNJC).
- On March 6, 2020, it was released publicly at a signing ceremony in Nanaimo, BC.
- BCFNJS Strategy #5 calls for providing legal aid services through a newly established provincial Indigenous legal services entity, under the control of the BCFNJC.
- At present, legal aid services for Indigenous people are provided primarily by Legal Aid BC (LABC).
- Strategy #5 also calls for creating a workplan to transition legal aid services for Indigenous people in BC away from LABC to newly established Indigenous controlled entity. The workplan will identify how the transition will result in increased access to justice for Indigenous accused and outline clear criteria and standards for legal aid services.
- On September 30, 2020, IJPLD, LABC and the BCFNJC held a facilitated meeting to discuss the transition of both Gladue services and legal aid services for Indigenous peoples away from LABC to an Indigenous controlled entity.
- IJPLD, LABC and the BCFNJC agreed to form a working group to establish a timeframe and the parameters for the transition of legal aid services for Indigenous clients.

**Issue/Opportunity:**

- Development of a framework and workplan to transition legal aid services to an indigenous led organization, as identified in Strategy #5 of the BC First Nations Justice Strategy.

## MINISTRY ISSUE/OPPORTUNITY NOTE

### Issue: Transition of Legal Aid and Gladue Services

- Transition of legal aid and Gladue services for Indigenous people to an Indigenous led organization as per strategies #5 and #6 of the BC First Nations Justice Strategy (the Strategy).

### Background:

#### BC First Nations Justice Strategy (the Strategy):

- On February 26, 2020, Cabinet approved the Strategy of the BC First Nations Justice Council (BCFNJC).
- On March 6, 2020, it was released publicly at a signing ceremony in Nanaimo, BC.
- Strategy #5 calls for providing legal aid services through a newly established provincial Indigenous legal services entity, under the control of the BCFNJC.
- Strategy #6 calls for the establishment of a provincial Gladue Services entity to provide Gladue related services, including preparing/writing Gladue reports.

#### Legal Aid Services:

- At present, legal services for Indigenous people are provided by Legal Aid BC (LABC, previously known as the Legal Services Society).
- Strategy #5 also calls for the creation of a workplan to transition legal aid services for Indigenous people in BC from LABC to the newly established Indigenous controlled entity, delivered through Indigenous Justice centers (IJC's). The workplan will identify how the transition will result in increased access to justice for Indigenous accused and outline clear criteria and standards for legal aid service.

#### Gladue Services:

- Gladue reports provide courts with comprehensive information about an Indigenous offender's background, their community, and available options for sentencing and bail that offer realistic and viable alternatives to jail. The application of Gladue principles is required for all criminal proceedings involving Indigenous people.
- At present, LABC prepares the majority of Gladue reports in BC.
- Strategy #6 also calls for a framework and workplan to be established to transition Gladue services to the Gladue Implementation Agency.
- In whole, or in part, as a result of increased government and Law Foundation of BC funding for legal aid, LABC has been able to hire a senior Gladue report mentor, increase its roster of writers, provide training to report writers, and increase its capacity to produce Gladue reports, as follows:
  - In fiscal 2019/2020, LABC completed 289 reports while adding 11 new Gladue report writers to its writer roster.
  - In fiscal 2018/2019, LABC completed 217 reports.
  - In fiscal 2017-2018, LABC completed 135 reports.
- In 2018/2019, government allocated \$0.700 M per year for three years to engage the BC First Nations Justice Council (BCFNJC) and other system partners in the policy development required to develop a new approach to Gladue in BC. This funding has supported projects including:

- the Gladue Knowledge Sharing Gathering (October 3, 4 2018);
- Gladue current state process mapping workshop (December 11, 12, 2018);
- creating a senior Gladue report writer role within LABC;
- a comparative analysis of Gladue report programs across Canada; and
- support the BCFNJC to host provincial and regional forums to inform the BCFNJC and the future state of Gladue.

#### Advice/Recommendations; Intergovernmental Communications

##### Update on Transition of Legal Aid and Gladue Services:

- On September 30, 2020, IJPLD attended a facilitated meeting between LABC and the BCFNJC arranged to initiate the discussions on how to transition Gladue and Legal Aid services for Indigenous clients from LABC to an Indigenous controlled agency.
- IJPLD, LABC and the BCFNJC agreed to form a working group to establish a timeframe and the parameters for the transition of legal aid and Gladue services for Indigenous clients.
- A steering committee composed of ADM Kurt Sandstrom, LABC CEO Mark Benton, and BCFNJC Chair Doug White has been created to direct working group operations. Their first meeting will take place October 22, 2020.

#### Intergovernmental Communications; Advice/Recommendations

##### Issue/Opportunity:

- IJPLD will continue to support the BCFNJC and LABC to develop workplans for the transition of Gladue and Legal Aid services for Indigenous clients to an Indigenous controlled agency.

#### Intergovernmental Communications; Cabinet Confidences; Advice/Recommendations

## MINISTRY ISSUE/OPPORTUNITY NOTE

### Issue:

Cabinet Confidences; Advice/Recommendations; Intergovernmental Communications

### Background:

- The BC First Nations Justice Council (BCFNJC) has implemented 3 Indigenous Justice Centres (IJC) in Prince George, Prince Rupert and Merritt/Nichola Valley.
- IJCs provide legal support and advocacy based on a legal client model. Justice services focus on criminal and child welfare law using a legal clinic approach, guided by the principles of restorative justice and healing. They will also provide social and poverty support services that focus on mental health, addictions, and housing services.
- Due to unprecedented COVID-19 pandemic impacts, Indigenous service providers are facing critical resource challenges.
- The COVID-19 pandemic continues to affect IJC staff's ability to engage community members face-to-face, as many Indigenous communities are on self-imposed lockdown.

Cabinet Confidences; Advice/Recommendations; Intergovernmental Communications

- In January 2019, recommendation #16 of an external review of legal aid service delivery in BC was released (the Maclaren Report) supported the iterative and scalable development of Indigenous Justice Centres (IJCs) as culturally safe sites for holistic legal aid service to Indigenous people.
- On March 6, 2020, the BCFNJC released the BC First Nations Justice Strategy (BCFNJS) and the Province endorsed.<sup>1</sup> Strategy #4 called for investing in a network of IJCs that could deliver legal services and Gladue report programming.

Cabinet Confidences; Advice/Recommendations; Intergovernmental Communications

### Issue/Opportunity:

- IJCs use traditional and wholistic Indigenous approaches in the delivery of services. They form the foundation for a culturally appropriate network of justice and related social services for Indigenous people.

Cabinet Confidences; Advice/Recommendations; Intergovernmental Communications

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<sup>1</sup> Province of British Columbia, First Nations organizations, Province endorse new First Nations Justice Strategy, *News Release*, March 6, 2020, [https://9c56a069-86c3-43b1-ad5b-8cdb6fae3682.filesusr.com/ugd/43baff\\_50a6fe2ed7464dfa80120183e6e1ac87.pdf](https://9c56a069-86c3-43b1-ad5b-8cdb6fae3682.filesusr.com/ugd/43baff_50a6fe2ed7464dfa80120183e6e1ac87.pdf).

## MINISTRY ISSUE/OPPORTUNITY NOTE

**Issue:** Response to money laundering in gaming facilities

- Policy changes and enhanced enforcement resources have resulted in a dramatic decline in the amount of unsourced cash entering BC's gaming facilities.
- The Gaming Policy and Enforcement Branch (GPEB) continues to work with the British Columbia Lottery Corporation (BCLC), gambling facility operators, and law enforcement agencies in a sustained effort to prevent money laundering.

**Background:**

- As the entity responsible for conducting and managing gambling in BC, BCLC is the reporting entity to the Financial Transactions and Reporting Analysis Centre of Canada (FINTRAC). BCLC is required to provide large cash transaction (LCTs) reports and suspicious transaction reports (STRs) to FINTRAC and maintain policies and procedures to mitigate money laundering.
- In 2015, there were \$13.5 million in \$20 bills accepted at River Rock Casino Resort (RRCR) in one month, which is believed to be the peak of the use of proceeds of crime in BC gaming facilities.
- In 2015, BCLC began placing certain high-risk players on sourced cash conditions.
- In 2016, government and the RCMP established the Joint Illegal Gaming Investigation Team (JIGIT) within the Combined Forces Special Intelligence Unit (CFSEU). JIGIT's mandate is to provide multi-jurisdictional investigation and enforcement of illegal gambling and money laundering with an emphasis on organized crime.

*German Report and Response*

- In 2017, government commissioned Dr. Peter German to produce a report and recommendations to address money laundering in Lower Mainland casinos. Dr. German provided two interim recommendations in December 2017.
- Dr. German's report, *Dirty Money* was released in June 2018 and made 48 recommendations.
- Government accepted all recommendations in principle and to date, 37/48 recommendations have been fully addressed, nine will be addressed through amendments to legislation, and two remain underway.
- In January 2018, in response to one of Dr. German's interim recommendations, BCLC implemented a policy requiring a source of funds declaration and a receipt for all transactions of \$10,000 or more within a 24-hour period. GPEB audits gaming services providers' compliance with this requirement, and compliance has improved across the four audits conducted to date.
- In 2018, in response to Dr. German's second interim recommendation, GPEB established a new Enforcement Division in GPEB and hired 12 new investigators to be present at the five large high-volume casinos in the Lower Mainland during each day's 14-hour peak gambling activity period. Investigators are also available after hours through a dedicated email address.

*Money Laundering Data*

- From a high point in 2015, the volume and number of STRs has declined. As shown in Appendix A, the first substantive drop followed BCLC's implementation of cash conditions for high-risk players in late 2015 and the second substantive drop followed implementation of the source of funds policy in 2018.
- Similarly, as shown in Appendix B, there was a significant decline in the number and value of LCTs following the implementation the source of funds policy in 2018.
- STRs and LCTs remained low from 2018 onward until the COVID-19 pandemic prompted gaming facility closures in March 2020.

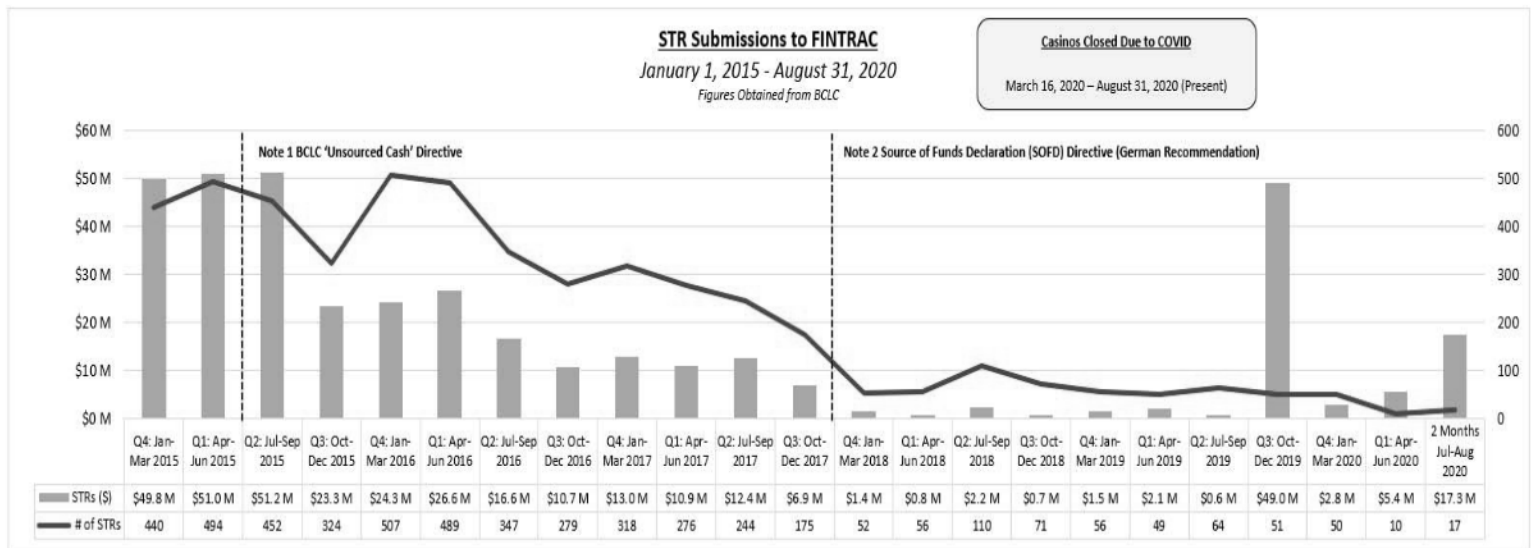


- GPEB has established and/or participates on several committees and groups to share expertise and take coordinated action against money laundering:
  - The **Enhanced Enforcement Response Steering Committee (EERSC)** was established in January 2019 and is comprised of GPEB, JIGIT, CFSEU-BC, Lower Mainland casino compliance leads, BCLC's AML and Investigations teams, and police officers from the Vancouver Police Department and the New Westminster Police Department. The EERSC provides a platform for cross-organizational information sharing, allowing for a multi-faceted response to gambling integrity threats, including criminality and money laundering.
  - The **Gaming Integrity Group (GIG)** was established in early 2018 as part of the implementation of recommendations from Dr. German's first report. It is comprised of GPEB, JIGIT, and BCLC. It conducts intelligence analysis on Unusual Financial Transaction (UFT) reports (an STR precursor report), identifies patrons that present a risk of money laundering, and, where possible, shares information gathered by GPEB investigators. Information sharing leads to more informed and effective uses of GPEB and BCLC AML measures, such as restricting high risk patrons' use of cash and banning patrons under s. 92 of the *Gaming Control Act*.
  - The **Gaming Intelligence and Investigative Unit (GIU)** was established in July 2019 by GPEB and JIGIT within JIGIT. The GIU monitors each STR and UFT by examining the facts, gathering information on suspected criminal activity related to the transaction, and sharing intelligence with GPEB and police for investigative follow-up when required. The GIU's primary role is to produce intelligence reports for GPEB and law enforcement to provide a common understanding of the changing risks to gambling integrity and to prioritize investigations based on risk. The GIU's first Strategic Intelligence Report covers the period from September 2016-2019 : Security Concern; Intergovernmental Communications
  - An **AML Vulnerabilities Working Group** was established in October 2018 by GPEB to monitor evolving money laundering risks in BC's gaming facilities and the effectiveness of policies to address these risks. GPEB then collaborates with BCLC in the **AML Risk Management Committee** to investigate further and develop policy solutions that incorporate all parties' insights where applicable.

**Issue/Opportunity:**

Cabinet Confidences; Advice/Recommendations

## Appendix A: Suspicious Transaction Reports



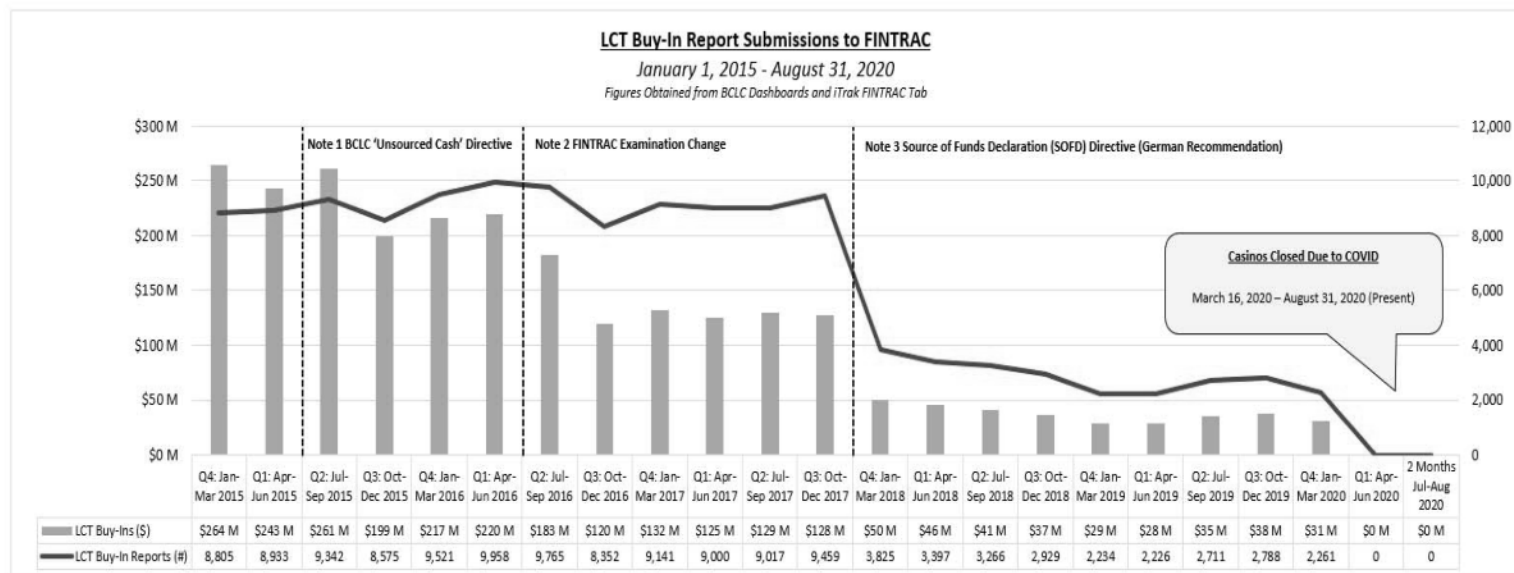
**Suspicious Transaction Report (STR)** - Required to be submitted to FINTRAC within 30 days of determining that there are reasonable grounds to suspect that a transaction or an attempted transaction is related to the commission or attempted commission of a money laundering or terrorist activity financing offence.

**Note 1 BCLC 'Un sourced Cash' Directive** - In the summer of 2015 BCLC started issuing directives to certain high-risk patrons advising them they are no longer permitted to buy-in with 'un sourced' cash. Un sourced cash is defined as cash without a bank or ATM withdrawal slip; however, patrons under the directive may buy-in with cash they received as payouts from the same casino.

**Note 2 Source of Funds Declaration (SOFD) Directive (German Recommendation)** - Effective January 10th, 2018, all cash and bearer monetary instruments (bank drafts/certified cheques) of \$10,000 or more will require a source of funds receipt by the patron prior to acceptance for buy-in at all BCLC service provider locations.

- The spike in STR amounts from 2019 onwards is because BCLC created STRs based on historical information received from law enforcement and/through BCLC AML Unit internal reviews. These STRs contain the patron's entire play history amount, and suspicious may have occurred in past years.
- On March 16, 2020, all BC casinos were directed to temporarily close due to COVID 19. The facilities will re-open upon government direction that it is safe and appropriate to do so.

## Appendix B: Large Cash Transactions



**Large Cash Transaction (LCT) Buy-In Report** - Required to be submitted to FINTRAC within 15 days when the casino receives \$10,000 or more in cash either in a single transaction or in multiple transactions within a 24-hour period.

**LCT Buy-Ins from July 20, 2016 Onwards** - Comprised of the following transactions: Sourced cash (i.e. cash with bank receipt, cash from previous casino payout, cash from the ATM machine at the casino); bank debit card transactions conducted at the cage for buy-in; and credit card cash advance transactions processed at the cage for buy-in. Prior to July 20, 2016, transfers of funds to and from a PGF account for gaming were also included as LCT Buy-Ins.

**Note 1 BCLC 'Unsourced Cash' Directive** - In the summer of 2015 BCLC started issuing directives to certain high-risk patrons advising them they are no longer permitted to buy-in with 'unsourced' cash. Unsourced cash is defined as cash without a bank or ATM withdrawal slip; however, patrons under the directive may buy-in with cash they received as payouts from the same casino.

**Note 2 FINTRAC Examination** - Effective July 20, 2016, all transactions involving transfers of funds to and from a PGF account for gaming (withdrawal of funds to table, redeposit of funds and winnings etc.) are not to be reported on an LCT. As the original source of funds into a PGF account is not cash there is no regulatory requirement to report an LCT for that original deposit, or any subsequent gaming transactions involving that initial deposit. The main purpose of this change was to eliminate the over reporting of non-cash transactions between a PGF account and a gaming table.

**Note 3 Source of Funds Declaration (SOFD) Directive (German Recommendation)** - Effective January 10th, 2018, all cash and bearer monetary instruments (bank drafts/certified cheques) of \$10,000 or more will require a source of funds receipt by the patron prior to acceptance for buy-in at all BCLC service provider locations.

## 30/60/90 DAY UPCOMING OICS/REGULATIONS

[illegible]

ITEM	DESCRIPTION	NEXT STEPS (Deliverables/Milestones & timelines)	NOTES/COMMENTS
Advice/Recommendations; Cabinet Confidences			
<b>OIC</b>  <b>Queen's Counsel designations</b>	Under the <i>Queen's Counsel Act</i> , the LGIC, on the recommendation of the Attorney General, may bestow on lawyers in BC the honorary title of Queen's Counsel (Q.C.) to recognize exceptional merit and contribution to the legal profession.	Targeting a December 2020 Cabinet meeting.	Early December to be announced as a Christmas honour, per the usual custom.
Advice/Recommendations; Cabinet Confidences			

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Cabinet Confidences; Advice/Recommendations



Ministry of  
Attorney General

# Budget Briefing

Fiscal 20/21 and Budget 2021 Preview  
October 26, 2020

# AG Fiscal 20/21 Budget Overview

- Estimates Budget - \$651.8M
- Contingencies
- Q2 Forecast –

Cabinet Confidences;  
Advice/Recommendations; Government  
Financial Information

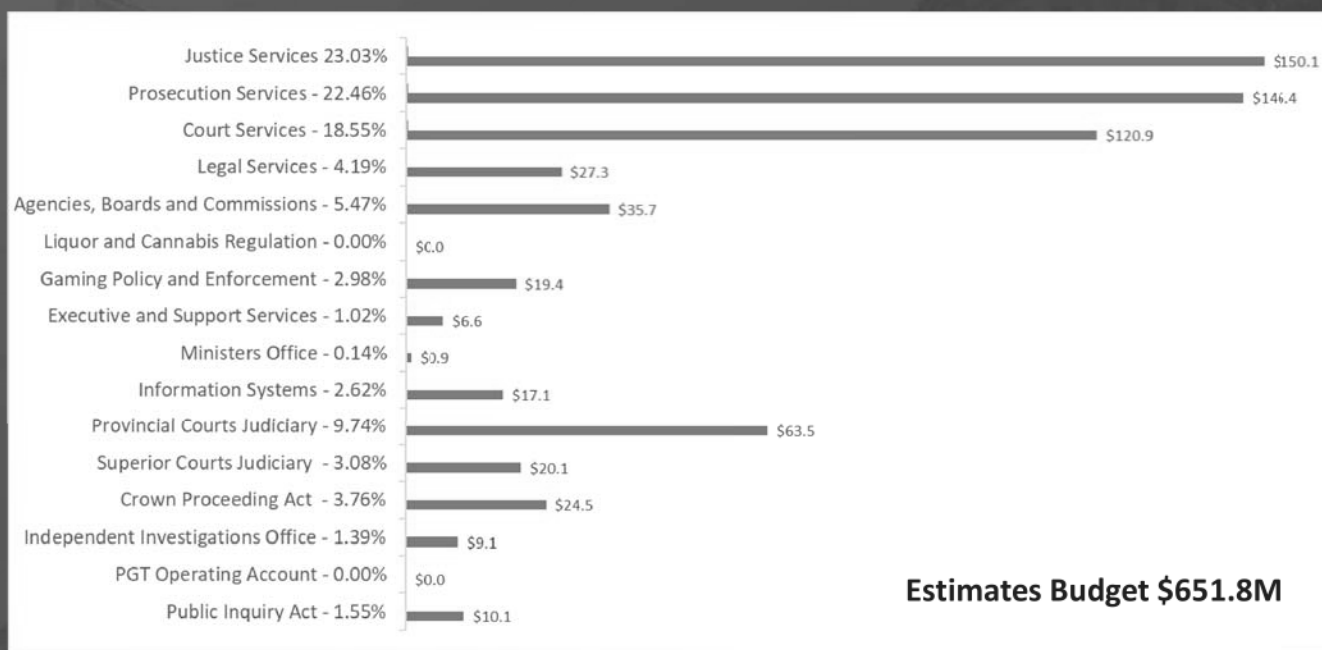
Cabinet  
Confidences;  
Advice/Recommendations;  
Government  
Financial  
Information

Forecast Over-Expenditure Excluding Contingencies

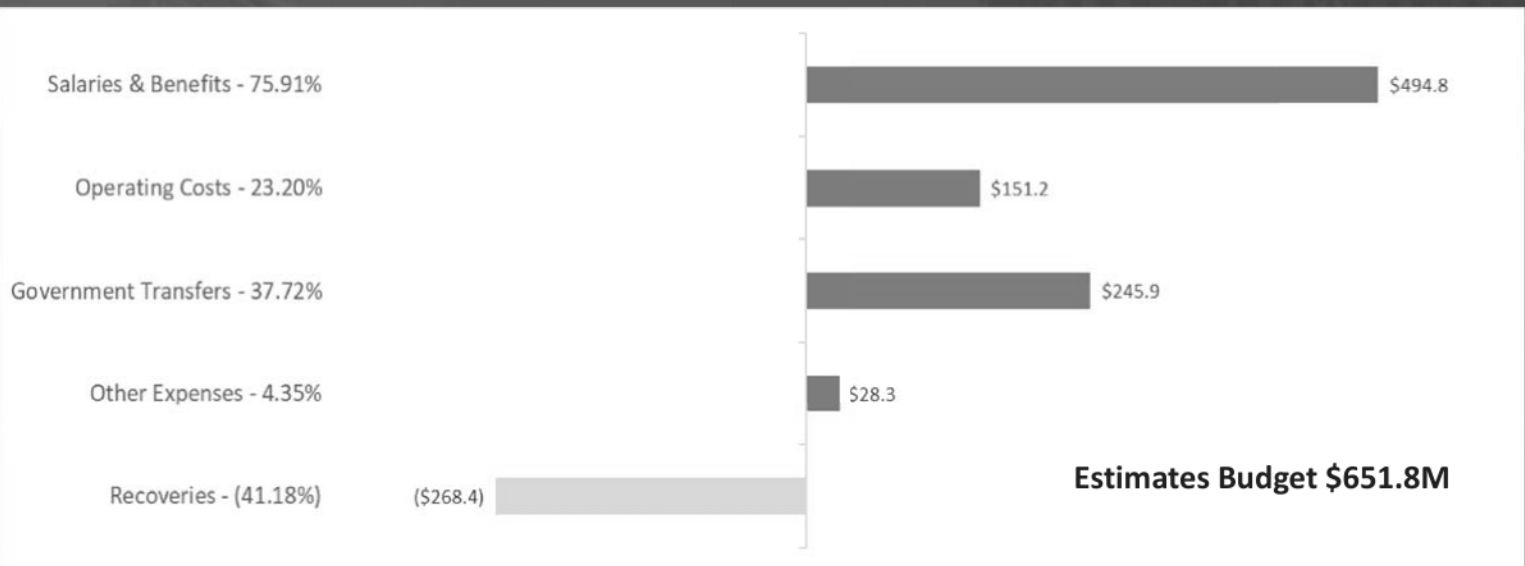
Forecast Over-Expenditure Including Contingencies



## AG Estimates Budget by Branch (\$M)



## AG Estimates Budget by Expenditure Type (\$M)



# Fiscal 20/21 Budget Summary by Branch and Expenditure Type (\$M)

Branch/Program	FTEs <sup>1</sup>	Expenditure Type						Estimates Total
		Salaries and Benefits	Operating Costs	Government Transfers	Other Expenses	Recoveries	Recoveries External	
Justice Services	271.37	25.639						150.110
Prosecution Services	914.97	135.639						146.429
Court Services	1,396.58	105.632						120.948
Legal Services	545.12	59.803						27.314
Agencies, Boards, Commissions and Other Tribunals	281.39	28.783						35.679
Liquor and Cannabis Regulation	167.82	9.641						0.001
Gaming Policy and Enforcement	152.63	13.256						19.437
Executive and Support Services	19.01	2.908						6.631
Ministers Office	5.43	0.619						0.900
Information Systems	Government Financial Information							
Superior Courts Judiciary		16.520						20.069
Provincial Courts Judiciary		55.724						63.503
Crown Proceeding Act								24.500
Independent Investigations Office		7.122						9.075
Public Guardian and Trustee Operating Account		24.653						0.000
Public Inquiry Act		0.421						10.136
<b>Total</b>	<b>4,594.72</b>	<b>494.811</b>						<b>651.840</b>

<sup>1</sup> Source: CHIPS FTE Burn as of Sept. 26, 2020 Pay Period

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Cabinet Confidences; Advice/Recommendations; Government Financial Information

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Cabinet Confidences

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Cabinet Confidences; Advice/Recommendations

## Crown Corporations (1 of 2)

- **Legal Aid BC (LABC)**

- Key provider of legal aid services on behalf of the government, which provides 95% of LABC's funding
- Government Funding - \$101.1M
- 212 FTEs

- **BC Family Maintenance Agency (BCFMA)**

- Program established in 1988, transferred to Crown Corporation in 2019
- \$16.85M Budget; Cabinet Confidences;  
Government Financial
- 199.4 FTEs

## Crown Corporations (2 of 2)

- **British Columbia Lottery Corporation (BCLC)**

- Responsible for the conduct and management of commercial gambling, including lottery, casino, bingo and online gambling.
- BCLC net income funds health care, education and important services and programs across B.C.

- 
- 

Advice/Recommendations; Government Financial Information

- 998 FTEs (based on 19/20 actuals)

- **Insurance Corporation of BC (ICBC)**

- Provides universal compulsory (Basic) automobile insurance for all BC motorists
- Competes with private insurance companies to offer optional vehicle insurance coverages
- Provides driver licensing, vehicle registration and licensing and fines collection service for the province
- \$86M 20/21 Budgeted Net Income
- 5,720 FTEs

- **Liquor Distribution Branch (LDB)**

- One of two branches of government responsible for the wholesale distribution and retail sale of beverage alcohol and non-medical cannabis.
- Not a crown corporation, but required to comply Crown agency financial reporting, service plan and mandate letter requirements
- \$1,133.5M 20/21 Budgeted Net Income
- 4,194 FTEs (based on 20/21 Service Plan)



**Ministry of Attorney General**

**BC PROSECUTION SERVICE – SIGNIFICANT CASES**

**A. Special Prosecutions in the Public Domain**

***Bountiful***

On January 13, 2012, after a direction from the Attorney General, Assistant Deputy Attorney General (ADAG) Robert Gillen, QC, appointed Peter Wilson, QC, to provide advice to police in relation to an ongoing investigation into potential offences against minors by individuals associated with the community of Bountiful. Mr. Wilson's mandate was eventually extended to include consideration of offences of polygamy.

Mr. Wilson approved and prosecuted two different sets of charges. After the first trial, on charges of removal of young women from Canada to facilitate sexual offences, two of the three accused were convicted, and one was acquitted. The Special Prosecutor initiated an appeal of the acquittal and one of the two convicted offenders has appealed the conviction. The two convicted offenders were sentenced on August 11, 2017. The Appeals were heard in June 2018. The appeal from conviction was dismissed while the Special Prosecutor's appeal of the Acquittal was allowed. At the retrial Mr. Oler was convicted and on August 29<sup>th</sup>, 2019 was sentenced to 12 months in jail followed by 18 months probation.

The second trial, on charges of polygamy, was concluded in the spring of 2017. A guilty verdict for both accused was rendered on July 24, 2017. On June 26, 2018, Mr. Blackmore was sentenced to six months of house arrest and ordered to perform 150 hours of community service, while Mr. Oler was sentenced to three months of house arrest and 75 hours of community service.

***R. v. Vagramov***

On December 17, 2018 Michael Klein QC was appointed Special Prosecutor in relation to an investigation of a sexual assault alleged to have occurred in Coquitlam in 2015. The suspect was alleged to be Mr. Robert Vagramov, the current mayor of Port Moody.

Ultimately Mr. Klein approved a single charge of sexual assault contrary to section 271 of the *Criminal Code* against Mr. Vagramov. The accused made his first appearance on the matter on April 25, 2019 in Port Coquitlam Provincial Court.

After consideration of the circumstances of the offence, the BCPS policy *Alternative for Adult Offenders* (ALT 1) and the provisions of the *Criminal Code* dealing with alternative measures the

Special Prosecutor referred Mr. Vagramov to BC Corrections for an assessment of suitability for alternative measures.

On November 12, 2019 Special Prosecutor Michael Klein QC stayed the proceedings against Robert Vagramov after being advised by BC Corrections that Mr. Vagramov has successfully completed an alternative measures program authorized pursuant to section 717(1) of the *Criminal Code*.

The press has subsequently petitioned the BC Supreme Court for an order allowing access to the “records” relating to the alternative measures. The Special Prosecutor retains conduct of the file for the purposes of responding to the application.

### ***R. v. John***

On February 22, 2019, Michael Klein QC was appointed Special Prosecutor following receipt by the BC Prosecution Service (BCPS) of a Report to Crown Counsel relating to sexual offences alleged to have occurred in and around Prince George in 1974. The suspect identified in the report was Edward John, Hereditary Chief of the Tl'azt'en Nation.

Mr. Klein was given a mandate to provide legal advice to the RCMP investigators as necessary, conduct any related charge assessment, and assume conduct of the prosecution if charges were approved.

Mr. Klein subsequently approved four counts of having sexual intercourse with a female person without her consent contrary to section 144 of the *Criminal Code* R.S.C. 1970 Chap. C-34. The incidents are alleged to have occurred between March 1st, 1974 and September 15th, 1974. A Preliminary Inquiry is scheduled for March 21, 2021.

### ***MLA Jinny Sims***

On October 4, 2019, Richard Peck QC was appointed Special Prosecutor to provide legal assistance and advice to the RCMP in relation to an investigation being conducted into allegations of criminal wrongdoing against MLA Jinny Sims and other persons unknown to the BCPS. The appointment followed the request by the RCMP for the assistance of a Special Prosecutor.

Mr. Peck's mandate included:

- offering such legal advice to the investigative agency as may be necessary in the circumstances;

- conducting an independent assessment of any Report to Crown Counsel (RCC) that may be submitted and making the charging decision he deems appropriate in the exercise of his independent discretion in accordance with BC Prosecution Service policies;
- providing a written report to the ADAG with the results of the assessment and the reasons for the decision; and,
- if he determines, in the exercise of his discretion that a prosecution is warranted, conduct the prosecution and any subsequent appeal.

On April 3, 2020 Mr. Peck announced that he had been informed by the RCMP that their investigation into the matter revealed no evidence to support any of the allegations made against MLA Sims and that they had closed their investigation. As a result, he concluded that there was no further action to take with respect to the matter and the Special Prosecutor concluded their involvement.

### ***R. v. Bouvette***

On January 16, 2020, the BCPS announced that Marilyn Sandford QC had been appointed Special Prosecutor to conduct an independent review of the conduct of the BCPS in the prosecution of *R. v. Bouvette*. The file was prosecuted in Cranbrook in 2012-2013 and involved a conviction for criminal negligence causing death. The accused was a caregiver originally charged with second-degree murder following the death of a 19-month-old toddler she was babysitting.

Ms. Sandford was appointed following media inquiries about disclosure issues that had recently been brought to light by an investigative journalist with the Fifth Estate. The story alleged inadequate disclosure of independent reports critical of the work on the case by the Alberta pathologist who conducted the autopsy.

The ADAG concluded, based on the inquiries and the information available about the case that a Special Prosecutor should be appointed to avoid any significant potential for real or perceived improper influence in the administration of criminal justice. The review is ongoing.

### ***BC Elections Act - Investigation***

On March 30, 2017 David Butcher QC was appointed as Special Prosecutor to provide legal advice to the RCMP in relation to an investigation being conducted into indirect political contributions and other potential contraventions of the *BC Election Act*.

Mr. Butcher was given a mandate to offer such legal advice to the police as may be necessary and to conduct an independent assessment of any RCC that may be submitted.

After a lengthy investigation involving several interim reports, the RCMP provided a “Concluding Report” summarizing the investigation to Mr. Butcher in August 2019. No Report to Crown Counsel for consideration of charges was submitted.

After reviewing the “Concluding Report”, Mr. Butcher determined that there was no further action to take with respect to the matter. In a “Clear Statement” prepared by Mr. Butcher, he outlined the results of the investigation and his conclusions that the police were correct in their analysis that there was insufficient evidence available to meet the charge approval standard in this case.

***R. v. Devnich***

On March 20, 2017, the acting ADAG appointed Robin McFee QC Special Prosecutor in relation to allegations of theft of money from the constituency office of Chilliwack MLA John Martin. Mr. McFee was appointed when the RCMP requested that a Special Prosecutor be appointed for the purpose of providing legal advice during the investigation and any resulting prosecution.

Mr. McFee later approved charges of breach of trust by a public official and fraud against the accused. Guilty pleas were entered to the breach of trust charges recently and the matter was adjourned to December 2020 for sentencing.

**B. Major Cases**

***Mount Polley – Environmental Prosecution***

This is a joint prosecution between the BCPS and the Public Prosecution Service of Canada (PPSC). It is led by the PPSC. The file is currently at the pre-charge stage.

Charges are currently being considered as a result of a mine tailings storage facility (TSF) breach at the Mount Polley Mining Corporation site near Likely, BC, that occurred on August 3<sup>rd</sup> and 4<sup>th</sup>, 2014. The breach released much of the contents of the TSF, which were comprised of sediment, residue metals, sewage, surface runoff, etc., into the nearby Bootjack Creek, Polley Lake, Hazeltine Creek, Edney Creek, and Quesnel Lake.

These waters were frequented by, and provided habitat for, fish which contribute to the Indigenous, recreational, and commercial fisheries. The environmental damage was extensive, and in areas, permanent.

***R. v. Teixeira, Mulligan-Brum, and Tull***

The accused are charged jointly and individually with offences which include: first-degree murder, attempted murder, conspiracy to commit murder, and kidnapping. Steven Mulligan-Brum and David Tull have entered guilty pleas and have been sentenced for those offences.

Brandon Teixeira was recently extradited from the US (California), and is awaiting trial. The charges against Teixeira allege that on October 23, 2017 in a residential neighbourhood near Crescent Beach, BC, he murdered Nicholas Khabra by shooting and stabbing him multiple times. He is also charged with the attempted murder of Khabra's girlfriend, s.22 She was shot but survived her injury.

***R. v. Alexander***

The accused (Richard Ernest Alexander) is charged with the first-degree murder of Dillon Brown. The accused is the president of the Devil's Army outlaw motorcycle gang. The trial is set for April 2021.

On November 22, 2015 the victim, Dillon Brown, got into a fight with members of the Hells Angels and Devil's Army at a Campbell River Bar. In January 2016, the victim launched a civil suit against the bar staff for failing to intervene in the fight.

***R. v. Mahoney Nguyen***

The accused (Tyrel Hieu George Mahoney Nguyen, aka Tyrel Quesnelle) is charged with the first-degree murder of Jagvir Malhi (2018); first-degree murder of Randeep Kang (2017) and the attempted murder of s.22 (2017).

The accused is alleged to have shot Randeep Kang in a residential area in Surrey. On November 12, 2018 victim Jagvir Malhi was rear-ended at an intersection in Abbotsford, BC. When he exited his car the accused allegedly shot and killed him.

***R. v. Alkhalil, Wiwchar, and Amero***

The accused (Rabih Alkhalil, Dean Wiwchar, and Larry Amero) are charged with conspiracy to commit murder and first-degree murder in retaliation for the murder of Jonathan Bacon in Kelowna in August 2011, in which Larry Amero was also injured. The victims were Sandip Dhure and Suhkveer Dhak.

The plan to kill Duhre was successful when Wiwchar entered the Sheraton Wall Center Hotel on January 17, 2012 and shot and killed him. Dhak was subsequently murdered in November of 2012.

This matter is currently before the Court for *voir dire* from September to December 2020. Jury selection is scheduled for January 2–12, 2021. The trial will take six months.

### **C. High-Profile Cases**

#### ***R. v. Beckett***

The accused is charged with the first-degree murder of his spouse in a boating incident that occurred on Shuswap Lake in the interior. His first trial ended in a hung jury. He was convicted in a second trial. The conviction was recently overturned by the BC Court of Appeal. The BCPS is assessing whether to proceed with a new trial, direct a stay of proceedings, or appeal the decision.

#### ***R. v. Cobin (Amanda Todd case)***

On April 17, 2014, the BCPS announced that charges had been approved against a resident of the Netherlands in connection with the alleged online extortion of Amanda Todd, who later died by suicide. The accused (Aydin Cobin) was subsequently charged and ultimately convicted of similar charges in his home country. He was also the subject of investigations in a number of other countries.

The BCPS initiated extradition proceedings at an early stage. The application for extradition was recently approved by the court in Holland. Arrangements are being made to have the accused returned to BC for prosecution.

#### ***R. v. Ali***

The accused (Ibrahim Ali) is charged with the first-degree murder of 13-year-old Marissa Shen whose body was found in a Burnaby park in July 2017. The charges followed an investigation that identified the accused in 2018. The accused is a Syrian refugee that came to Canada in 2017. No date is set for the trial which is still in pretrial applications.

#### ***R. v. Deo, Deo, and Khun Khun***

The accused in this case, Harjot Deo, is alleged to have killed his girlfriend in the home where he lived with his parents and family. The co-accused on the indictment (Gurvinder Deo and Talwinder Khun Khun) are family members who are alleged to have assisted in efforts to dispose of the remains. His mother and sister are charged on a separate information with obstructing the investigation into the homicide. Harjot Deo is charged with second-degree murder and the co-accused are charged with offering indignity to human remains and as accessories after the fact to the murder.

***R. v. Loubissi-Morris***

The accused (Abd’l Malik Loubissi-Morris) is charged with attempting to murder Personal Information by shooting him. Arising from the same incident, he is also charged with the aggravated assault of Personal Information an uninvolved bystander who was struck by one of the bullets. Personal Information

The incident occurred on a residential street in Surrey on the afternoon of July 9, 2017. The drive-by shooting was captured on a residential security camera. As the victim tried to escape his route took him through a nearby intersection at the same time as a minivan carrying Personal Information and others. One of the shots fired at Person entered the cabin of the minivan and struck Personal Information. Fortunately, her injuries were not life threatening.

***R. v. Brittain***

This case follows a shooting spree which left four individuals dead in Penticton in 2019. The accused (John Brittain) is charged with three counts of first-degree murder and one count of second-degree murder. On October 5, 2020, the first day of the trial, the accused indicated an intention to plead guilty to all charges. On October 14 the accused pled guilty to all charges and was sentenced to life in prison with no chance of parole for 25 years.

***R. v. Westervelt***

On August 14, 2020 the BCPS directed a stay of proceedings on this murder case from the Okanagan. The accused was charged with second-degree murder in the death of his partner following a boating incident. Shortly before the preliminary inquiry was scheduled to begin, the Crown with conduct of the case directed a stay of proceedings after concluding the charge assessment standard was no longer met.

The decision was concurred in by the Regional Crown Counsel and Deputy Regional Crown Counsel. The decision was conveyed to the family of the victim without detailing the specific evidentiary issue that led to the reassessment of the charge. The investigation remains open. The family are unhappy with the Crown’s decision and the lack of information provided. They have written to the Attorney General and the ADAG and protested on the courthouse steps in Kelowna to express their concerns.

***R. v. Kiewit, Rule, and Karjala***

Peter Kiewit and Sons (subcontractor), and several senior managers were the subjects of a police investigation following a workplace fatality at a jobsite at a hydroelectric project at the headwaters of Toba Inlet, about 100 kilometers north of Powell River, BC. Charges were sworn in May 2019 and appearances have been made by Kiewit and Mr. Rule, one of the managers.

The second of the two senior Managers charged, Mr. Karjala, has been arrested and is awaiting extradition from Montana. An extradition hearing is set for November 10, 2020 in Montana. The trial was recently set for September 2021.

***R. v. Tait***

RCMP Cst. Jason Tait is before the court on a charge of manslaughter using a firearm in relation to a shooting which occurred during an attempted traffic stop near Castlegar on January 29, 2015. Jury selection was set for September 14, 2020 in Nelson with the trial to follow on September 21. An information charging Cst. Jason Tait with these offences was sworn April 3, 2018. The case was investigated by the Independent Investigation Office (IIO) which subsequently submitted a Report to Crown Counsel. The investigation and charge assessment process were protracted due, in part, to the complexities of the evidentiary issues in the case and the requirement for further investigation and analysis. Trial is ongoing.

***R. v. Sasano, Rigeur, et al***

Four animal rights activists have been charged with offences related to their protest at the Excelsior Hog Farm and other farms in February, March, and April 2019. Initial appearances were made on Sept. 3 and the arraignment hearing is set for November 2, 2020. A letter writing-campaign and petition has been initiated to push for charges against the farms for animal cruelty. No charges against those farms are pending.

***R. v. Seangio***

RCMP Cst. and reserve Military Police officer Andrew Seangio is charged with seven counts of committing indecent acts, three counts of exposing himself to girls, and one count of voyeurism. During the investigation into these offences police contacted investigators in Ontario who, following their own investigation, have also charged the officer with 34 counts of voyeurism. Police allege he was off-duty at the time of these incidents. Trial dates will be fixed for the BC charges on November 15.

**D. Cases before the Supreme Court of Canada**

***R. v. Desautel (SCC Crown appeal)***

Mr. Desautel shot and killed an elk in the Arrow Lakes region in British Columbia, without a hunting license. He is a member of the American Lakes Tribe of the Confederated Tribes of the Colville Reservation, a citizen of the United States, and a resident on the Colville Indian Reserve in Washington State. He has never been a resident of British Columbia, a citizen of Canada, nor registered under the Canadian *Indian Act*. Mr. Desautel was charged with hunting without a licence contrary to section 11(1) of the BC *Wildlife Act* and hunting big game while not being a



resident of British Columbia. He admitted the *actus reus* but claimed an Indigenous right to hunt for ceremonial purposes in the traditional territory of his Sinixt ancestors and that this right is protected by section 35(1) of the *Constitution Act*.

The trial judge held that the Sinixt engaged in hunting, fishing, and gathering in their traditional territory north and south of the 49th parallel, including the Arrow Lakes area. Their territory south of the 49<sup>th</sup> parallel became part of the United States in 1846 pursuant to the Oregon Boundary Treaty. In 1902, the Canadian federal government set aside a reserve for the Arrow Lakes Band which included the few Sinixt members who remained in their traditional territory in Canada. In 1956, the last living member of the Arrow Lakes Band died, and the federal government declared the Arrow Lakes Band extinct for the purposes of the *Indian Act*.

The trial judge held that Mr. Desautel was exercising an Indigenous right to hunt for ceremonial purposes guaranteed by section 35 of the *Constitution Act*, 1982 and the application of sections 11(1) and 47(a) of the *Wildlife Act* unjustifiably infringes that right. Mr. Desautel was acquitted. The Supreme Court of British Columbia dismissed a summary conviction appeal. The Court of Appeal dismissed an appeal. The SCC heard the Crown appeal on October 8, 2020. Decision is pending.

***R. v. Langan*** (SCC Crown appeal)

At trial, the respondent, Mr. Langan, was convicted of sexual assault contrary to section 271 of the *Criminal Code*. The trial judge admitted into evidence numerous text messages between the complainant and the accused, sent both before and after the alleged offence. A majority of the British Columbia Court of Appeal allowed Mr. Langan's appeal, set aside the conviction, and ordered a new trial. In the majority's view, the trial judge erred by using the text messages as prior consistent statements to corroborate the complainant's evidence, and his brief reasons revealed an error in his approach to credibility. Both errors warranted a new trial. The majority was also of the view that the text messages preceding the event ought to have been subjected to a section 276 *voir dire* to determine its relevance.

In dissent, Chief Justice Bauman would have dismissed the appeal and upheld the conviction as, in his view, the trial judge's reasons displayed no errors of law. Hearing of the Crown appeal is set for November 5, 2020.

***R. v. Albashir*** (SCC Defence appeal)

On December 22, 2016, the appellant, Mr. Albashir, was charged with several offences related to his operation of a commercial sex trade, including living on the avails of prostitution contrary to section 212(1)(j) of the *Criminal Code*. Despite finding factual guilt on all counts, the trial judge quashed the section 212(1)(j) counts on the indictment as unconstitutional, relying on

*Canada (Attorney General) v. Bedford*, 2013 SCC 72. On December 20, 2013, in *Bedford*, the Court held that section 212(1)(j) was overbroad and could not be saved under section 1 of the *Canadian Charter of Rights and Freedoms* but suspended the declaration of invalidity for a period of one year.

The British Columbia Court of Appeal allowed the Crown's appeal and ordered that convictions be entered for the section 212(1)(j) counts, finding that the trial judge fell into error when he quashed them. Since Parliament replaced section 212(1)(j) with a new offence that largely mirrors its predecessor in substance but carves out a number of exceptions intended to address concerns over security of the person raised in *Bedford* within the period of the suspension, conduct captured by the former iteration of the offence during the suspended declaration of invalidity is prosecutable. During the suspension period, section 212(1)(j) was constitutionally valid. The retroactive effect of a suspended declaration of invalidity is pre-empted by the passing of remedial legislation: the declaration of invalidity never came into effect to render the provision a nullity. The hearing of the appeal has not been scheduled.

***R. v. J.J.*** (SCC Crown application for leave to appeal)

The applicant has applied for leave to appeal pursuant to section 40 of the *Supreme Court Act*, R.S.C. 1985, c. S 26 from an interlocutory constitutional ruling in which Duncan J. held that the seven-day notice requirement in section 278.93(4) of the *Criminal Code* violated section 7 of the *Charter* and could not be saved under section 1 of the *Charter*. Duncan J. "read down" section 278.93(4) of the *Criminal Code* to: (1) remove the seven-day notice requirement in section 278.93(4) only as it applies to section 278.92 applications; and (2) provide that section 278.92 applications should be made "at the conclusion of the complainant's examination in chief, or as otherwise required by the judge, provincial court judge or justice in the interests of justice".

***R. v. Dingwall, Richet, and Russell*** (Defence application for leave to appeal)

At trial, the appellant, Ms. Dingwall, was found guilty of 11 charges including counts of discharging a firearm with intent to wound, intentionally discharging a firearm while being reckless as to the safety of others, aggravated assault, arson, and possession of stolen property. The charges were laid following the appellant and two co-accused's arrests in connection to a drive-by shooting occurring outside a house in Mackenzie, British Columbia.

The appellant and co-accused appealed their respective convictions. The majority at the Court of Appeal for British Columbia dismissed the appeals. First, the majority held that the verdicts were not unreasonable. Next, the majority also disagreed with the arguments that (1) there was a failure to consider each accused separately; (2) the Thatcher principle does not apply in a trial before judge alone; and (3) there was a failure to provide adequate reasons.

In dissent, Butler J.A. would have allowed the appellant's appeal. In his view, the trial judge erred in concluding that the only rational inference to be drawn from the evidence was that the appellant aided or abetted in the offences committed. As the appellant's participation in the offences was not the only rational inference on the evidence, the Crown could not be taken to have met its burden of proof and the trial judge's verdict was therefore unreasonable.

#### **E. BC Court of Appeal cases**

##### ***R. v. Handlen***

The accused (Garry Handlen) was charged with two counts of first-degree murder in the murders of Kathryn-Mary Herbert (age 11) in Abbotsford in 1975 and Monica Jack (age 12) near Merritt in 1978. An undercover police operation in November 2013, resulted in these charges.

The offender was convicted of one count of murder in relation to Monica Jack and is now appealing that conviction. No hearing date is set.

##### ***R. v. Cox, Ali, Figueredo, Acosta, Bradbury, and Stewart***

The accused (Aarinam Cox, Shamil Ali, Gopal Figueredo, Erlan Acosta, Elwood Bradbury and Matthew Stewart) were charged with kidnapping, unlawful confinement, threatening violence, aggravated assault and manslaughter. On September 17, 2016 the accused took gunpoint from his home in Vancouver. During the commission of the kidnapping girlfriend, Samantha Le, and his roommate Xuan Van Vy Ba-Cao were killed with gunshots to the head. Ba-Cao's four-year-old son witnessed the murders but was not harmed otherwise.

Personal Information

The prosecution resulted in the conviction of all six. Two of the offenders, Bradbury and Stewart have appealed their convictions. No hearing dates are set.

##### ***R. v. Vallee***

This is a gang-related matter (UN Gang/Red Scorpions) that saw Cory Vallee convicted of the murder of Kevin LeClair and conspiracy to commit the murder of the Bacon brothers. He was sentenced for these offences in December 2018.

These were violent gang shootings which made use of automatic weapons in public places. The offender had fled Canada to Mexico but was ultimately returned to Canada to face charges.

The offender has filed an appeal which is set to be heard March 2 to 5, 2021.

***R. v. Bacon, Haevischer, Johnston, and Michael Le*** (Surrey Six Murders)

In the context of an ongoing violent struggle between rival gangs in Greater Vancouver, James Bacon, leader of the Red Scorpions, allegedly orchestrated the execution of a rival drug dealer, Cory Lal. In the course of the murder five other men – including two innocents – were gunned down at the Balmoral Tower apartment building in Surrey in 2007. James Bacon is alleged to have masterminded the plan although he is not alleged to have personally carried it out. Crown proceeded separately against James Bacon on one direct Indictment and three other gang members on a second direct Indictment.

One of the three accused on the second indictment pled guilty to conspiracy. The other two were convicted of murder. They have appealed their convictions. The appeals were heard starting on October 14, 2020.

James Bacon recently pled guilty to conspiracy to commit the murder of Cory Lal and counselling the murder of another on a separate indictment. Sentencing has concluded.

***Post Conviction Review Cases***

***R. v. Tallio***

Phillip Tallio was 17 years old in 1983 when he was charged with the first degree murder of a 22 month old girl who was sexually assaulted and suffocated to death in *Bella Coola*. Represented by counsel, he pled guilty during the trial to second degree murder. In January 1984, he was sentenced to life imprisonment with no parole eligibility for ten years.

In 2010, UBC Faculty of Law's *Innocence Project* started its representation of Mr. TALLIO. He filed a Notice of Appeal and Extension of Time to Appeal in November 2016. His extension of time was granted on June 30, 2017. The appellant has raised multiple issues in support of his application to quash his guilty plea, including ineffective assistance of his trial counsel and investigative tunnel vision.

On June 6, 2019, Mr. Tallio filed an application for bail pending the hearing of his appeal. That application was heard by the Court of Appeal on July 23, 2019 and denied. The presiding judge indicated she would consider release if “a more structured and supervised environment was available”. In a subsequent application Mr. Tallio proposed a new residential facility which addresses some but not all of the Crown's concerns regarding supervision and reintegration. The Court of Appeal ordered Mr. Tallio's release on bail on January 8, 2020.

Commencing on October 13, 2020 the Court heard an application to adduce fresh evidence and cross-examination of witnesses. Oral argument on the merits of the appeal is set for November 23 to 27, 2020.

***R. v. Klassen***

On Mar. 10, 1995, Klassen was convicted of the first degree murder of an Indigenous woman on Dec. 15, 1993. The victim's body was found floating face-down by the shore of Nicola Lake north of Merritt. Her pants and underwear were around her ankles. She had suffered significant trauma to her face and elsewhere on her body. Klassen's appeal was dismissed.

Klassen engaged the Innocence Project from 2010-2013. They closed their file in 2013. Klassen went back to the Innocence Project again, which, in Nov. 2017, re-opened an inquiry into Klassen's conviction. The first stage of an application is for a lawyer from the federal Criminal Conviction Review Group ("CCRG") to conduct a Preliminary Assessment.

On Sept. 6, 2019, counsel acting for the CCRG advised that the preliminary assessment had been completed. The conclusion was there was a "reasonable basis to conclude that a miscarriage of justice likely occurred". The application thus moved to the investigative stage, with counsel for the CCRG reviewing the RCMP's file plus the Crown file in January 2020.

On Feb. 6, 2020, Counsel for Klassen advised that he had filed an application seeking Klassen's release pending the CCRG's ultimate decision. That application was delayed, likely due to COVID-19. Klassen's application for release on bail is now set for Dec. 1-3, 2020.

# THE COURTS OF BRITISH COLUMBIA

## THE PROVINCIAL COURT OF BRITISH COLUMBIA

**Melissa Gillespie**  
**Chief Judge Provincial Court of British**  
**Columbia**



### **Description:**

The Provincial Court of British Columbia is the first level of court in the province. The court's jurisdiction includes criminal, family, child protection, small claims, traffic and bylaw cases. The court handles over 90% of criminal cases conducted in the province. The court sits in 89 locations (45 staffed and 44 unstaffed) throughout the province and hundreds of people attend the Provincial Court of British Columbia every day. For these people, this court represents the face of justice in B.C.

The Provincial Court of British Columbia is constituted by the Provincial Court Act, R.S.B.C. 1996, c.379. The Act provides for the appointment of the Chief Judge, Associate Chief Judges, Masters and Judicial Justices. It also identifies the term of the Chief Judge as well as his powers and duties.

The province through the Lieutenant Governor in Council appoints and funds the court judges, masters and judicial justices.

### **Budget 2020/21: (millions)**

Operating Budget      \$63.503

### **Full Time Equivalents (not for public release):**

135.23 Judicial full time equivalents

## THE SUPREME COURT OF BRITISH COLUMBIA

**Christopher E. Hinkson**  
**Chief Justice Supreme Court of British**  
**Columbia**



### **Description:**

The Supreme Court of British Columbia is the province's superior trial court. It is a court of general and inherent jurisdiction which means that it has jurisdiction to hear and decide any matter that comes before it, unless a statute or rule limits that authority or grants exclusive jurisdiction to some other court or tribunal.

The court's inherent jurisdiction allows it to control its own processes and the procedures before it so as to ensure fairness and to prevent abuses of process. The Supreme Court of British Columbia hears both civil and criminal cases as well as appeals from Provincial Court of British Columbia. The court also reviews decisions of administrative tribunals such as the Labour Relations Board, the Workers' Compensation Appeal Tribunal and residential tenancy arbitrators.

The Supreme Court Act, R.S.B.C. 1996, c. 443, provides for a Chief Justice of the Supreme Court, an Associate Chief Justice, and 90 other justices. The legislation also provides for supernumerary judges who sit hearing cases part-time. Including supernumerary judges, there are presently 106 judges. There are also 14 Supreme Court masters who hear and dispose of a wide variety of applications in chambers. The Supreme Court of British Columbia also has a Registrar and a District Registrar who hear assessments relating to bills of costs, reviews lawyers' accounts, settles orders, references of various types and deals with bankruptcy discharge applications.

The Government of Canada appoints and funds Supreme Court Judges, while Supreme Court Masters and Registrars are appointed and paid for by the Province of British Columbia.

### **Budget 2020/21: (millions)**

Operating Budget      \$20.069\*

### **Full Time Equivalents (not for public release):**

Intergovernmental  
Communications

\*The budget for the Supreme Court of British Columbia includes the British Columbia Court of Appeal budget and its Full Time Equivalent allocation, which does not include judicial salaries, benefits or FTEs.



## THE BRITISH COLUMBIA COURT OF APPEAL

**Robert Bauman**  
**Chief Justice of British Columbia Court of  
Appeal**



### **Description:**

The British Columbia Court of Appeal is the highest court in the province. It hears appeals from the Supreme Court of British Columbia, from the Provincial Court of British Columbia on some criminal matters, and reviews and appeals from some administrative boards and tribunals. Most of the matters heard by the court are at the Vancouver Law Courts; however the court also sits in Victoria, Kelowna and Kamloops.

The British Columbia Court of Appeal is constituted by the Court of Appeal Act, R.S.B.C. 1996, c. 77. The Act provides for a Chief Justice and 14 other justices, as well as for supernumerary justices.

The British Columbia Court of Appeal has a registrar who, in addition to other administrative duties, hears matters related to the settling of orders and bills of costs.

### **Budget and Full Time Equivalents (not for public release):**

The budget for the British Columbia Court of Appeal is included in the Supreme Court of British Columbia budget and FTE allocation, which does not include judicial salaries, benefits or FTEs.

## **Judicial Independence**

The courts are an independent branch of government. The constitutional principle of judicial independence must be respected to maintain the rule of law and to ensure public confidence in the administration of justice. Judicial independence is a Constitutional principle fundamental to the Canadian system of government. This independence follows from the Constitutional Act and the Canadian Charter of Rights.

Specifically subsection 11(d) of the Canadian Charter of Rights and Freedoms, Part 1 of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (U.K.), 1982, c. 11, section 96, and the preamble of the Constitution Act, 1867 have been recognised by the Supreme Court of Canada as affirming the principle of Judicial Independence in Canada.

## **Justice Reform and Transparency Act**

The Justice Reform and Transparency Act includes the provision for the creation of the memorandum of understanding that was signed by the Minister of Justice and Attorney General, the Chief Justice of the British Columbia Court of Appeal, the Chief Justice of the Supreme Court of British Columbia and the Chief Judge of the Provincial Court of British Columbia, on April 4, 2013.

The memorandum of understanding clarifies the structure for how the Attorney General and the judiciary will work collaboratively to meet their individual and collective responsibilities. It acknowledges and respects the constitutional framework in which the Minister of Justice and Attorney General and the judiciary, as separate and independent branches of government, operate while noting a shared obligation to deliver timely, impartial and open justice. The agreement reflects the continuing discussions between the Attorney General, the Chief Justices and the Chief Judge concerning the roles and responsibilities of each in the administration of B.C.'s courts.

## BIOGRAPHY

**Melissa Gillespie, QC**  
**Chief Judge Provincial Court of British Columbia**



Melissa Gillespie was appointed as Chief Judge on October 19, 2018.

She began her legal career as Crown Counsel working in New Westminster, Surrey and Burnaby. She then became Deputy Regional Crown Counsel, and in 2005 Regional Crown Counsel for the Fraser Region. Chief Judge Gillespie was sworn in as a Provincial Court judge in February 2012. In addition to sitting assignments, Chief Judge Gillespie was active in delivering education programs to judges and judicial justices, as well as to the larger legal community. She also served as a member of the executive of the BC Provincial Court Judges Association for several years. A member of the Board of Directors of the Justice Education Society, she has participated in a Justice Education Society project to strengthen the criminal justice system in Guyana.

## BIOGRAPHY

**CHRISTOPHER (CHRIS) E. HINKSON, QC**  
**Chief Justice Supreme Court of British Columbia**



Christopher (Chris) Hinkson was appointed Chief Justice on November 7, 2013.

He was a partner in Harper Grey LLP, Vancouver, and maintained an extensive practice in the area of medical malpractice, plus personal injury litigation, professional negligence, insurance litigation, products liability, and administrative law. He represented the families in the Auton case before the Supreme Court of Canada. He is a Fellow of the American College of Trial Lawyers. He has served as a Clinical Assistant Professor, Faculty of Medicine and Adjunct Professor, Faculty of Law, UBC and as a lecturer for CLE, Continuing Medical Education, and Inns of Court.

## BIOGRAPHY

### **ROBERT BAUMAN**

**Chief Justice of British Columbia Court of Appeal**



Chief Justice Bauman was appointed Chief Justice of British Columbia Court of Appeal effective June 16, 2013. He was appointed Chief Justice of the Supreme Court on September 9, 2009. He was appointed a Judge of the Supreme Court of British Columbia in 1996 and a Judge of the British Columbia Court of Appeal in 2008. He has been a member of the Provincial Attorney General Rules Committee since 2004 and Chair of the Supreme Court Civil Law Committee since 2005.

Chief Justice Bauman completed a Bachelor of Arts from the University of Western Ontario in 1971 and Bachelor of Laws (LLB with Honours) from the University of Toronto in 1974. He was an associate and partner with Wilson, King & Company in Prince George, British Columbia from 1975 to 1977, a partner with Wilson, Bauman in Kelowna, British Columbia from 1977 to 1981. He practised with Bull, Housser & Tupper in Vancouver, British Columbia from 1982 to 1996, just prior to his appointment to the Supreme Court of British Columbia.

## BACKGROUND NOTE

### Issue:

- Court Recovery Plan Summary

### Priority activities for recovery:

- Court Services Branch will continue to implement health and safety measures inside courthouses in accordance with the directions received from provincial health officials, the BC Public Service Agency, and an external workplace safety consulting firm.
- Continue discussions within the Ministry and with the Courts to identify opportunities for modernization, innovation, and increased access to early, successful, and out-of-court resolutions.
- Continue to position the court system to be able to effectively address the significant court case backlogs by seeking funding (contingency or otherwise) for technology upgrades and expansion, additional resources, and infrastructure.
- Continue improving court technology foundations (bandwidth, wifi, hardware, software for virtual hearings, digital document displays, and online resolution).
- Continue to collaborate with the Courts to develop processes and guidelines to address potential service disruptions caused by a second or third wave of COVID-19, or an outbreak at a particular courthouse.
- Continue working with the BC Public Service Agency Workplace Health and Safety to develop COVID exposure control policies and procedures for court staff and court users.
- Continue refining requirements for selecting and preparing alternate court locations to accommodate court matters (circuit court, traffic court, indigenous court, criminal jury trials) in where courthouses cannot safely accommodate.
- Continue working with the Ministry and the Courts on legislative and policy initiatives that will improve access to justice and support court recovery (Traffic Online, Court of Appeal Act, Small Claims Rules, Supreme Court Rules, etc).

## BACKGROUND NOTE

### Issue:

- Abbotsford Courthouse Replacement Project has created a 14 hearing room law courts that will open January 18<sup>th</sup>, 2021. The Abbotsford Law Courts (ALC) will provide improved access to a broad range of legal resources by consolidating a variety of justice services into one location.

### Background:

- The Abbotsford Law Courts (ALC) includes a variety of justice agencies such as the Supreme Court and Provincial Court Judiciaries, Court Services Branch (Court Administration and Sheriff Services), BC Prosecution Service, Community Corrections, Justice Services Branch (Justice Access Centre), Legal Services Society, BC Courthouse Libraries and other associated court workers (e.g., Aboriginal Court Workers and Justice Education Society).
- The courthouse project was procured through a public-private partnership model – the first P3 for a new courthouse in B.C. The successful proponent was Plenary PCL Justice. They met the required criteria of price, quality of design, ability to adapt to the needs of those using the facility, and ability to meet energy efficiency targets.
- The B.C. government contributed \$152.2 M in capital costs to the project, while the City of Abbotsford contributed \$5.7 M in the form of a land leasing arrangement with the Province.
- The two levels of government negotiated a 60-year lease of the city-owned property, with the potential for further extension.

### Intergovernmental Communications

- The new Abbotsford Law Courts will help to meet the increasing demand for judicial services in one of B.C.'s fastest-growing regions and will mark a major improvement to the region's justice system infrastructure and provide British Columbians with better access to our justice system so that they can navigate their legal matters more quickly, easily and affordably.
- The 14-room Law Courts will include three Supreme Court courtrooms, eight Provincial Court courtrooms, two judicial conference rooms and one Initial Appearance courtroom.
- All meeting rooms, interview rooms and judiciary chambers have video conference capabilities.
- The project remains on schedule, within scope and on budget, even during these challenging times of COVID-19.
- Occupancy permit was received August 28<sup>th</sup>, 2020.
- Construction substantial completion (96%+ of construction cost) was met on Sept 30<sup>th</sup>, 2020. The project achieved 99.7% completion of construction cost. There are identified deficiencies totalling \$314,300, or .028% of the construction budget.
- Construction trailers and site security fencing have been removed
- Move management meetings have been initiated with ALC major user groups in early September 2020.

### Considerations:

- Senior Court Manager will be the building point of contact for day to day building operational issues. Corporate Management Services Branch, Facilities Service Division (FSD) will provide a single point of contact for all facilities program issue and project management across the all ALC

programs.

- FSD and Ministry of Citizens' Services (CITZ) have initiated the review and the confirmation of P3 courthouse facilities internal business processes.
- Justice sector building operational processes are being reviewed and documented including building committees and protocols i.e. JOSH.
- Move management and transition planning workshops continue. ISB is leading the exercise to move and provision technologies in anticipation of staff occupancy post service commencement.
- Work continues on IM/IT and Telephony including implementation of MS Teams for the Judiciary.
- Plenary Justice has scheduled the required Pinchin environmental review. Consequential modifications will follow, maintaining consistency with other sites across the province.
  - Pinchin (Environmental experts) have been secured to prepare environmental review by November 6<sup>th</sup>, 2020.
  - Courts Pandemic Response Post Service Commencement scope, cost and schedule to be defined upon review of Pinchin Report.
  - Both courts have indicated pandemic response modifications must be implemented prior to opening.
- Weekly calls have been established to monitor the progress of IT systems and integration including the management of roles and responsibilities and the capacity of resources.
- Province supplied technology continues to be the biggest risk to full operational readiness
- Service Commencement is supported by transition planning workshops and weekly design review meetings with Judicial representatives supporting the continued monitoring of changing requirements for the court users which may have impacts to the overall project schedule.
- Provincial and Supreme Courts requirements or expectations may change. These changes drive more cost requirements for space, equipment and finishes.

**Next Steps:**

- PCL to continue work to remediate deficiencies for scheduled completion by December.
- Courts Pandemic Response Plan implementation by January 2021.
- Staff Training and Judicial orientation for courtroom-based technologies will occur in early January 2021; once the required modifications are complete.



## BACKGROUND NOTE

### Issue:

- Court Technology and Innovation

### Background:

- Court Services Branch remains committed to ensuring timely access to justice through technology innovation.
- Work to date has put the Branch in a good position to respond to the current pandemic and the pressures faced across the justice sector.

### Court Digital Transformation Strategy and the Court Technology Board

- The Branch, in collaboration with the judiciary and justice stakeholders, has developed a Court Digital Transformation Strategy that provides a clear roadmap of the shared government and judicial priorities to improve services and accessibility for court users.
- A Court Technology Board, that includes representation from all three levels of Court, is established to share common goals and priorities with a strategic approach to support the Courts and Branch in achieving technology and program innovation.
- The strategy builds on existing technology already in use (such as Court Services Online, Online Divorce Assistant, Videoconferencing and more), expertise of justice partners and the support of the judiciary to deliver user-centered services.
- This strategy looks to a future where technology enables a digital court system where services are more integrated and providing options to the judiciary and citizens to streamline access to justice.

### System enhancements (Court Services Online, e-filing, Court Audio, Court Digital Content)

- Further enhancements to Court Services Online (CSO) enable e-filing and electronic access to court records, improving timely access to services.
- Systems continue to be expanded to support of the electronic submission of family forms, divorce forms and Court of Appeal forms.
- The following priority projects, identified by the Court Technology Board and as part of the strategy, include:
  - Supreme Court Viewer – Application allowing Supreme Court Justices and Masters to view electronic criminal and civil filed documents.
  - Submitted Materials – Court Services Online is being updated to allow for the submission of Supreme Court Chamber Binders electronically.
  - The new Family Law Act (FLA) forms application has expedited the full ‘end to end’ interface of the forms with the Civil Electronic Information System (CEIS). Data elements will update CEIS, eliminating data entry and PDFs will get saved to the object repository. This will eliminate the need for parties to attend a courthouse to file documents.
  - The Online Divorce Assistant will be leveraging the FLA application work to implement the same ‘end to end’ service.
- Access to Audio and Court Documents – the project commenced with web-based access to court audio and documents for contracted transcript companies and has expanded using a new authentication model (Trust over IP) to criminal and family documents for counsel. Counsel can access Provincial criminal audio, log notes, Informations and electronic Records of Proceedings. Work is underway to expand this to family duty counsel for civil family.
- Updates to judicial systems provide the ability for judicial officers to view electronic civil and criminal documentation to facilitate virtual hearings.

### **Videoconferencing**

- Court Services Branch has a well-established Videoconferencing (VC) Strategy and is currently moving forward with enabling more remote appearance capacity and supporting judicial officers to hear matters, where appropriate, virtually or remotely.
- The VC strategy is focused on both refreshing legacy equipment and expanding VC services.
- The videoconferencing network currently supports over 350 devices and endpoints located in courthouses, correctional centers, police detachments and boardrooms around the province.
- An assessment of network capacity is underway that will inform the scope of work and upgrades needed in order to support remote / virtual appearances.

### **Virtual Court Appearances**

- In response to Covid-19, Microsoft Teams virtual hearings are now being conducted in both the Supreme and Provincial Court (e.g. Pretrial Conferences, Bail Hearings, Initial Appearance Court and select Supreme Court criminal and civil matters).
- Polycom RealConnect has been implemented to integrate MS Teams with existing Courts videoconferencing units, allowing an in-custody accused to appear from correctional institutions or RCMP facilities directly into a MS Teams hearings. Polycom RealConnect as a cloud-based video interoperability service that connects to the existing video solution.

### **Court Scheduling Systems**

- Continued development of online court services scheduling for sheriffs and interpreter.
- The Sheriff Scheduling System has been piloted in five locations, Vancouver Law Courts, Vancouver Provincial Criminal (222 Main St), Victoria, Chilliwack, Cranbrook, feedback received from these pilot locations is being incorporated into the design and functionality with further expansion later in 2020-21.
- The Interpreter Scheduling System will leverage the work done previously, such as Crown Counsel Scheduling and Sheriff Scheduling, with the creation of a web-based booking system for interpreters, providing transparency to Branch interpreter clerks on availability of interpreters, creating efficiencies.

### **Virtual Interpreter Appearances**

- A videoconferencing suite in Vancouver, allows interpreters to appear attend the Vancouver videoconferencing suite and appear remotely to the receiving locations, eliminating the need for lengthy travel.
- Four Remote Interpreter Systems (RIS) have been built. The first RIS unit has been in pilot in Richmond and the other three RIU units are to be located at Kamloops, Nanaimo and Prince George.

### **Modernization of Legacy Systems**

- Court Fees and Fines modernization project will see the development of a new fees and fines management system and review of existing policy.
- Replacement of the existing Accounts Receivable and Collections system is underway, through the Court Fees and Fines Management System Request for Proposal with an anticipated budget of \$1.5M over 18 months.

## BACKGROUND NOTE

### Issue:

- Responding to Covid-19: Courthouse modifications to resume court operations

### Background:

- On March 17, 2020, both the Superior and Provincial Courts of B.C. reduced in-person court appearances in response to the pandemic and to comply with the Public Health order.
- During the following months and in order to ensure the safety of all court users and staff, Court Services Branch in collaboration with the judiciary, has successfully implemented COVID-19 related health and safety policies in accordance with current advice, directives and recommendations from the Provincial Health Officer, BCCDC, WorkSafe BC, and BC PSA Workplace Health and Safety.
- Some of these measures include:
  - Health Screening upon entry to a Courthouse
  - Enhanced cleaning and sanitizing by dedicated day porters
  - Courthouse assessments by a third party health and safety consultant to identify modifications to the public spaces in order to comply with the PHO guidelines
  - Environmental Measures including, removal of extraneous furniture, installation of Plexiglas/Lexan barriers, directional arrows, signage for physical distancing and maximum occupancy in public spaces (elevators, washrooms, courtrooms)
  - Administrative Measures including drop box filing at entry point, altered schedules, entry point health questionnaires, promoting e-filing using Court Services Online, and supporting virtual court appearances, where appropriate
  - Personal Measures including the provision of PPE (provision of hand-sanitizers, masks and gloves, wearing masks if physical distancing cannot be maintained)
- Court Services Branch continues to use a mixed model for staffing, where operationally feasible to have staff work from home or in-person to ensure adherence to health and safety guidelines.
- Microsoft Teams is being rolled out provincially to every courthouse to allow for virtual or remote appearances.
- Increased in-person court appearances resumed June 2020.
- Since July, Provincial Court of BC Registries and BC Supreme Court Registries have been accessible to the public.
- Supreme Court civil jury trial matters have been temporarily suspended for the next 12 months.
- Supreme Court criminal jury trials commenced in September. Court Services Branch is arranging for courthouse assessments to determine whether the jury trial can be conducted in the courthouse accordance with public health guidelines. Where the assessments reveal that there is no suitable space for a jury trial within the courthouse, the Ministry is identifying alternate locations (large facilities outside of the courthouse) to safely accommodate the jury trial. The first Supreme Court Criminal Jury Trial at an alternate court location was successfully held in Nelson (Capitol Theatre).
- Alternate locations for indigenous courts (family and criminal) are also being assessed on a community by community basis.

- Where possible interpreters are appearing virtually. Court Services Branch is piloting assistive listening equipment to accommodate interpreters appearing in person while allowing them to maintain physical distancing requirements. A remote interpreter system is being piloted and will provide interpreters to attend hearings remotely using videoconferencing technology.

**This archived statute consolidation is current to December 31, 2013 and includes changes enacted and in force by that date. For the most current information, click [here](#).**

## **CROWN COUNSEL ACT**

### **[RSBC 1996] CHAPTER 87**

#### **Contents**

- 1 Definitions
- 2 Functions and responsibilities of the BC Prosecution Service
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#### **Definitions**

**1** In this Act:

**"ADAG"** means the Assistant Deputy Attorney General, Criminal Justice Branch;

**"Branch"** means the Criminal Justice Branch of the Ministry of Justice;

**"offence"** means an offence

(a) under the *Criminal Code* or any other enactment of Canada with respect to which the Attorney General of British Columbia may initiate and conduct a prosecution, and

(b) under an enactment of British Columbia.

#### **Functions and responsibilities of the BC Prosecution Service**

**2** The Branch has the following functions and responsibilities:

- (a) to approve and conduct, on behalf of the Crown, all prosecutions of offences in British Columbia;
- (b) to initiate and conduct, on behalf of the Crown, all appeals and other proceedings in respect of any prosecution of an offence in British Columbia;
- (c) to conduct, on behalf of the Crown, any appeal or other proceeding in respect of a prosecution of an offence, in which the Crown is named as a respondent;
- (d) to advise the government on all criminal law matters;
- (e) to develop policies and procedures in respect of the administration of criminal justice in British Columbia;
- (f) to provide liaison with the media and affected members of the public on all matters respecting approval and conduct of prosecutions of offences or related appeals;
- (g) any other function or responsibility assigned to the Branch by the Attorney General.

### **Assistant Deputy Attorney General**

- 3 (1) The ADAG is charged with the administration of the Branch and with carrying out the functions and responsibilities of the Branch under section 2.
- (2) The ADAG is designated, for purposes of section 2 of the *Criminal Code*, as a lawful deputy of the Attorney General.

### **Responsibilities of Crown counsel**

- 4 (1) The ADAG may designate as "Crown counsel" any individual or class of individual who is lawfully entitled to practise law in British Columbia.
- (2) Each Crown counsel is authorized to represent the Crown before all courts in relation to the prosecution of offences.
- (3) Subject to the directions of the ADAG or another Crown counsel designated by the ADAG, each Crown counsel is authorized to
- (a) examine all relevant information and documents and, following the examination, to approve for prosecution any offence or offences that he or she considers appropriate,
  - (b) conduct the prosecutions approved, and
  - (c) supervise prosecutions of offences that are being initiated or conducted by individuals who are not Crown counsel and, if the

interests of justice require, to intervene and to conduct those prosecutions.

(4) The Attorney General may establish an appeal process under which law enforcement officials may appeal the determination of any Crown counselor or special prosecutor not to approve a prosecution.

#### **British Columbia Crown Counsel Association Agreement**

##### **4.1** (1) In this section:

**"BCCCA"** means the British Columbia Crown Counsel Association, a society incorporated under the *Society Act*;

**"Crown counsel"** means an individual described in section 4 (1) who is an "employee" as defined in section 1 of the *Public Service Act* but does not include

- (a) the Assistant Deputy Attorney General,
- (b) the Director, Special Justice Programs,
- (c) the Executive Director, BC Prosecution Service,
- (d) the Regional Crown counsel,
- (e) the Deputy Regional Crown counsel,
- (f) the Director, Criminal Appeals,
- (g) the Director, Legal Services,
- (h) the Communications Officer,
- (i) the Director, Policy and Legislation,
- (j) the Deputy Director, Commercial Crime,
- (k) the Deputy Director, Criminal Appeals, and
- (l) the persons in other positions specified by agreement of the employer and the BCCCA;

**"employer"** means the government represented by the BC Public Service Agency.

(2) The BCCCA is the exclusive bargaining agent for all Crown counsel and is authorized to enter into agreements with the employer which must include all matters affecting wages or salary, hours of work and other working conditions, except the following:

- (a) the principle of merit and its application in the appointment and promotion of employees, subject to section 4 (3) of the *Public Service Act*;

- (b) a matter included under the *Public Sector Pension Plans Act*;
  - (c) the organization, establishment or administration of the ministries and branches of the government, except the effect of reductions in establishment of employees, which must be negotiated by the parties;
  - (d) the application of the system of classification of positions or job evaluation under the *Public Service Act*;
  - (e) the procedures and methods of training or retraining of all employees not affected by section 15 of the *Public Service Labour Relations Act*, other than training programs administered with a branch or ministry that apply to one occupational group only.
- (3) The employer and the BCCCA must bargain collectively in good faith and make every reasonable effort to conclude agreements referred to in subsection (2).

#### **Directions from Attorney General on specific prosecutions**

- 5 If the Attorney General or Deputy Attorney General gives the ADAG a direction with respect to the approval or conduct of any specific prosecution or appeal, that direction must be
- (a) given in writing to the ADAG, and
  - (b) published in the Gazette.

#### **Policy directive from Attorney General**

- 6 (1) If the Attorney General or Deputy Attorney General wishes to issue a directive respecting the BC Prosecution Service policy on the approval or conduct of prosecutions, that directive must be given in writing to the ADAG and, in the discretion of the ADAG, may be published in the Gazette.
- (2) If the Attorney General or Deputy Attorney General wishes to issue a directive respecting the administration of the Branch, that directive must, if requested by the ADAG, be given in writing and may, in the discretion of the ADAG, be published in the Gazette.

#### **Special prosecutors**

- 7 (1) If the ADAG considers it is in the public interest, he or she may appoint a lawyer, who is not employed in the Ministry of Justice, as a special prosecutor.
- (2) A special prosecutor must carry out his or her mandate, as set out in writing by the ADAG, and in particular must



(a) examine all relevant information and documents and report to the ADAG with respect to the approval and conduct of any specific prosecution, and

(b) carry out any other responsibilities respecting the initiation and conduct of a specific prosecution.

(3) If the ADAG appoints a special prosecutor, the ADAG must advise the Deputy Attorney General

(a) that a special prosecutor has been appointed, and

(b) the name of the special prosecutor.

(4) If, after a special prosecutor receives the mandate under subsection (2), the Attorney General, Deputy Attorney General or ADAG gives a direction to a special prosecutor in respect of any matter within the mandate of the special prosecutor, that direction must be given in writing and be published in the Gazette.

(5) Subject to the mandate given to the special prosecutor by the ADAG or to a directive referred to in subsection (4), the decision of a special prosecutor with respect to any matter within his or her mandate is final, but a decision not to approve a prosecution may be appealed by a law enforcement officer under the process established by section 4 (4).

### **Delay in publication**

8 (1) The Attorney General, Deputy Attorney General or ADAG may direct publication in the Gazette of those matters referred to in section 5 or 7 be delayed if to do so would be in the interests of the administration of justice.

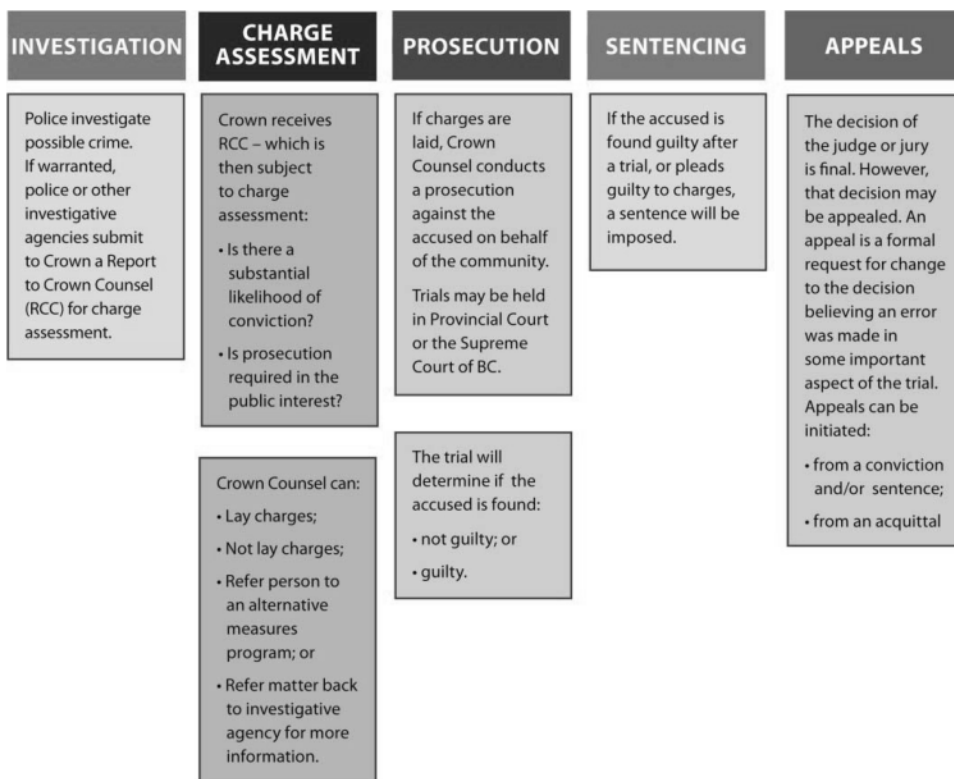
(2) A delay under subsection (1) must not extend beyond the completion of the prosecution or matter or any related prosecution or matter.



## The Role of the BC Prosecution Service

### The Criminal Justice Process

- In Canada, the provinces and territories are responsible for the administration of justice.
- Provincial Crown Counsel prosecute all offences and appeals in British Columbia that arise under Canada's *Criminal Code* and provincial regulatory offences. The federal prosecution service is responsible for prosecuting certain offences under federal legislation, including drug or income tax charges.
- While the BC Prosecution Service is part of the Ministry of Attorney General, the prosecutorial function is at arm's length from government, in order to avoid any potential for real or perceived improper influence.
- The Assistant Deputy Attorney General (ADAG) heads the BC Prosecution Service. The ADAG has the authority for the conduct and supervision of all criminal prosecutions.
- The *Crown Counsel Act* sets out the functions and responsibilities of Crown Counsel, the BC Prosecution Service and the Assistant Deputy Attorney General. It also addresses the relationship between the Attorney General, Deputy Attorney General, and the BC Prosecution Service.



### Investigation

- When a possible crime is reported or identified, the police will investigate and decide whether the

incident warrants forwarding a Report to Crown Counsel (RCC) to the BC Prosecution Service.

- In British Columbia, prosecutors decide whether criminal charges should be laid. Crown Counsel do not investigate crimes. Nor do they have authority over police in respect to individual investigations.

### **Charge Assessment**

- A two-part test is used to determine whether criminal charges should be approved: first, there must be a substantial likelihood of conviction based on the evidence gathered by the police, and second, a prosecution is required in the public interest.
- Crown Counsel assess if and what charges are laid, and against whom. Crown Counsel can decide that no charges should be laid, charges should be laid, or the accused person should be referred to an alternative measures program rather than go to court.
- The Crown Counsel Policy Manual also guides prosecutors in making their charge assessment decisions.
- Once the charge assessment has been conducted, a new prosecution file is created, which can involve one or more accused, on one or more charges.
- The formal court process is initiated by the swearing of an Information (the charging document).

### **Prosecutions & Appeals**

- Crown Counsel conduct prosecutions and appeals in every level of court: the Provincial Court of BC, BC Supreme Court, BC Court of Appeal and Supreme Court of Canada.
- Crown Counsel are lawyers, who act as prosecutors on behalf of society as a whole.
- Although one of their responsibilities is to keep victims informed about the justice process, prosecutors do not act for victims of a crime.
- Crown Counsel's duty is not to obtain a conviction at any cost, but to ensure that the trial process is fair to all, that evidence is presented thoroughly and accurately, and the integrity of the justice process is maintained.

### **Sentencing**

- If the accused pleads guilty or is found guilty after a trial, he or she will be sentenced.
- Crown Counsel are responsible for making a recommendation on sentence. The final sentencing decision is made by the court.
- Post-sentence reviews, applications, appeals and other legal processes may result in some matters related to a concluded file being revisited.

## **Role of Crown Counsel**

- Crown Counsel are lawyers, who act as prosecutors on behalf of society as a whole. Crown Counsel do not represent individual victims.

- Crown Counsel appear in court as agents for the Attorney General for British Columbia. The Attorney General has overall supervisory authority over prosecutions that fall within the province's constitutional responsibility.
- In British Columbia, prosecutors decide whether criminal charges should be laid.
  - Police investigate alleged crimes and gather evidence;
  - The police then prepare and submit a Report to Crown Counsel (RCC); and,
  - Then, Crown Counsel assess if and what charges are laid, and against whom.
- Provincial Crown Counsel prosecute all offences and appeals in British Columbia that arise under Canada's *Criminal Code* and provincial regulatory offences. The federal prosecution service is responsible for prosecuting certain offences under federal legislation, including drug or income tax charges.
- Crown Counsel are responsible for presenting the prosecution side of the matter. They call witnesses to the stand so they may testify in court, present evidence, and explain to the judge and jury the details of the alleged crime.
- Crown Counsel's duty is not to obtain a conviction at any cost, but to ensure that the trial process is fair to all, that evidence is presented thoroughly and accurately, and the integrity of the justice process is maintained.
- A two-part test is used to determine whether criminal charges should be approved: first, there must be a substantial likelihood of conviction based on the evidence gathered by the police, and second, a prosecution is required in the public interest.
- Crown Counsel do not investigate crimes. Nor do they have authority over police in respect to individual investigations.
- When a person is convicted of a crime, Crown Counsel make a submission as to a sentence to the court, but it is up to a judge to determine the appropriate penalty for the individual offence.
- The Assistant Deputy Attorney General (ADAG) heads the BC Prosecution Service. The ADAG has the authority for the conduct and supervision of all criminal prosecutions.
- While the BC Prosecution Service is part of the Ministry of Attorney General, the prosecutorial function is at arm's length from government, in order to avoid any potential for real or perceived improper influence.

## Role of Special Prosecutors

## Historical Background

In 1991, a public inquiry was held in British Columbia that was called the “Discretion to Prosecute Inquiry.” Stephen Owen, Q.C. presided as the Commissioner. The Inquiry arose out of a decision by the BC Prosecution Service to not prosecute a provincial Cabinet Minister for alleged criminal wrongdoing.

Commissioner Owen recommended that a “special prosecutor” be appointed in all cases where there is a significant potential for real or perceived improper influence in the administration of criminal justice, because of the proximity of the suspect (or someone with a close relationship to the suspect), to the investigation, or the processes involved in charge assessment and prosecution. This recommendation was accepted and given statutory effect through the *Crown Counsel Act*, which explicitly allows for the appointment of a Special Prosecutor under section 7(1).

## Special Prosecutors

Special Prosecutors are appointed where it is considered in the public interest to have legal advice provided to investigators, or decisions made on a prosecution file, by someone who is at arm’s length from the BC Prosecution Service and the Ministry of Attorney General.

Special Prosecutors are experienced lawyers in private practice who are not employed by government in the role of Crown Counsel with the BC Prosecution Service.

There are two main scenarios in which Special Prosecutors may be appointed:

- The police or another investigative agency requests of the BC Prosecution Service that a Special Prosecutor be made available to provide legal advice during the course of an investigation; or,
- A Report to Crown Counsel has been received by the BC Prosecution Service, and a Special Prosecutor is considered necessary to assess whether charges should be approved and, if so, to conduct the prosecution and any related appeal.

## Independence of Prosecutions

### Attorney General as Chief Law Officer of the Crown

Under the province’s *Attorney General Act*, the Attorney General (AG) is defined as “her Majesty’s Attorney General for British Columbia.”<sup>1</sup> The AG has a duty to see that British Columbia’s public affairs are conducted in accordance with the law. This includes the administration of criminal justice. The AG has overall superintending authority for the prosecution of alleged offenders.

### Prosecutions are conducted by the BC Prosecution Service

Historically, the Chief Law Officer of the Crown would attend to all individual prosecutions. Over time, this changed. It became increasingly difficult for provincial Attorneys General to effectively attend to all of their duties and local prosecutors were retained to “administer justice” at the local level.<sup>2</sup>

In British Columbia, the BC Prosecution Service manages the daily prosecution function on behalf of the AG. Subject to direction from the Assistant Deputy Attorney General (ADAG), Crown Counsel have authority to approve criminal and provincial regulatory charges, conduct prosecutions and appeals, and take conduct of private prosecutions.<sup>3</sup> Crown Counsel act as agents for the AG when exercising this authority.

### **Independence of the Attorney General**

In supervising prosecutions, the AG must act “independently of political pressures from government” and other external bodies.<sup>4</sup> Decisions about “whether to institute or discontinue a prosecution are not matters of government policy. The Premier and Cabinet have no power to direct whether a particular prosecution should be pursued or whether a particular appeal should be undertaken. These decisions rest solely with the Attorney General, who must be regarded for these purposes as an independent officer, exercising a function that in many ways resembles the functions of a judge.”<sup>5</sup>

The AG’s independence is “so fundamental to the integrity and efficiency of the criminal justice system that it is constitutionally entrenched.”<sup>6</sup>

The AG may consult with Cabinet and others in government on prosecution-related matters, but must not be directed by anyone in the exercise of their criminal law duty. “Parliament has the right to question and criticize ... [but] does not have the right to direct [the AG] in the discharge of [their] constitutional duties.”<sup>7</sup>

### **The Attorney General’s Independence and the BC Prosecution Service**

The independence of the AG flows through to the BC Prosecution Service, the ADAG and Crown Counsel, ensuring that the province’s prosecutors can properly fulfill their quasi-judicial role as ministers of justice.<sup>8</sup> As ministers of justice, Crown Counsel seek to maintain, promote, and defend the common good by:

- protecting fair trial interests;
- assisting the court in its truth-seeking function;
- conducting prosecutions with dignity, objectivity and impartiality;
- exercising restraint in the application of the criminal law; and,
- respecting the individualization of justice.

Crown Counsel have considerable discretion in carrying out their duties. Their discretion is an “essential feature of the criminal justice system. A system that attempted to eliminate discretion would be unworkably complex and rigid.”<sup>9</sup>

The authority of Crown Counsel stems directly from the powers that constitute the core of the AG’s office. As a result, their discretion as prosecutors is “protected from the influence of improper political and other vitiating factors by the principle of independence.”<sup>10</sup> This means that the exercise of prosecutorial discretion is not subject to review by the courts or other external bodies, except “solely for abuse of process.”<sup>11</sup> The independence of Crown Counsel ensures that they “can take the right

decision in a case without fear or favour, without being subjected to improper pressure from another source, whether it be the media, politicians, the police, a victim seeking revenge or even a misguided public opinion.”<sup>12</sup>

The “public good is clearly served by the maintenance of a sphere of unfettered discretion within which Crown attorneys can properly pursue their professional goals.”<sup>13</sup> This does not mean that Crown Counsel are not accountable for their decisions. Prosecutors are accountable to their supervisors within the BC Prosecution Service; to the AG; to the courts if the manner in which they conduct a prosecution proves abusive; and to the provincial Law Society.

### **The *Crown Counsel Act* Safeguards Independence**

The *Crown Counsel Act* establishes the administrative relationship between the AG, the BC Prosecution Service (the Criminal Justice Branch of the Ministry of Attorney General), and Crown Counsel. The ADAG has responsibility for the administration of the BC Prosecution Service. The day-to-day prosecution function is carried out by lawyers who are hired as Crown Counsel.

The Act does not grant the AG, the BC Prosecution Service, or Crown Counsel “independence.” Their independence is constitutionally mandated through the AG’s role as public prosecutor and it pre-existed the Act.

What the Act does do is give practical effect to the principle of prosecutorial independence by mandating transparency. The Act requires that any direction from the AG or Deputy AG in relation to a particular prosecution be set out in writing and published in the Gazette.

The Act also requires that any policy directions provided by the AG or Deputy AG be set out in writing. These may be published in the Gazette at the discretion of the ADAG.<sup>14</sup> The publication provisions ensure transparency of the AG’s involvement in prosecutions.

Transparency avoids allegations of improper political influence that, even when unfounded, can have significant adverse implications for the AG, for government, and for the public’s perception of justice.<sup>15</sup>

As a matter of constitutional convention, the provincial Attorneys General typically confine their involvement in the affairs of the prosecution service to the creation and monitoring of policy and procedure.<sup>16</sup> They do this in recognition of their dual role as AG and members of the provincial Cabinet. The importance of maintaining distance from day-to-day operations has been judicially recognized: “The Attorney-General is ... duly assisted by a number of Crown agents or Crown Attorneys, who most of the time perform their tasks without direct consultation with him. In exceptional cases the Attorney General is personally brought in to examine certain files and to advise.”<sup>17</sup>

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<sup>1</sup> *Attorney General Act*, RSBC 1996, c 22, s 1(2). See also section 2 for an enumerated list of the powers and duties of the AG.

<sup>2</sup> *R v Nelles*, [1989] 2 SCR 170 at paras 38-39.

<sup>3</sup> *Crown Counsel Act*, RSBC 1996, c 87, s 4.

<sup>4</sup> *Miazga v. Kvello Estate* [2009] SCC 51 at para 46; *Krieger v Law Society of Alberta*, [2002] SCC 65 at paras 30-32.

<sup>5</sup> Ian Scott, “The Role of the Attorney General and the Charter of Rights” (1986-87) 29 *Criminal Law Quarterly* at 190.

<sup>6</sup> *Miazga* at para 46.

<sup>7</sup> John L. J. Edwards, *The Attorney General, Politics and the Public Interest* (London: Sweet & Maxwell, 1984) at 360.

<sup>8</sup> *Miazga* at para 47.

<sup>9</sup> *R v Beare*, [1988] 2 SCR 387 at para 51.

<sup>10</sup> *Krieger* at paras 43-47.

<sup>11</sup> *R v Anderson*, [2014] SCC 41 at paras 49-50.

<sup>12</sup> James Hamilton, “Prosecutorial Independence and Accountability” (Strasbourg, France: retrieved [online](#), March 15, 2011): Proceedings of the European Commission for Democracy through Law (Venice Commission) “The Independence of Judges and Prosecutors: Perspectives and Challenges”.

<sup>13</sup> *Miazga* at para 47.

<sup>14</sup> *Crown Counsel Act*, RSBC 1996, c 87, ss 5-6.

<sup>15</sup> *Vogel v Canadian Broadcasting Corp., Bird and Good* [1982], 3 WWR 97 (BCSC); *Discretion to Prosecute Inquiry; Blackmore v British Columbia (Attorney General)*, [2009] BCSC 1299.

<sup>16</sup> Philip C. Stenning, *Appearing for the Crown* (Brown Legal Publications, 1986) at 312.

<sup>17</sup> *Re Balderstone and the Queen* [1983], MJ No 207 (CA) at para 26.

Special Prosecutors are generally appointed for investigations or prosecution files that involve:

- Cabinet Ministers;
- Members of the Legislative Assembly;
- Senior public or Ministry of Justice officials;
- Employees of the BC Prosecution Service;
- Members of the judiciary; or,
- Persons in a close relationship to any of these individuals.

### Appointment Process

Under the *Crown Counsel Act*, the only official with authority to appoint a Special Prosecutor is the Assistant Deputy Attorney General (ADAG), who is the head of the BC Prosecution Service. Special Prosecutors are appointed on a case-by-case basis at the discretion of the ADAG. The ADAG will consider an appointment where some aspect of an investigation, or prosecution file, carries a significant potential for real or perceived improper influence in the decision making unless a prosecutor from outside the BC Prosecution Service and Ministry of Attorney General has conduct of the matter.

The BC Prosecution Service has a policy in place that guides the ADAG's decision to appoint a Special Prosecutor (*Special Prosecutors (SPE 1)*) and defines the circumstances in which the appointment will be made public.

Special Prosecutors are appointed from a list of experienced lawyers in private practice that is maintained by the ADAG. These lawyers are approved for the list after a review by both the ADAG and the Deputy Attorney General. The review takes into consideration a records search that is first conducted by the Law Society of British Columbia, with the consent of the lawyer. This search will reveal information that might exist about complaints and/or discipline involving the lawyer, so that the ADAG and the Deputy Attorney General are fully informed. Once someone is approved to be on the list of Special Prosecutors, their status is reviewed every five years.

Prior to a Special Prosecutor being appointed, the BC Prosecution Service reviews the potential appointment with counsel, for the purpose of ensuring that there is no conflict of interest or adverse public perception about the appointment. The Special Prosecutor is required to disclose any engagement or involvement, of a professional or private nature, that might reasonably give rise to a perception of compromised objectivity or impartiality.



## Mandate of a Special Prosecutor

When the ADAG appoints a Special Prosecutor, the prosecutor is provided with a written mandate that defines their role and responsibilities. Special Prosecutors exercise their discretion in providing legal advice to investigators, or conducting a prosecution, independent from government and the BC Prosecution Service.

When providing legal advice to investigators, a Special Prosecutor does not control, supervise, or direct the investigation. It is up to the investigators, once they have received any advice, to independently decide whether and how they should conduct the investigation; who should be investigated; and what evidence to gather.

## Accountability

When exercising discretion on a prosecution file, including the decision to approve criminal or regulatory charges and initiate a prosecution, Special Prosecutors must apply the policies of the BC Prosecution Service. However, they apply these policies independent of the BC Prosecution Service and their decisions on a particular matter are final, subject only to direction that may be provided in writing by the ADAG, the Deputy Attorney General, or the Attorney General. Where written direction is provided to a Special Prosecutor, it must be published in the BC Gazette.

When Special Prosecutors are working on a particular matter, they are expected to keep the ADAG informed of material developments in the file, and to do so in a timely way. This includes things such as:

- the approval of charges;
- the scheduled dates for a preliminary inquiry or trial;
- proposed plea resolutions;
- a decision to stay or terminate the proceedings; or,
- in the event of an acquittal, any decision to initiate an appeal.

# CELEBRATING PROSECUTORIAL INDEPENDENCE

By Gordon Comer

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## **ENGAGEMENT PROTOCOL**

### **BETWEEN THE MINISTER'S OFFICE AND MINISTRY OF ATTORNEY GENERAL**

**Last Updated October 2020**

#### **1. Purpose:**

Effective ministry operations depend on cooperative relationships and structured flow of information between the Minister's office (MO), the Deputy Minister's office (DMO), Associate Deputy Minister's Office (AssocDMO), and Branches in the ministry.

The purpose of this engagement protocol is to set clear principles and expectations for procedures for engagement between each party and accountabilities to improve and support the flow of information, direction, communication, and materials. This protocol recognizes and works in tandem with other engagement protocols in the ministry i.e. BC Prosecution Service.

#### **2. Expectations and Accountabilities:**

- a) The DMO/AssocDMO is the primary contact between the ministry and the Minister's Office. In circumstances approved by the Deputy, such as, interpretation of legislation, estimates debates, and in urgent instances where information or clarification is required quickly and the DM is not available, the MO may contact an Assistant Deputy Minister (ADM) directly; the ADM will subsequently advise the MO and copy the DMO/AssocDMO by email or other means in these instances.
- b) If the MO contacts Branch staff directly, staff must inform their ADM, and the ADM will inform the DMO/AssocDMO of the nature of the inquiry.
- c) Ministry staff are not to directly contact the MO without prior approval from the DMO/AssocDMO. In instances when this happens, the MO will inform the DMO/AssocDMO.
- d) Briefings with the MO should be limited to the DAG and ADMs. In cases requiring subject matter expertise or for succession planning, or where there are standing processes for Litigation that require supervisors attending and leading the briefing, the DAG/Assoc DM will make the final decision on attendance of staff at minister's briefings.
- e) The DMO/AssocDMO will work with the MO to identify required materials and appropriate format for briefings. Any additional materials identified by Branches will need to be discussed with and confirmed by the DMO/AssocDMO. All materials for the MO, DMO/AssocDMO, and ministry Executive committee must have ADM signoff prior to sending.
- f) Materials prepared for the DMO/AssocDMO or MO will be in the appropriate templates, formatted correctly, and free from errors. Materials and/or speaking notes submitted to the MO will be provided no later than noon two days before a meeting or briefing to give appropriate time to prepare, review and provide to the MO. When urgent or short notice briefings are requested by the MO, Branches shall exercise best efforts due diligence in the preparation of materials. Draft

responses for media requests from GCPE, where possible, should be provided at least two hours before the reporter's deadline.

- g) The ADMs office is the primary contact between the DMO/AssocDMO and their respective Branch staff. The DMO/AssocDMO may contact branch staff directly but most communications and meetings set up with Branch staff should be directed through the ADMs office.
- h) When an MLA or constituency office contacts Branches directly, Branches are not to action the request and must redirect them to the MO ([AG.Minister@gov.bc.ca](mailto:AG.Minister@gov.bc.ca) or 250-387-1866), as well as advise the DMO/AssocDMO of the contact.
- i) Authorization or sign-off required for responses to the MO may vary according to the subject and will be laid out in the MAG Governance Framework.

**Protocol for Communication between the  
Attorney General, Deputy Attorney General &  
BC Prosecution Service on All Prosecution  
Matters**

## **I. Background**

Under the *Attorney General Act*, R.S.B.C. 1996, c.22, the Attorney General of British Columbia (the "AG") superintends all matters connected with the administration of justice in British Columbia that are not within the jurisdiction of the government of Canada (s.2(c)). This includes the provincial prosecution function. As Chief Law Officer of the Crown, the AG must carry out the prosecution function in a manner that is independent and distinct from the AG's other duties as the Minister of Justice and a member of Cabinet. This independence is required by the Constitution.

The BC Prosecution Service is the Criminal Justice Branch of the Ministry of Attorney General (the "Branch") and is responsible for criminal prosecutions and appeals in British Columbia. It fulfills the AG's prosecution function on the AG's behalf. Under the *Crown Counsel Act*, R.S.B.C. 1996, c.87, the Branch is responsible for approving and conducting, on behalf of the Crown, all criminal and regulatory prosecutions and appeals that do not fall within the jurisdiction of the Government of Canada. The Branch is administered by the Assistant Deputy Attorney General (the "ADAG"), who is designated as the AG's lawful deputy for purposes of the *Criminal Code*, R.S.C. 1985, c.C-46.<sup>1</sup> In turn, the ADAG designates or appoints Crown counsel, *ad hoc* legal counsel, and special prosecutors, to approve and conduct prosecutions and appeals, on behalf of the Crown.

The ADAG, and counsel designated or appointed by the ADAG, necessarily exercise significant discretion on individual prosecution files. This discretion must be exercised fairly and impartially, and in a manner that is independent of all political influence. In the words of the Supreme Court of Canada, "Prosecutors must be able to act independently of any political pressure from the government".<sup>2</sup> Prosecutorial independence is "so fundamental to the integrity and efficiency of the criminal justice system that it is constitutionally entrenched".<sup>3</sup>

The *Crown Counsel Act* protects prosecutorial independence by requiring that any direction given by the AG or the Deputy Attorney General (the "DAG") with respect to the approval or conduct of any specific prosecution or appeal must be given in writing

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<sup>1</sup>Section 3(2), *Crown Counsel Act* ("CCA").

<sup>2</sup>*Hinse v. Canada* (Attorney General), 2015 SCC 3, para. 40.

<sup>3</sup>*Miazga v. Kvello Estate*, 2009 SCC 51, para.46.

to the ADAG and published in the British Columbia *Gazette*.<sup>4</sup> If the AG or DAG wishes to issue a directive respecting either the Branch's policy on the approval or conduct of prosecutions or the administration of the Branch, that directive must also be given in writing to the ADAG and, at the discretion of the ADAG, may be published in the *Gazette*.<sup>5</sup>

## **II. Purpose**

The AG has a dual role as the Chief Law Officer of the Crown and a member of Cabinet.

The AG's role as Chief Law Officer must be exercised independently of Cabinet and of any concurrent role as Minister of Justice. It must also be exercised free from any political influence.

As Chief Law Officer the AG must protect impartiality and independence, both real and perceived, in the exercise of prosecutorial discretion. The AG does this by ensuring that the ADAG, and legal counsel designated or appointed by the ADAG, are free to make discretionary decisions on prosecution files without any real or perceived political or other improper influence.

As Chief Law Officer the AG also retains supervisory authority over the prosecution function and is entitled to be kept informed of significant prosecution files and Branch policies, including files and policies in respect of which the AG might reasonably consider exercising the AG's ultimate power of written direction pursuant to the *Crown Counsel Act*.

This Protocol governs communication between the AG, the DAG, and the Branch on matters that fall within the scope of the *Crown Counsel Act*. The protocol protects prosecutorial independence as well as the independence of the AG as Chief Law Officer of the Crown, by ensuring that communication respecting prosecution matters is kept separate and distinct from the AG's role as the Minister of Justice and a member of Cabinet.

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<sup>4</sup> Section 5, *CCA*.

<sup>5</sup> Section 6, *CCA*.



### **III. The Protocol<sup>6</sup>**

#### **1. Briefings on Individual Prosecution Files**

##### **1.1 Briefings of the DAG and the AG**

- i. At the discretion of the Branch, in accordance with the “**general rule**” set out below, or on the request of the DAG or the AG, the Branch will prepare timely, confidential briefing notes for the DAG and the AG respecting pending, ongoing, or completed prosecution matters that carry the potential for significant public interest, or respecting which the AG might reasonably consider exercising the AG’s ultimate power of written direction.

**As a general rule**, confidential briefing notes will be limited to:

- (a) prosecutions for which a special prosecutor has been appointed under section 7 of the *Crown Counsel Act*;
  - (b) prosecutions that are particularly significant, sensitive, or likely to garner significant public interest; and,
  - (c) prosecutions with significant implications for prosecutorial, criminal justice, or constitutional policy or practice.
- ii. Unless required by law, the Branch will **not** brief the AG on any pending, ongoing, or completed prosecution matter respecting any one or more of the following:
    - (a) Members of the Legislative Assembly or their staff;
    - (b) political parties or the conduct of provincial elections;

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<sup>6</sup> For the purpose of this protocol, reference to the DAG or the ADAG includes the lawful designate of each.

- (c) matters for which disclosure outside the Branch might reasonably risk the safety of any individual or group or jeopardize any ongoing court proceeding or law enforcement investigation;
  - (d) matters in respect of which the DAG or the ADAG reasonably consider that the AG has a real or perceived conflict of interest; and,
  - (e) matters that arise during *in camera* proceedings or that are otherwise prohibited from disclosure by law or court order.
- iii. Written briefing notes, including supplemental verbal or written status updates, prepared by the Branch on pending, ongoing, or completed prosecution matters are for the information of the AG and DAG only. They are confidential, may be subject to solicitor-client or other legal privilege, and must not be disclosed to anyone, including any member of Cabinet, the AG's ministerial staff, or any third party, without the express consent of the DAG, after consultation with the ADAG or the Branch's Communications Counsel.
- iv. Where an in-person briefing of the AG by the Branch on a pending, ongoing, or completed prosecution matter is considered appropriate by the DAG in consultation with the ADAG, the briefing will be conducted by the ADAG.
- v. Where an in-person or telephone briefing of the AG by the Branch on a pending, ongoing, or completed prosecution matter occurs, the DAG may be present and participate in the briefing. However, in recognition of the constitutional independence of the prosecution function and the unique role of the AG as Chief Law Officer of the Crown, no member of the AG's ministerial staff or any third party will be present or participate in the briefing without the express consent of the ADAG.
- vi. Where, following a briefing on a pending, ongoing, or completed prosecution matter or otherwise, the AG or the DAG decides to issue a written direction to the Branch, the direction will be drafted by the DAG in consultation with the ADAG and published in accordance with the terms of section 5 of the *Crown Counsel Act*.
- vii. When a written briefing note, update, or oral briefing is provided to the AG, the DAG, or (with the express consent of the DAG), the AG's ministerial staff, or a

third party, it is the responsibility of the recipient of the information to respect and protect any terms of confidentiality established by the DAG, the ADAG, or the Branch's Communications Counsel, or any court-ordered prohibition on publication or disclosure that may apply, as well as the requirements of the *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c.165.

## **1.2 Special Prosecutors**

- i. Under section 7(3) of the *Crown Counsel Act*, the ADAG must advise the DAG when a special prosecutor has been appointed and advise the DAG of the name of the special prosecutor. With the prior consent of the ADAG or the Branch's Communications Counsel, the DAG may relay the fact of an appointment to the AG, the AG's ministerial staff, or a third party.
- ii. Where information about the appointment of a special prosecutor is relayed by the DAG to the AG, the AG's ministerial staff, or a third party, it is the responsibility of the recipient of the information to respect and protect any terms of confidentiality established by the DAG, the ADAG, or the Branch's Communications Counsel, or any court-ordered prohibition on publication or disclosure that may apply, as well as the requirements of the *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c.165.
- iii. Where, following a briefing on a pending, ongoing, or completed special prosecution matter or otherwise, the AG or the DAG decides to issue a direction to the special prosecutor, the direction will be drafted by the DAG in consultation with the ADAG and published in accordance with the terms of section 7 of the *Crown Counsel Act*.

## **1.3 Briefings of the Opposition Critic**

- i. Where the Branch has decided to publicly announce the appointment of a special prosecutor under the *Crown Counsel Act*, or any other matter relating to a file involving a special prosecutor, the Branch will provide an advance briefing to the Opposition Critic for the Attorney General, either in-person or by telephone.
- ii. These briefings are confidential and will remain confidential until the Branch has issued its public announcement. The contents of the briefings must not be disclosed to anyone, including any member of the Opposition Critic's staff, or any

third party, without the express consent of the ADAG or the Branch's Communications Counsel.

- iii. Where information on a pending, ongoing, or completed special prosecution matter is provided to the Opposition Critic, it is the responsibility of the Opposition Critic to respect and protect any terms of confidentiality established by the Branch, or any court-ordered prohibition on publication or disclosure that may apply, as well as the requirements of the *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c.165.

## **2. Media Liaison on Prosecution Files**

- i. Under the *Crown Counsel Act*, the Branch has statutory responsibility "to provide liaison with the media and affected members of the public on all matters respecting the approval and conduct of prosecutions of offences or related appeals".<sup>7</sup> The Branch has a Communications Counsel in place for this purpose.
- ii. All formal media enquiries received by the AG or the AG's ministerial staff in respect of pending, ongoing, or completed prosecution matters should be referred to the Branch's Communications Counsel for response. To protect prosecutorial independence and the integrity of the criminal justice process, the AG must not issue media statements or conduct media interviews or briefings respecting pending, ongoing, or completed prosecution matters without the AG or the AG's ministerial staff first consulting with the DAG, the ADAG, or the Branch's Communications Counsel.
- iii. In circumstances where advance consultation with the DAG, the ADAG, or the Branch's Communications Counsel is not reasonably possible, the AG or the AG's ministerial staff must ensure that any public comments made by the AG, or any member of the AG's staff, respecting pending, ongoing, or completed prosecution files do not offend the *sub judice* rule. "*Sub judice*" literally means "under judicial consideration". Only the courts are entitled to determine legal issues that are before them. The *sub judice* rule is part of the law of contempt of court. It limits the public statements that can be made about legal proceedings ongoing before the courts. The courts' role should not be usurped by others making public statements about how legal issues ought to be determined.

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<sup>7</sup> Section 2(f), *CCA*.

- iv. For greater certainty, the AG will not make public statements that:
- risk prejudging matters or issues that are before the courts (at trial or on appeal);
  - urge the court to reach a particular result in a matter;
  - comment on the strength or weakness of a case or a particular issue;
  - comment on witnesses or evidence in a case;
  - comment on the credibility or reliability of a witness or evidence, or the strength of evidence; or
  - contravene a publication ban, a non-disclosure order from the courts, or statutory restrictions on the disclosure of matters involving young persons.<sup>8</sup>

**3. Enquiries on Individual Prosecution Files**

- i. Apart from confidential briefings (provided in accordance with section 1 above), all enquiries or requests for information made by or on behalf of the AG, other members of Cabinet, or members of their respective ministerial staff respecting pending, ongoing, or completed prosecution matters must be directed to the DAG.
- ii. For greater certainty, members of the ministerial staff, including Executive or Ministerial Assistants, of the AG or any other Cabinet member, must not contact the ADAG, individual Crown counsel, or *ad hoc* or special prosecutors, to enquire or request information respecting pending, ongoing, or completed prosecution matters. Any such requests must be directed to the DAG.
- iii. Any enquiries or requests for information on pending, ongoing, or completed prosecution matters made for government communication purposes in order to respond to third party requests for information must be directed to the DAG, the ADAG, or the Branch's Communications Counsel.
- iv. Where information on a pending, ongoing, or completed prosecution file is provided by the DAG, the ADAG, or the Branch's Communications Counsel to a member of the AG's ministerial staff or a third party, it is the responsibility of the recipient of the information to respect and protect any terms of confidentiality established by the DAG, the ADAG, or the Branch's Communications Counsel, or

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<sup>8</sup> Guidelines taken from the Ministry of Attorney General website for Ontario:  
<http://www.attorneygeneral.jus.gov.on.ca/english/legis/subjudicerule.asp>

any court-ordered prohibition on publication or disclosure that may apply, as well as the requirements of the *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c.165.

**4. Matters of Prosecution Policy or Branch Administration**

- i. The Crown Counsel Policy Manual is available online and available to all members of the public. It contains all Branch policies that are intended to guide the exercise of prosecutorial discretion by Crown counsel, and by *ad hoc* legal counsel and special prosecutors.
- ii. Before it revises a policy contained in the Crown Counsel Policy Manual, or creates a new policy, the Branch will provide a timely, advance copy of the proposed policy to the DAG for review and consideration. The DAG may consult with the AG about the proposed policy, if the DAG considers consultation reasonably necessary.
- iii. Until the revised or new policy is formally implemented and published by the Branch, the policy must remain confidential and must not be disclosed to any member of Cabinet, the ministerial staff of the AG or any other Cabinet member, or any third party without the express consent of the DAG, in consultation with the ADAG.
- iv. Where the AG or the DAG decides to issue a written directive to the Branch respecting the Branch policy on approval or conduct of prosecutions, the directive will be drafted by the DAG in consultation with the ADAG and may be published in accordance with the terms of section 6 of the *Crown Counsel Act*.

**PROTOCOL**  
**BETWEEN:**  
**MINISTRY OF ATTORNEY GENERAL**  
**AND**  
**PROVINCIAL COURT JUDICIARY**

**A. PURPOSE**

The purpose of this document is to set out a framework within which the Ministry of Attorney General and the Provincial Court Judiciary will work together to fulfil their respective roles and responsibilities for the administration of justice in British Columbia.

**B. ROLES AND RESPONSIBILITIES**

1. The Attorney General has the constitutional responsibility for the administration of justice in the Province. This responsibility is codified in the *Attorney General Act*.
2. Section 41 of the *Provincial Court Act* specifies that "[t]he Attorney General is responsible for the provision, operation and maintenance of court facilities and services".
3. Under the principle of judicial independence, the Provincial Court Judiciary have responsibility for matters of judicial administration.
4. Judicial administration as defined in the case law requires, at a minimum, control by the judiciary over matters which directly affect the exercise of judicial functions. This includes the assignment of judges, sittings of the court, court lists, allocation of court rooms and direction of administrative staff engaged in carrying out these functions.
5. The Chief Administrator of Court Services has the statutory responsibility under section 41(2) of the *Provincial Court Act* to "direct and supervise facilities, registries and administrative services for the court".
6. Section 41(2) states that the Chief Administrator performs these duties and responsibilities "subject to the direction of the Attorney General, and to the direction of the chief judge in matters of judicial administration".
7. The Assistant Deputy Minister, Court Services Branch is the Chief Administrator of Court Services.

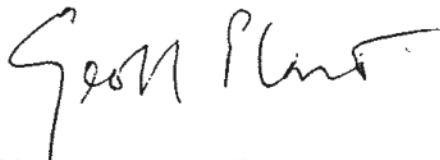
8. The Attorney General and the Provincial Court Judiciary recognize that decisions made by the Attorney General may affect matters of judicial administration and that decisions of the Provincial Court Judiciary relating to judicial administration may affect the administration of justice in the province.
9. Because of the potential impact that decisions of the Attorney General and the Provincial Court Judiciary have on their respective roles and responsibilities, both recognize that it is essential that they work co-operatively to ensure that the justice system serves the interests and needs of the people of the Province.
10. In particular, the Attorney General and the Provincial Court Judiciary recognize that they must work together to ensure that the system of justice in the province is accessible, efficient and affordable.

#### **C. FRAMEWORK**

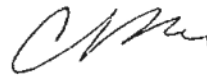
1. Regular meetings will be held between the Ministry of Attorney General and the Provincial Court Judiciary to discuss matters of court administration.
2. Issues to be discussed at these meetings will include, but are not limited to:
  - a. facilities and staff planning
  - b. budget planning
  - c. technology
  - d. management of court records.
3. These meetings will initially be held quarterly and, at a minimum, will be held twice a year. The frequency of the meetings will be a matter for mutual agreement between the Ministry and the Chief Judge.
4. Minutes will be kept of the meetings.
5. If, between meetings, a matter arises that will have a significant impact on court administration and, in particular, if judicial administration will be affected by this matter, an extraordinary meeting between the Ministry and the Provincial Court Judiciary will be held to discuss this matter.
6. Nothing in this document is intended to interfere with the normal communication that takes place between the Ministry and the Office of the Chief Judge on a regular basis with respect to routine matters, including existing ad hoc and standing committees.



7. It is recognized that if confidential matters are being discussed between the Ministry and the Provincial Court Judiciary, confidentiality requirements will be respected and it may be necessary to restrict the officials or judges who have access to this information.
8. This protocol agreement is intended to be a high level document governing the way in which the Ministry and the Provincial Court Judiciary will exchange information and co-operate in exercising their respective responsibilities in relation to the administration of justice in the Province. It will be revisited by the Ministry and the Provincial Court Judiciary from time to time with reference to the prevailing case law relating to judicial administration and judicial independence and the responsibility of the Attorney General for the administration of justice in the Province.



Honourable Geoff Plant  
Attorney General



The Honourable Chief Judge  
Carol Baird Ellan

Signed this 19<sup>th</sup> day of April 2002

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# MEMORANDUM OF UNDERSTANDING

BETWEEN

THE MINISTER OF JUSTICE AND ATTORNEY GENERAL OF BRITISH COLUMBIA

-AND-

THE CHIEF JUSTICE OF BRITISH COLUMBIA

-AND-

THE CHIEF JUSTICE OF THE SUPREME COURT OF BRITISH COLUMBIA

-AND-

THE CHIEF JUDGE OF THE PROVINCIAL COURT OF BRITISH COLUMBIA

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## 1. PREAMBLE

- 1.1. The Attorney and the Chief Justices acknowledge their joint responsibility for the administration of justice in the Province of British Columbia, with each playing a vital role in the administration of each of the Courts.
- 1.2. The Attorney and the Chief Justices are committed to developing and maintaining an accessible, modern, and effective justice system in the Province of British Columbia that delivers timely, impartial, and open justice.
- 1.3. The Chief Justices recognise that the Attorney is accountable to the Legislative Assembly of British Columbia for the expenditure of public resources required for the administration of justice and, in particular, those resources that are used to operate each of the Courts.
- 1.4. The Attorney recognises that the Chief Justices are responsible for efficient and effective Judicial Administration and that each of the Courts must be given sufficient resources to allow them to carry out their functions under the *Constitution Act, 1867* (U.K.), 30 & 31 Vict, c. 3, reprinted in R.S.C. 1985 App. II, No. 5, and their Empowering Legislation.

*Memorandum of Understanding effective April 3, 2013*  
*Attorney & Chief Justices*

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- 1.5. The Attorney recognises that the Courts are an independent branch of government and that the constitutional principle of Judicial Independence must be respected to maintain the rule of law and to ensure public confidence in the administration of justice.
- 1.6. The Attorney and the Chief Justices recognise that Court Administration should be pursued collaboratively to ensure that resources are used as efficiently and effectively as possible.

## 2. PURPOSE

- 2.1. The purpose of this Memorandum of Understanding is to describe the roles and responsibilities of the Attorney and the Chief Justices in the administration of the Courts.
- 2.2. This Memorandum of Understanding does not create, purport to create, or detract from any law or legal rights or responsibilities that exist or may exist in the future between the Attorney and the Chief Justices. It is not intended as a justiciable document.

## 3. DEFINITIONS

- 3.1. “Attorney” means the Minister of Justice and Attorney General of British Columbia, or either role, as applicable.
- 3.2. “Business Intelligence” means the collection, storage, disclosure, and/or use of data, the goal of which is to study or otherwise influence the productivity or effectiveness of a process and includes strategic planning, analytics, performance measurement, and performance planning.
- 3.3. “Chief Administrator of Court Services” means the Assistant Deputy Minister of Court Services in the Ministry of Justice of British Columbia.
- 3.4. “Chief Justice(s)” means the Chief Justice of British Columbia, the Chief Justice of the Supreme Court of British Columbia, and the Chief Judge of the Provincial Court of British Columbia, or any of them, when used in singular form.
- 3.5. “Court(s)” means the Court of Appeal for British Columbia, the Supreme Court of British Columbia, and the Provincial Court of British Columbia, or any of them, when used in singular form.

- 3.6. **"Court Administration"** means the management and direction of matters necessary for the operation of the Courts or other matters assigned to the Attorney by law. Court Administration specifically excludes Judicial Administration.
- 3.7. **"Court Administration Record(s)"** means a record or records relating to Court Administration. Court Administration Record(s) includes information in aggregate and/or electronic form, but does not include a Court Record or Judicial Administration Record.
- 3.8. **"Court Record(s)"** means anything on or by which information, in whole or part, is stored that relates to proceedings before the Courts and includes the information itself. Court Record(s) includes information in aggregate and/or electronic form, but does not include a Court Administration Record or Judicial Administration Record.
- 3.9. **"Court Staff"** means an employee or employees appointed under the *Public Service Act*, R.S.B.C. 1996, c. 385, who provide services to the Courts, but excludes those managed by an Office of the Chief Justice.
- 3.10. **"Deputy Attorney"** means the Deputy Attorney General of the Ministry of Justice of British Columbia.
- 3.11. **"Empowering Legislation"** means, as applicable, the *Court of Appeal Act*, R.S.B.C. 1996, c. 77, the *Supreme Court Act*, R.S.B.C. 1996, c. 443, the *Provincial Court Act*, R.S.B.C. 1996, c. 379, or any other act or regulation of the Legislative Assembly of British Columbia or Parliament of Canada that enables the Courts to exercise their powers or grants jurisdiction to any of the Courts.
- 3.12. **"Judicial Administration"** means the management and direction of matters related to judicial functions, and includes, at a minimum, matters connected to the preparation, management, and adjudication of proceedings in the Courts and all other matters assigned to the judiciary by law or through this Memorandum of Understanding. Judicial Administration specifically excludes Court Administration.
- 3.13. **"Judicial Administration Record(s)"** means a record or records relating to Judicial Administration, and includes, as defined in the *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c. 165, a record or records containing information relating to a judge, master, or justice of the peace. For greater certainty, it includes a record or records relating to a registrar, judicial justice, or judicial case manager. Judicial Administration Record(s) includes information in aggregate

and/or electronic form, but does not include a Court Record or Court Administration Record.

**3.14. “Judicial Independence”** includes the judicial independence of an individual judge, justice or other court officer exercising a judicial function, and/or the administrative and institutional independence of a Court.

**3.15. “Office of the Chief Justice”** means, for each of the Courts, the Chief Justice and legal and administrative personnel under his or her direction whose function relates to Judicial Administration of that Court. The Office of the Chief Justice excludes the Deputy District Registrar(s) of the Supreme Court and Deputy Registrar(s) of the Court of Appeal, but includes all other registrars, executive directors, law or legal officers, public information officers, judicial law interns or clerks, Court scheduling staff, and any other personnel whose function relates to Judicial Administration.

#### **4. CONSTITUTIONAL AND LEGISLATIVE AUTHORITY**

##### **4.1. *Constitutional Principles***

**4.1.1.** Section 96 of the *Constitution Act, 1867* provides that “The Governor General shall appoint the Judges of the Superior, District, and County Courts in each Province, except those of the Courts of Probate in Nova Scotia and New Brunswick.”

**4.1.2.** Subsection 92(14) of the *Constitution Act, 1867* provides for the administration of justice in the Provinces, including the constitution, maintenance, and organization of provincial courts, both of civil and of criminal jurisdiction, and including procedure in civil matters in those courts.

**4.1.3.** Subsection 11(d) of the *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11, section 96, and the preamble of the *Constitution Act, 1867* have been recognised by the Supreme Court of Canada as affirming the principle of Judicial Independence in Canada.

##### **4.2. *The Attorney General Act***

**4.2.1.** Section 2 of the *Attorney General Act*, R.S.B.C. 1996, c. 22, provides for the duties and powers of the Attorney in respect of the administration of justice in the Province of British Columbia.

#### **4.3. *The Court of Appeal Act***

- 4.3.1.** Section 2 of the *Court of Appeal Act* provides for the continuation of the Court of Appeal for British Columbia.
- 4.3.2.** Section 32 of the *Court of Appeal Act* provides for the appointment of certain persons under the *Public Service Act* and provides that "Subject to the direction of the Chief Justice in matters of judicial administration and to the direction of the Attorney General in other matters, the chief administrator of court services for the Court of Appeal must direct and supervise facilities, registries and administrative services for the Court of Appeal."

#### **4.4. *The Supreme Court Act***

- 4.4.1.** Section 2 of the *Supreme Court Act* provides for the continuation of the Supreme Court of British Columbia.
- 4.4.2.** Subsection 2(3) of the *Supreme Court Act* provides that the Chief Justice of the Supreme Court has responsibility for the administration of the judges of the Supreme Court of British Columbia.
- 4.4.3.** Subsection 10(1) of the *Supreme Court Act* provides that "The Attorney General is responsible for the provision, operation and maintenance of court facilities, registries and administrative services."
- 4.4.4.** Subsections 10(2) and 10(4) of the *Supreme Court Act* provide for the appointment and responsibilities of the chief administrator of court services with respect to the Supreme Court of British Columbia.
- 4.4.5.** Subsection 10(3) of the *Supreme Court Act* provides that "Subject to the direction of the Attorney General, and to the direction of the Chief Justice in matters of judicial administration and the use of court room facilities, the chief administrator of court services must direct and supervise registries and administrative services for the court."

**4.5. *The Provincial Court Act***

- 4.5.1.** Section 2 of the *Provincial Court Act* provides for the continuation of the Provincial Court of British Columbia.
- 4.5.2.** Subsection 41(1) of the *Provincial Court Act* provides that “The Attorney General is responsible for the provision, operation and maintenance of court facilities and services.”
- 4.5.3.** Subsection 41(2) of the *Provincial Court Act* provides that “Subject to the direction of the Attorney General, and to the direction of the chief judge in matters of judicial administration, the chief administrator of court services must direct and supervise facilities, registries and administrative services for the court.”
- 4.5.4.** Subsection 41(3) of the *Provincial Court Act* provides that “The Attorney General may appoint, under the *Public Service Act*, persons the Attorney General considers necessary to carry out the purposes of this Act.”
- 4.5.5.** Subsection 41(3.1) of the *Provincial Court Act* provides that “The chief administrator of court services, for the purposes of carrying out his or her duties under this Act, may disclose to the chief judge information regarding the conduct of persons appointed under subsection (3) in the performance of their duties under this Act.”
- 4.5.6.** Subsection 41(4) of the *Provincial Court Act* provides that “The Attorney General may make regulations respecting the operation and maintenance of court facilities and services.”

**4.6. *The Justice Reform and Transparency Act***

- 4.6.1.** Subsections 10(1), 10(2), and 10(3) of the *Justice Reform and Transparency Act*, S.B.C. 2013, c. 7, provides that the Attorney and the Chief Justices may enter into a memorandum of understanding governing any matter relating to the administration of their respective Courts.
- 4.6.2.** Subsection 10(4) of the *Justice Reform and Transparency Act* provides that the memorandum of understanding may address the respective roles and responsibilities of the parties in the administration of the courts and may



specify how those parties are to share information, promote effective court administration, and report to the public.

- 4.6.3. Subsection 10(5) of the *Justice Reform and Transparency Act* provides that the Attorney may publish, in a manner that can reasonably be expected to bring to the attention of the public, all or part of the memorandum of understanding, except to the extent the memorandum of understanding otherwise provides.

## 5. ADMINISTRATION OF THE COURTS OF BRITISH COLUMBIA

### 5.1. *The Role of the Chief Justices*

- 5.1.1. Each Chief Justice has sole responsibility to manage and direct Judicial Administration in his or her Court, including the following specific areas:

- 5.1.1.1. the education and management (and for the Provincial Court, conduct and discipline) of justices, judges, masters, judicial justices, judicial case managers, and registrars;
- 5.1.1.2. the scheduling and assignment of justices, judges, masters, judicial justices, judicial case managers, and registrars as well as managing court sittings and courtrooms;
- 5.1.1.3. the supervision and control of Court Staff when carrying out functions related to Judicial Administration;
- 5.1.1.4. the supervision and control of Sheriffs, as officers of the Court, when carrying out functions related to Judicial Administration;
- 5.1.1.5. the independent management, budgeting, appointment, and staffing of an Office of the Chief Justice;
- 5.1.1.6. the supervision and control of Court Records and Judicial Administration Records;
- 5.1.1.7. the supervision and control of information technology related to Judicial Administration;

- 5.1.1.8. the supervision and control over the use of Court facilities, including courtrooms, courthouses, and other facilities when those uses relate to Judicial Administration or, for greater certainty, have the potential to affect the dignity and decorum of the Court(s);
- 5.1.1.9. the issuance of practice directives and other notices governing matters of practice and procedure, decorum, and matters relating to Judicial Administration;
- 5.1.1.10. the design and implementation of public and media relations strategies, including public education initiatives that relate to Judicial Administration;
- 5.1.1.11. the design, implementation, and reporting to the public of Business Intelligence relating to Judicial Administration; and
- 5.1.1.12. other matters assigned to the judiciary by law.

## 5.2. *The Role of the Attorney*

- 5.2.1. The Attorney has sole responsibility to manage and direct Court Administration in the Courts, including the following specific areas:
  - 5.2.1.1. the establishment of Court registries;
  - 5.2.1.2. the provision, operation, and maintenance of Court facilities, registries, and administrative services;
  - 5.2.1.3. the appointment, management, reclassification, and termination of Court Staff;
  - 5.2.1.4. the supervision and control of Court Staff when those staff are carrying out functions related to Court Administration;
  - 5.2.1.5. subject to subsection 5.1.1.6 of this Memorandum of Understanding, the management and storage, including archiving, of Court Records, Court Administration Records, and those Judicial Administration Records that the Chief Justice(s) request the Attorney to manage, store, and/or archive.

- 5.2.1.6. the security and safety of any person within a Court facility or a facility where a function relating to Judicial Administration is occurring, including emergency planning;
- 5.2.1.7. the administration of the Sheriffs, as outlined in the *Sheriff Act*, R.S.B.C. 1996, c. 425;
- 5.2.1.8. the design and implementation of public and media relations strategies relating to Court Administration;
- 5.2.1.9. the design, implementation, and reporting to the public of Business Intelligence relating to Court Administration; and
- 5.2.1.10. other matters assigned to the Attorney by law.

## 6. COLLABORATION AND CONSULTATION

### 6.1. *General Acknowledgement*

- 6.1.1. Given the division of roles and responsibilities described in section 5 of this Memorandum of Understanding, the Chief Justices and the Attorney agree that collaboration and consultation on matters of Judicial Administration and Court Administration are necessary to develop and maintain an accessible, modern, and effective justice system.
- 6.1.2. The Chief Justices acknowledge that the Attorney should be consulted in a timely, transparent, and accountable way on any programs or initiatives developed by an Office of the Chief Justice or delegates thereof that may affect Court Administration.
- 6.1.3. The Attorney acknowledges that the Chief Justices should be consulted in a timely, transparent, and accountable way on any programs or initiatives developed by the Attorney or delegates thereof that may affect Judicial Administration.

## **6.2. Provision of Resources**

- 6.2.1.** The Attorney acknowledges responsibility to provide sufficient resources to each of the Courts to allow them to carry out their functions under the *Constitution Act, 1867* and their Empowering Legislation.
- 6.2.2.** The Attorney and the Chief Justices acknowledge that public funds must be used efficiently and effectively to fund the operation of the Courts.
- 6.2.3.** The Attorney and the Chief Justices acknowledge that the preservation of a fair, independent, and impartial Court system is a priority in the allocation of public funds.
- 6.2.4.** As part of the Attorney's commitment to provide sufficient resources to the Courts, the Attorney agrees to consult directly with the Chief Justice(s), as appropriate, but at a minimum, semi-annually, on the resource needs of their Court or the Courts generally, with particular regard to the following:
  - 6.2.4.1.** the general workload of the Court(s) and adjustments to the complement of each of the Courts;
  - 6.2.4.2.** changes to the law, both federal and provincial, including to Empowering Legislation, that may affect the workload of the Court(s);
  - 6.2.4.3.** changes to the demographics of British Columbia, including population growth and composition, that may affect the workload of the Court(s);
  - 6.2.4.4.** the presence of self-represented litigants and access to the Court(s) generally;
  - 6.2.4.5.** the use of technology and the modernisation of Court facilities, registries, and administrative services;
  - 6.2.4.6.** the needs of each Office of the Chief Justice, including those with respect to budgeting, strategic planning, and personnel; and

6.2.4.7. any further issues that are identified by the Attorney or the Chief Justice(s) and consented to, in writing, by the Attorney and the Chief Justice(s).

6.2.5. When the Attorney identifies and assesses resource needs related to Court Administration, the Attorney will develop proposals to address those resource needs and provide reasonable time for consultation with the Chief Justice(s) prior to the approval of a proposal.

6.2.6. The Chief Justices recognise that, for meaningful decisions to be made about providing sufficient resources to the Courts, information concerning the resource needs of the Courts and Judicial Administration must be provided to the Attorney.

6.2.7. With specific respect to subsection 6.2.4.1 of this Memorandum of Understanding, when the issue of judicial complement is to be addressed by the Attorney, each Chief Justice agrees to deliver information to the Attorney concerning the workload of his or her Court, trends in that workload, and the capacity of the existing judicial complement in his or her Court to address that workload.

### 6.3. *Budgeting*

6.3.1. Every year, each Office of the Chief Justice shall prepare a yearly budget of expenditures for his or her Court for the following fiscal year, and an estimate of expenditures for the following two fiscal years, for inclusion in the budget of the Ministry of Justice and approval by the Treasury Board of British Columbia.

6.3.2. The yearly budgets of expenditures shall be submitted to the Deputy Attorney in sufficient time to be reviewed and finalised by the Deputy Attorney.

6.3.3. The Attorney and the Chief Justices agree that no changes to the operating budget of the Court(s) for the following year shall be made without reasonable consultation with Office(s) of the Chief Justice before the end of each fiscal year.

#### **6.4. Facilities**

- 6.4.1.** Where new courthouse facilities or significant alterations to existing facilities impacting operations or decorum are planned, at an early stage and before any undertaking or public commitment is made respecting a proposed project, the Attorney shall provide timely notice and detailed descriptions of the proposed project to, and consult with, the Chief Justice(s).
- 6.4.2.** As part of that consultation process, the Attorney and the Chief Justices recognise that the following standards shall be considered: the dignity of the Court(s), the importance of the rule of law, the open court principle, and access to justice, Judicial Independence, the need to modernise the Court(s), and the effective and efficient use of public resources.

#### **7. BUSINESS INTELLIGENCE**

- 7.1.** At the direction of a Chief Justice, each of the Courts may explore implementing a process for the use of Business Intelligence as it relates to Judicial Administration or, with the cooperation of the Attorney, Court Administration.
- 7.2.** The Attorney agrees to consult with the Chief Justices on the development or use of Business Intelligence relating to Court Administration.
- 7.3.** The Attorney shall not conduct any Business Intelligence activity that affects, or has the potential to affect, Judicial Administration or that impairs, or has the potential to impair, Judicial Independence.

#### **8. ANNUAL REPORTS**

- 8.1.** The Chief Justice of British Columbia and the Chief Justice of the Supreme Court of British Columbia shall cause to be published an annual report prior to April 1 for his or her Court for the previous year that shall include a report on Judicial Administration in that Court.
- 8.2.** The Chief Judge of the Provincial Court shall cause to be published an annual report prior to July 1 for his or her Court for the previous year that shall include a report on Judicial Administration in that Court.
- 8.3.** The publication of annual reports that conform to these requirements shall commence in calendar year 2014.

**9. INFORMATION TECHNOLOGY**

- 9.1.** The Attorney and Chief Justices acknowledge the need to maintain a judicial technology environment with comprehensive security and privacy specifications for Judicial Administration, having due consideration to the principles outlined in the Canadian Judicial Council's *Blueprint for the Security of Judicial Information*, published from time-to-time.
- 9.2.** The Attorney recognises that, to ensure the integrity and security of information generated by the judiciary and Judicial Administration Records, a separate judicial information technology network and infrastructure is necessary for Judicial Administration of the Courts.

**10. COURT RECORDS AND INFORMATION**

**10.1. *Access to and Use of Records***

- 10.1.1.** As outlined in subsections 5.1 and 5.2 of this Memorandum of Understanding, there is a shared responsibility for Court Records.
- 10.1.2.** The Chief Justice of the Court to which the Court Record relates is responsible for developing policies on access to and use of Court Records and Judicial Administration Records.
- 10.1.3.** Access to and use of Court Administration Records is governed by the *Freedom of Information and Protection of Privacy Act*.
- 10.1.4.** The Chief Administrator of Court Services is responsible for developing policies and procedures for managing, auditing, and ensuring that access to Court Records conforms to the policies developed by the Chief Justice in the Court to which the Court Records relate.

**10.2. *Combining of Records***

- 10.2.1.** The Attorney and the Chief Justices recognise that, in practice, Court Records, Judicial Administration Records, and Court Administration Records, or any of them, may merge, particularly when in aggregate and/or electronic form.

**10.2.2.** When Court Records or Judicial Administration Records form part of Court Administration Records, authorisation from the Chief Justice(s) must be obtained for the use and/or disclosure by the Attorney, unless such use and disclosure is already permitted by policies developed by the Chief Justice in the Court to which the Court Records or Judicial Administration Records relate.

**10.2.3.** At the request of the Attorney, the Chief Justice(s) to which the Court Record or Judicial Administration Record relates may prepare a schedule of certain types or categories of Court Records and Judicial Administration Records where permission for specified use(s) and/or disclosure shall be granted as a matter of course or on terms and conditions set by the Chief Justice(s).

**10.3. *Support to the Courts***

**10.3.1.** Through the Chief Administrator of Court Services, the Attorney agrees to the continued provision of sufficient staff, including Court Staff, and sufficient resources to manage, store, and archive Court Records for each of the Courts.

**10.3.2.** Nothing in this Memorandum of Understanding affects the *Protocol Agreement on the use of Court Technology in Electronic Form* signed by the Chief Justices and the Chief Administrator of Court Services on 29 October 2002, nor does it affect any existing protocol or agreement between the Court(s) and the Ministry of Justice and/or Ministry of the Attorney General of British Columbia.

**11. APPROVAL, TERMINATION, AND RENEWAL**

**11.1.** This Memorandum of Understanding takes effect on the date of its signature by the Attorney and the Chief Justices.

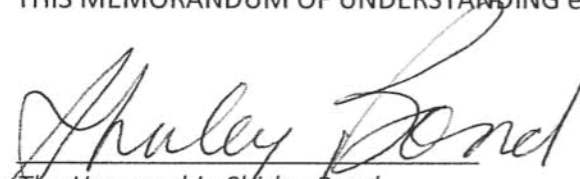
**11.2.** This Memorandum of Understanding:

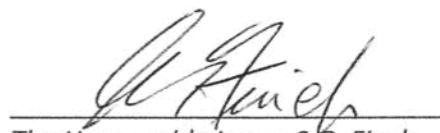
**11.2.1.** is subject to amendment with the agreement in writing of all parties to this Memorandum of Understanding at any time;




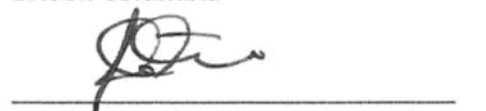
- 11.2.2. is subject to review at any time by the Attorney or the Chief Justice(s) on receipt of a written request from a party to this Memorandum of Understanding;
- 11.2.3. may be terminated by the Attorney or any Chief Justice(s) as it relates to his or her Court at any time on thirty (30) days written notice;
- 11.2.4. shall be reviewed upon the appointment of a new person to the office of the Attorney or Chief Justice and, unless that new person repudiates in writing this Memorandum of Understanding within ninety (90) days of that appointment, this Memorandum of Understanding remains in effect; and
- 11.2.5. if a Chief Justice elects to terminate or a new Chief Justice elects to repudiate this Memorandum of Understanding under subsections 11.2.3 or 11.2.4 respectively, this Memorandum of Understanding shall continue in effect between the remaining Chief Justice(s) and the Attorney.

THIS MEMORANDUM OF UNDERSTANDING effective this 3 day of April, 2013.

  
The Honourable Shirley Bond  
Minister of Justice and Attorney General  
Province of British Columbia

  
The Honourable Lance S.G. Finch  
Chief Justice of British Columbia

  
The Honourable Robert J. Bauman  
Chief Justice of the Supreme Court of  
British Columbia

  
The Honourable Thomas J. Crabtree  
Chief Judge of the Provincial Court of  
British Columbia

## **Communications Overview**

### **Role of GCPE**

Government Communications and Public Engagement (GCPE) is the central agency whose primary role is to inform the public about government programs, services, policies and priorities through traditional communications practices and through direct engagement via social media and online services.

The Ministry of Attorney General is served by a GCPE staff of seven who assist with communications planning, media relations, issue management, event planning, news releases, key messages, questions and answers and speech writing. They are supported by centralized GCPE services that include media monitoring, digital communications, marketing and advertising, graphic design, event support and writing and editorial services.

### **AG GCPE staff**

**Tim Chu** – Communications Director

**Rob Duffus** – Communications Manager

**Tasha Schollen** – Communications Manager

**Ryan Panton** – Senior Public Affairs Officer

**Brendan Wright** – Senior Public Affairs Officer

**Aimee Harper** – Public Affairs Officer

**Mita Naidu** – Public Affairs Officer

### **Media relations**

Reporters with questions about the minister's position on an issue or other ministry activities are directed to contact GCPE. GCPE gathers details of the request, including questions, the reporter's deadline, and the context for the story. If it is a request for an interview with the minister GCPE will work with the minister's staff to coordinate the time, format and other logistics, and provide background information on the topic as required. For requests seeking information from the ministry GCPE will work with program areas and develop a response. The response will generally be approved up to the ADM level and be provided to the minister for final approval before we reply to the reporter.

All media requests are logged and a record of the responses is kept. A wrap-up report of daily media requests is distributed by email to the minister's office and various ministry staff at the end of the day.

## **Media monitoring**

“Today’s News Online” (TNO) provides comprehensive monitoring of media coverage of provincial (and some municipal and federal) issues and activities. In addition to a daily morning media report from TNO that is auto-generated using keywords, the GCPE office provides a tailored summary of the key stories of the day each morning and GCPE actively monitors media stories during the day.

## **Media releases**

GCPE creates a range of informational products for public distribution:

### *News releases*

- These will describe an announcement and typically include a quote from the minister and stakeholders and, if appropriate, a backgrounder with further details. Distribution is usually province-wide but can be tailored to specific locations or media outlets.

### *Information bulletins*

- These are shorter news releases with no quotes.

### *Factsheets*

- Sometimes used to support a news release by expanding on information or statistics.

### *News You Can Use*

- Includes feature articles, human interest stories, sector success stories etc.

### *Opinion-editorials*

- Used to get 500 or so words into newspapers verbatim to explain a position on a controversial topic.

### *Statements*

- Used by the minister to respond to a breaking situation or emerging issue.

### *Media advisories*

- These alert media to events and media availabilities.

## **Issue notes**

GCPE will create notes for the minister to assist with responses to emerging issues. These notes include brief key messages and concise background information on the issue. Issue notes provide communications advice and do not replace briefing notes (which provide policy advice) or policy briefings for the minister. They are reviewed and approved up to the ADM level and then approved by the minister for use. They are for ministerial use only and are not made available to the public.

## Key Messages

These are ideally the top 3-5 messages that the minister may use when speaking about an announcement or when responding to an issue. They are reviewed and approved up to the ADM level and then approved by the minister for use. They are for ministerial use only and are not made available to the public.

## Questions and Answers

GCPE creates these documents to ensure that the minister has answers to questions that could emerge as a result of an announcement or an emerging issue. These typically accompany news releases but can also be prepared for other information releases such as quarterly financial results or reports. They are reviewed and approved up to the ADM level and then approved by the minister for use. They are for ministerial use only and are not made available to the public.

## GCPE Corporate Calendar

AG Ministry announcements are coordinated with other government activities through the Corporate Calendar administered by GCPE headquarters. This calendar provides a birds-eye view of all communications activities across ministries and major agencies, and prevents scheduling conflicts.

The communications director works closely with minister's staff to coordinate calendar activities.

## Upcoming Communications Activities in First 90 days

November 20,21,27 – **Justice Summit** –Speaking opportunity to encourage continuing innovation and collaboration in the justice sector at this virtual summit.

November 26 – **Williams Lake Indigenous Court opening** –Opportunity to provide statement. Small opening ceremony to be followed by the first sitting of the court. FYI only.

Mid - late November - **Update on German report recommendations** –Possible news release and media availability. Timing and content may link to the interim report from the Cullen Commission on money laundering, expected mid-November.

## Advice/Recommendations

December 7 – **Surrey Early Resolution Project launch** –expansion of new family law procedures to Surrey following successful Victoria pilot project.

December 15 – **Rate filing for ICBC to BCUC deadline** – ICBC is required to file their yearly rate change application with BCUC. This year's filing will include two years worth because of Enhanced Care. Potential statement.

December/January (TBC) – **ICBC Employee Townhall** –Speaking opportunity to engage with ICBC staff and discuss improvements to ICBC services.

#### Cabinet Confidences; Advice/Recommendations

January 18 -- **Opening of Abbotsford Courthouse** –Proposed opening celebration and media tour.

January (requires OIC) – **Professional Governance Act in Force** –News release noting the milestone in modernizing professional governance in B.C.

#### Advice/Recommendations

Late January – **Access to Justice Week** –News release

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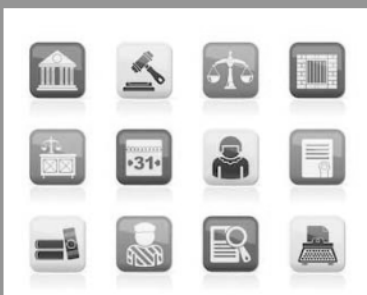


# MODERNIZING JUSTICE AND PUBLIC SAFETY

A Digital Strategy for the Justice and Public Safety Sector

PROVINCE OF BRITISH COLUMBIA  
2019/2020

*"We will encourage innovation, transforming how we work and how we use data and technology, to deliver increasingly accessible and trusted justice and public safety services to all British Columbians."*



#### Digital justice and public safety services will be:

- ✓ **Seamless** – easy to use, integrated and accessible anytime, anywhere and on any device;
- ✓ **Smart** and personalized – informed by data and secured by Digital ID; and,
- ✓ **Continuously improved** by a digitally-fit, agile, and innovative workforce.

## A MESSAGE FROM THE CIO

The idea for a Digital Strategy was born from some simple questions. What if data could be shared and accessed across the entire sector? What would it tell us about an individual's experience navigating the criminal or civil justice system? What if the system was seamlessly connected for citizens? And what if we could reduce inefficiencies, giving citizens improved access to justice and public safety services?

From virtual courts and online tribunals to data-informed crime prevention and digitally-enabled emergency management – the justice and public safety sector is committed to embracing digital solutions to transform how we develop and deliver services. Together we can integrate services and systems, digitalize our paper-based processes, and generate data informed insights to improve outcomes for British Columbians.

We will provide justice and public safety services that are seamless, smart and continuously improving. We will use data to inform our decision making, solve problems and improve our services. And, we will rethink how we develop and provide those services – challenging the status quo and fostering a culture of innovation and experimentation that is fit for the digital age.

Our Digital Strategy will unify our transformational initiatives under a shared vision and approach and guide our

investments in data and technology capabilities. It will identify strategies for optimizing and transforming our services – both inside and out – as well as opportunities for experimenting with emerging technologies.

Developed under the leadership of the IM/IT Governance Committee – which includes Assistant Deputy Ministers from across the justice and public safety sector – the strategy is a collaborative effort, representing our collective thinking, direction and commitment to change. As the chair of the Committee, it is my great pleasure to present this strategy and to acknowledge the many contributions from my fellow committee members, their staff and our executive. I thank you for your support and leadership.

I am confident that the strategy will deliver on our vision and I look forward to working across the sector and government to accelerate the digital transformation.



**Ian Bailey**

Assistant Deputy Minister & Chief Information Officer  
Attorney General & Public Safety and Solicitor General  
Province of British Columbia

## The Digital Imperative

A number of drivers for change are converging on the justice and public safety sector, impacting how we deliver services and shaping future priorities.

and improved access to justice

**Crime and Public Safety:** need to address violence against women, gang violence, mental health and addictions

**Policy & Legislation:** Reduced trial timelines; legalization of cannabis; responding to the opioid crisis; new information management requirements

**New Relationship with Indigenous People:** UN Declaration, Draft 10 Principles, Indigenous justice, & shifting expectations

**Impact of climate change & demand**

### Accelerating Pace of Change

**Modern/Agile System Design:** new methodologies (e.g., Agile/DevOps) require new workforce skills

**Big Data:** increasing volume and variety of data collected, stored, and disclosed (e.g., body-worn video)

**Cloud:** increasing opportunities for services that are only available in the cloud (+ significant cost savings)

**Legacy:** aging infrastructure & systems

**5G Cellular Network:** Increasing opportunities for mobile automation & Internet of Things (IoT)

These include increasing public expectations for more efficient and timely access to justice and greater public safety.

New policy and legislation are driving the sector to significantly reduce trial timelines, safely implement legalized cannabis, respond to the opioid crisis, and address over-representation of Indigenous people in the sector. We must also address aging infrastructure and the impact of climate change on emergency management.

These challenges are significant and the need for change is compelling and urgent. The solutions will not be found in our traditional silo-ed, 'bricks and mortar' services, paper-based processes, and aging legacy systems. To modernize, we have to embrace 'digital' solutions.

With digital opportunities, come challenges. The accelerating pace of change will require us to mature our skills in agile system design and development. The opportunities promised by cloud computing and 'big data' will challenge our data governance and analytics capabilities. And all of these emerging technology opportunities will need to be prioritized against the need to modernize and integrate critical legacy systems.

To succeed, we will need to think and work differently, encourage experimentation and challenge the status quo.

## What do we mean by 'Digital'?

Digital transformation is **NOT** just about moving services online. It isn't "*Digital for Everything*" or "*Digital, because we can*".

'Digital' is about using data and technology to optimize how we provide services to citizens and businesses. By making services more automated, integrated and intelligent, we improve their timeliness, ease of use and value. Smart, personalized services are location-aware, predictive, and conversant. As such, they can better anticipate users' needs and provide more relevant and timely service.

'Digital' is also about optimizing our 'back office' services. Providing a service that is digital 'end to end' and 'inside and out' provides a fully automated experience, from approval and processing delays.

'Digital' is about extracting value from data and using the insights we derive to inform decision making, improve services and solve the complex problems currently facing the justice and public safety sector.

And finally, 'digital' is about us – the people that deliver justice and public safety services and the policies and processes we have in place to do so. We will need to challenge traditional ways of doing things, embrace new methodologies and implement policies and processes that enable innovation.

We will also need to grow our skills in data analytics, emerging technology, digital privacy



## Strengths & Challenges

The justice and public safety sector has a number of strengths that it can build upon as it digitally transforms its services.

### Cross-Sector Governance & Collaboration

Our ADM IM/IT Governance Committee is already providing effective oversight and coordination of our IT capital investments. However, operational spending on IT is not coordinated, and some critical systems (such as PRIME) are governed independently. Greater cross-sector visibility & coordination will provide greater opportunities to collaborate, while increasing value for money.

Another strength is our strong relationships with the judiciary and the police and their support for cross-sector collaboration.



Disjointed governance & systems

Need for new digital skills

Insufficient data sharing and

Growing volume & variety of data

### Common Technology Platforms

The sector has already deployed common technology platforms (such as the Civil Resolution Tribunal) that can be used by multiple agencies. Others are under development (such as a Digital Evidence platform in partnership with the police). We will leverage the success of these platforms – as well as corporate platforms – to develop further shared capabilities.

### Leveraging Corporate Enablers & Partnerships

We will continue to work in partnership with central government to leverage, and further develop, corporate enablers such as: the BC Services Card & other digital identity services; cross-government data integration & analytics services; and, telecommunications & network infrastructure.

We will also support the Office of the CIO in addressing rising storage costs and the challenges that are hindering our adoption of cloud services.

Other challenges we face include:

### Legacy Systems & Infrastructure

Network connectivity, particularly in remote areas of the province, continues to be a challenge. Our legacy systems and infrastructure will need to be modernized & integrated and prioritized against, & coordinated with, other modernization initiatives.

### Paper-based & Archaic Processes

We must address our overreliance on paper-based and archaic processes (such as a requirement for a 'wet signature'). These processes are preventing the full digitalization of our services and limiting our ability to manage and extract value from data.

### Policy & Legislative Barriers

Current policy and legislation, created for a paper-based world, can create barriers to digital services. We will identify and modernize policies and legal requirements that are preventing or limiting our digital evolution.

### Workforce Skills & Data Management

Emerging technology and big data offer exciting opportunities to transform our services and increase our knowledge. However, they also challenge our digital skills and our ability to cost-effectively and securely store and manage data.

### Privacy & Cloud

While cloud services offer more cost-effective and secure data storage, there are unresolved privacy and data sovereignty concerns that are restricting our ability to fully utilize the services.

### Insufficient Data Sharing & Re-use

The sector has high-quality data but we lack the standards & tools to effectively & securely share & re-use that data across the sector to enable more coordinated services & integrated data analysis.

## Digital Transformation

The justice and public safety sector has already made significant progress on its digital transformation journey. We launched Canada's first online tribunal – the Civil Resolution Tribunal – providing a common technology platform that other agencies and tribunals can use. We implemented electronic ticketing to support our Road Safety Initiative and employed agile and DevOps methodologies to accelerate the development and launch of the Cannabis Retail Licensing application.

Continuing our transformation, we will modernize and virtualize our courtrooms with enhanced digital scheduling and video conferencing, while exploring the use of artificial intelligence (AI) tools. We will facilitate more timely prosecutions with a secure digital evidence platform; improve our business intelligence; automate case management work-flow processing and approvals; and enable public e-alerts and online registration & services for evacuees during emergencies.

While these initiatives will support sector priorities, goals and objectives, absent a

unifying strategy, we will miss opportunities to develop common capabilities, integrate our services and systems; create reusable data; and realize better value for money.

A Digital Strategy will:

- ❖ Unify these initiatives under a shared vision and approach;
- ❖ Coordinate how we build on our digital strengths, seize opportunities, address common challenges, and manage risk; and,
- ❖ Ensure that investments in data, technology and resources are prioritized & coordinated.



## A Vision for a Digital Future

Our Strategy is driven by a vision of a sector working collaboratively and innovatively to provide increasingly accessible, timely and trusted justice and public safety services to all British Columbians. These services will be:

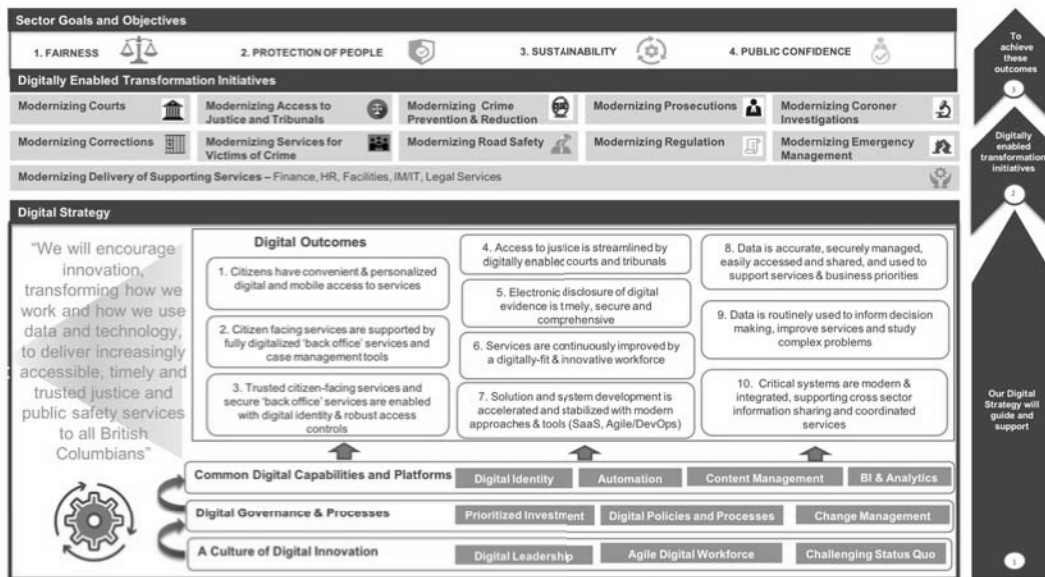
- **Seamless** – easy to use, integrated and accessible anytime, anywhere and on any device;
- **Smart and Personalized**, informed by data and secured by Digital ID; and,
- **Continuously improved** by a digitally-fit, agile and innovative workforce.

These services will be supported by 'back office' automation and case management tools and secured by strong identity verification and robust access controls. Data will be curated, accessible and routinely used to problem solve and improve services. Systems will be modernized and integrated, and developed using modern, agile methodologies.

In addition, access to justice will be streamlined by digitally-enabled courts and tribunals and electronic disclosure of digital evidence will be timely, secure and comprehensive.

To achieve these Digital Outcomes, our Strategy will focus on three core areas:

1. **Fostering a Culture of Innovation** which includes digital leadership and an agile, digital workforce that is empowered to challenge the status quo;
2. **Establishing Digital Governance & Processes** which includes coordinated and prioritized investments, digital policies & processes, and change management; and,
3. **Developing Digital Capabilities and Platforms** including, but not limited to, Digital Identity, Automation, Content Management and Business Intelligence and Analytics.



## Key Actions

To achieve our vision and digital outcomes, we will work collaboratively to foster a culture of innovation; establish digital governance and processes; and develop digital capabilities and platforms.

We will take a shared platform approach to developing digital capabilities that have been

identified across the sector as critical to our success. This will accelerate their adoption, ensure consistency, and reduce duplication. As a first step, we will create strategies for developing or maturing these capabilities; as well as strategies for modernizing critical legacy systems and integrating our services and systems across the sector.

We will also work together to provide the digital leadership necessary to grow an

agile, innovative and digitally-fit workforce – for which the first step will be to consult with the Public Service Agency and the Office of the CIO on the development of a Digital Workforce Strategy.

The IM/IT Governance Committee will oversee this work, providing cross-sector governance over our digital investments, the development of enabling policies and processes; and change management.

*“We will encourage innovation, transforming how we work and how we use data and technology, to deliver increasingly accessible and trusted justice and public safety services to all British Columbians”*



Fostering a Culture of Innovation	First Steps:
<b>1. Digital Leadership</b> Engage senior leaders across the sector as advocates for the Digital Strategy – to oversee its development, implementation, measurement and reporting and to champion innovation and culture change initiatives.	<ul style="list-style-type: none"> <li>Assign accountability for the Digital Strategy to the IM/IT Governance Committee</li> </ul>
<b>2. Digitally-fit Workforce</b> Foster an innovative and digitally-fit workforce that is data-informed and empowered to challenge the status quo, experiment, and continuously improve services.	<ul style="list-style-type: none"> <li>Consult with PSA and OCIO to develop an aligned <b>Digital Workforce Strategy</b></li> </ul>
<b>3. Agile in Delivery</b> Mature our delivery of agile approaches to system design and development, and apply principles (iterative & adaptable execution, minimal viable product and fail-fast mentality) to how we work in other disciplines (e.g., strategy, policy, standards, playbook development).	<ul style="list-style-type: none"> <li>Provide training in modern system development methodologies &amp; identify additional training needs</li> </ul>
Establishing Digital Governance & Processes	First Steps:
<b>4. Coordinate and Prioritize Investments in Digital Capabilities</b> Coordinate & prioritize investments in digital capabilities, and associated resourcing, that support innovation, shared platforms, reusable data and value for money.  In prioritizing investments in digital capabilities, ensure that corporate capabilities are leveraged to the extent possible and appropriate, working with central government to further develop corporate capabilities to support increasingly digitalized services.	<ul style="list-style-type: none"> <li>Develop a Digital Investments and Governance Playbook</li> <li>Coordinate and prioritize our digital investments</li> <li>Expand the role of the Alliance Management Office</li> </ul>
<b>5. Digital policies and processes</b> Identify legislation, policies & processes that are creating barriers for digital services and innovation and develop strategies for modernizing them.	<ul style="list-style-type: none"> <li>Develop an inventory of policy and legislative barriers</li> </ul>
<b>6. Change management from the first mile</b> Starting from the first mile, integrate change management practices into every stage of a digital transformation initiative.	<ul style="list-style-type: none"> <li>Support the launch of the Strategy with communications and information sessions</li> </ul>

## Key Actions (cont'd)

### Digital Outcomes

1. Citizens have convenient & personalized digital and mobile access to services.
2. Citizen-facing services are supported by fully digitalized 'back office' services and case management tools.
3. Trusted citizen-facing services and secure 'back office' services are enabled with digital identity & robust access controls.
4. Access to justice is streamlined by digitally-enabled courts and tribunals.
5. Electronic disclosure of digital evidence is timely, secure and comprehensive.
6. Services are continuously improved by a digitally-fit and innovative workforce.
7. Solution and system development are accelerated and stabilized with modern approaches & tools (SaaS, Agile/DevOps).
8. Data is accurate, securely managed, easily accessed & shared, and used to support services & business priorities.
9. Data is routinely used to inform decision making, improve services and study complex problems.
10. Critical systems are modern & integrated, supporting cross sector information sharing and coordinated services.

Developing Digital Capabilities and Platforms	First Steps:
<b>7. Digitally mature services</b> Assess the digital maturity of key justice and public safety services and develop strategies/roadmaps for optimizing their digital capabilities.	<ul style="list-style-type: none"> <li>• Work with branches to develop 'strategies-on-a page' for sector modernization initiatives.</li> <li>• Develop a Digital Services Maturity Model that includes criteria for optimizing both 'front end' and 'back-office' services</li> </ul>
<b>8. Mobile by Default:</b> In optimizing digital services, ensure, wherever possible, mobile access to services (using mobile apps, video conferencing, etc.).	<ul style="list-style-type: none"> <li>• Develop a <b>Technology Modernization Strategy</b> that includes strategies for: <ul style="list-style-type: none"> <li>– Mobile access;</li> <li>– Use of automation and case management tools;</li> <li>– Integration across the sector;</li> <li>– Experimenting with emerging technologies; and,</li> <li>– Modernizing critical legacy systems</li> </ul> </li> <li>• Experiment with AI, Blockchain and other emerging technology</li> </ul>
<b>9. Digital on the Inside</b> Ensure that services are optimally digitalized both inside and out (using case management and 'back-office' automation tools).	
<b>10. Integrated</b> Support cross-sector collaboration, information sharing and co-ordinated services with an integration strategy that takes a common platform approach to connecting services in a secure, accelerated and sustainable manner.	
<b>11. Embrace Experimentation</b> Safely experiment with emerging technologies (e.g., Artificial Intelligence (AI), Blockchain) through controlled proofs of concept and pilots.	
<b>12. Maintain &amp; Modernize Legacy</b> Develop a strategy for the lifecycle of infrastructure maintenance and the modernization of critical legacy systems that takes a holistic system view and enables integration.	<ul style="list-style-type: none"> <li>• Develop a <b>Digital Identity and Secure Access Strategy</b> that: <ul style="list-style-type: none"> <li>– builds on corporate enablers (e.g., Services Card, OrgBook); and,</li> <li>– explores emerging technology</li> </ul> </li> </ul>
<b>13. Digital Identity and Secure Access</b> Ensure secure access to high value and personalized services with strong Digital Identity and robust access controls, building on corporate capabilities, and exploring emerging technologies.	
<b>14. Data-informed Services and Policies</b> Develop common capabilities, platforms and governance to extract value from data and use it to inform decision making, find efficiencies, solve problems, and provide a continuous feedback loop for improving policies and services.	<ul style="list-style-type: none"> <li>• Develop a <b>Business Intelligence and Data Analytics Strategy</b></li> </ul>
<b>15 Data Accessibility and Reusability</b> Develop common digital information management capabilities to securely manage data as a strategic asset that is searchable, accessible, sharable and ready to use for business intelligence initiatives and to inform, provide and improve services.	<ul style="list-style-type: none"> <li>• Develop a <b>Digital Information Management Strategy</b></li> </ul>

## Strategic Framework

### Guiding Principles:

#### 1. We will design **client /citizen focused services**

From the information we create to the systems we use to manage and present it – we will focus on client needs.

#### 2. We will **think and act corporately, while respecting independence**

Integration and collaboration across the sector with a focus on common governance and standards.

#### 3. We will support **common platforms**

A shared platform approach to developing and delivering digital services and managing data accelerates the adoption of new technologies, ensures consistency, lowers costs, and reduces duplication.

#### 4. We will take an **‘information-centric’ approach**

We will shift from managing ‘documents’ to standardizing and tagging the content so that data/information is searchable, sharable, reusable and trusted.

#### 5. We will **embrace experimentation and challenge the status quo**

Archaic, paper-based processes and locked down data must be questioned and replaced, where possible, with enabling policies and processes and permission to experiment.

Our Strategic Framework will be guided by five ‘north-star’ principles which will guide how we work and what we prioritize.

The Strategic Framework will also have five components or sub-strategies, which are inter-related, working together to achieve the Digital Vision and Outcomes:

#### Technology Modernization

- This includes strategies for mobile access; case management; collaboration tools; automation; integration; cloud computing; & maintaining and modernizing infrastructure and legacy systems.

#### Digital Identity and Secure Access

- This includes strategies for improving identity verification; providing users with access to high value digital services; and ensuring secure and auditable access to information and systems.

#### Business Intelligence and Data Analytics

- This includes strategies for extracting value from data and using it to inform decision making, find efficiencies, and improve policies and services.

#### Digital Information Management

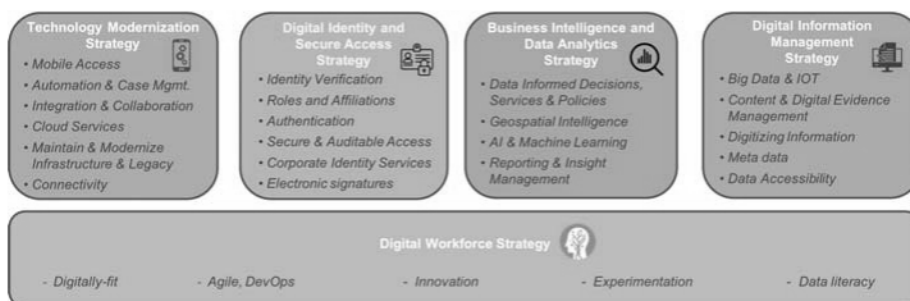
- This includes strategies for digitizing information; managing large volumes and varieties of data; improving data quality; and standardizing content so that it is searchable, reusable and trusted.

#### Digital Workforce

- This includes strategies for developing a digitally-fit, data informed and innovative workforce that will design, build and deliver our future digital services.

Each component will identify key people, process and technology strategies for overcoming identified challenges and seizing opportunities – accompanied by a roadmap that includes priority initiatives, transformational opportunities & milestones.

Over the life of the framework, we will consider additional opportunities; fine-tune our strategies; and augment the roadmaps with additional initiatives that advance our Vision. As such, our strategy will be ‘evergreen’ and – like us – flexible, agile and continuously improving.



## A Digital Building Code

Our five digital strategies will guide the development of a 'Digital Building Code'.

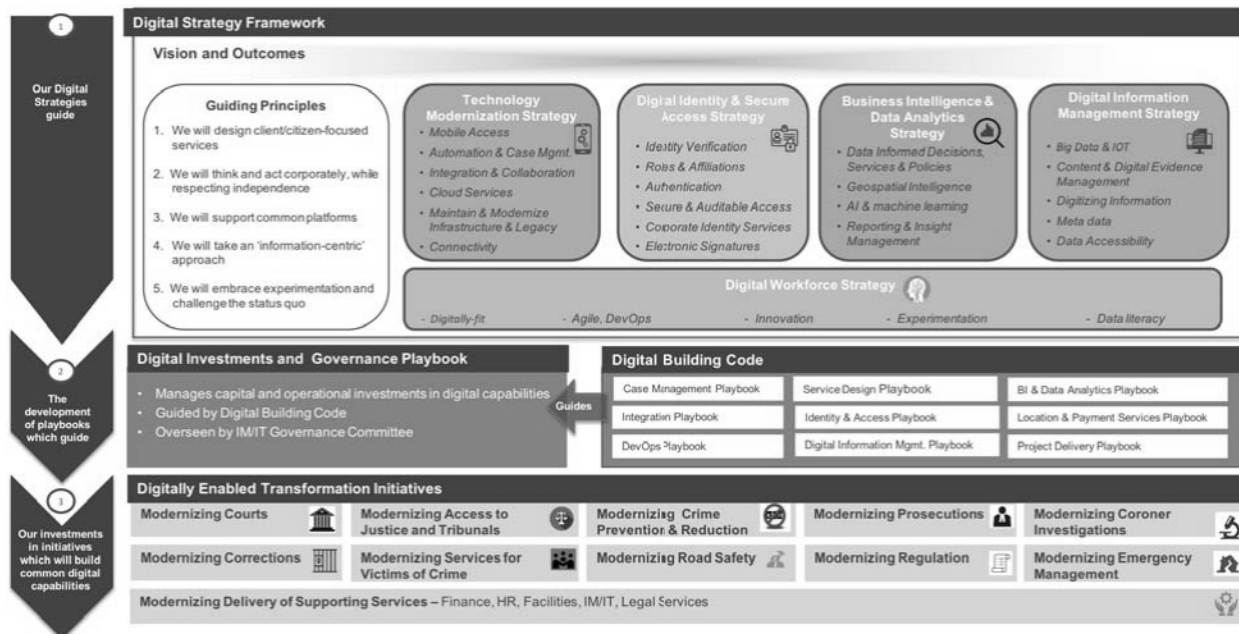
The Digital Building Code will be a compilation of 'playbooks' which are designed to operationalize our digital strategies and ensure that standards and best practices are followed when investing in, and building, digital capabilities.

The playbooks will provide practical guidance on a range of topics including: how digital services should be designed, managed and integrated; how projects should be initiated and managed; and how information should be managed and used to optimize its value.

In addition, a Digital Investments and Governance Playbook will be developed to guide the IM/IT Governance Committee in

prioritizing transformational initiatives and making investment decisions.

Together these tools will provide a standardized and repeatable process for building and optimizing our data, technical and workforce capabilities and for coordinating and prioritizing our investments in these capabilities.



## Measuring Progress

This strategy represents a first step in coordinating our digital transformation efforts.

Progress will be measured by a range of quantitative and qualitative measures, some of which will be associated with Maturity Model criteria.

As an example, a Digital Services Maturity Model will be used as a tool for categorizing

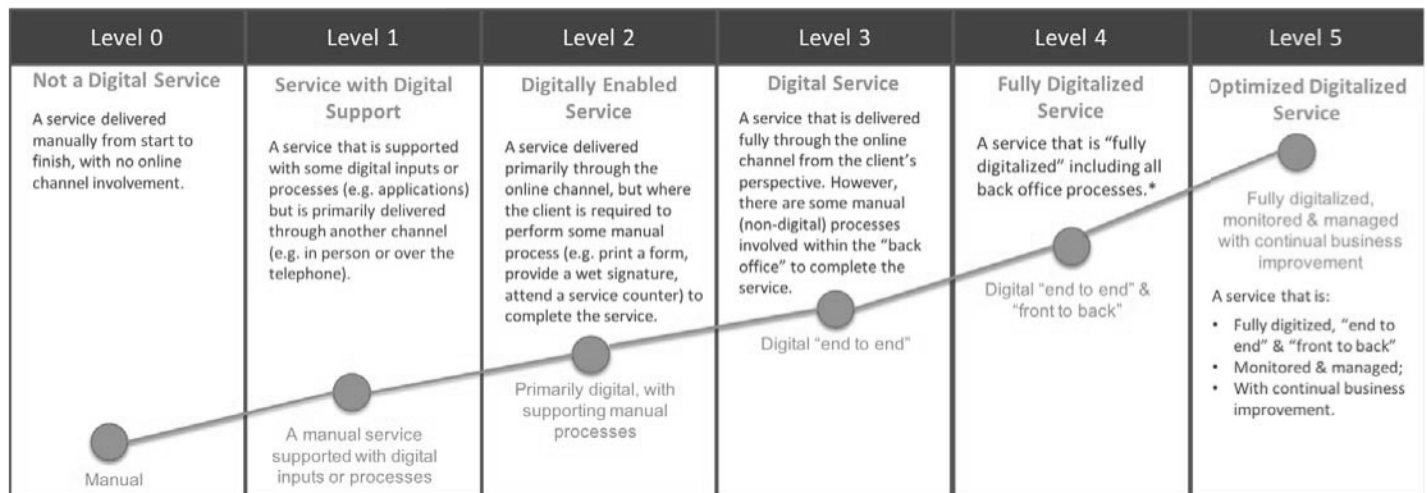
the digital maturity of a service and assessing where increased digital maturity or capability would add service value.

In measuring progress, it is important to note that achieving the highest levels of digital maturity will not necessarily be the goal for all services. The optimal level of digital maturity will vary depending on the type and complexity of the service (many of which will continue to be provided in person or offline); and the extent to which further digitalization adds value.

The IM/IT Governance Committee will oversee the development and use of measurements and maturity models for evaluating our progress and provide annual updates on that progress.

Ongoing monitoring, analysis and measurement of our progress will ensure that we are achieving our vision and strategy; and, in doing so, returning increasing business value. It will also provide continuous opportunities to generate and share insights and to improve and augment our strategic approach and implementation plans.

### A Digital Services Maturity Model



\* Workflow processing (where a work item is processed from an electronic work queue and actioned by a human agent only using digital tools) is considered a digitalized process



## Next Steps – 2019/20

Next steps for advancing the Strategic Framework include establishing our governance processes; creating awareness through communications and information sessions; and developing the strategy components of the Framework.

This work will happen collaboratively across the sector as we assess the current and optimal digital maturity of key services. To guide our work, we will create 'Strategies on a Page' for our sector modernization initiatives that identify key digital capabilities with associated roadmaps.

We will also consult with, and learn from, key stakeholders across government, including the Office of Chief Information Officer and the Public Service Agency. And, finally we will experiment with emerging technologies to grow our digital knowledge and skills.

	April – June 2019	July – September 2019	October – December 2019	January – March 2020
Foster a Culture of Innovation	Assign accountability for Digital Strategy oversight and advocacy to the IM/IT Governance Committee			
	Consult with PSA & OCIO to develop Digital Workforce Strategy			
	Provide training in modern system development methodologies & identify additional training needs			
Digital Governance & Processes	Strategy launch communications			
	Develop Digital Investments & Governance Playbook			
		Co-ordinate and prioritize digital investments		
	Expand Alliance Management Office			
	Create inventory of policy & legislative barriers			
Develop Digital Capabilities and Platforms	Create 'Strategies on a Page' for sector modernization Initiatives			
	Develop supporting strategy components			
		Develop Digital Services Maturity Model	Assess maturity level of services	
	Experiment with emerging technologies			

**Ministry of  
Attorney General  
and Ministry of Public Safety  
and Solicitor General**

**2020/21 – 2022/23  
SERVICE PLAN**

**February 2020**



## Ministers' Accountability Statements



The *Ministry of Attorney General and Ministry of Public Safety and Solicitor General 2020/21 - 2022/23 Service Plan* was prepared under my direction in accordance with the *Budget Transparency and Accountability Act*. I am accountable for the basis on which the plan has been prepared.

A handwritten signature in black ink, appearing to read 'David Eby'.

Honourable David Eby, QC  
Attorney General  
February 4, 2020



The *Ministry of Attorney General and Ministry of Public Safety and Solicitor General 2020/21 - 2022/23 Service Plan* was prepared under my direction in accordance with the *Budget Transparency and Accountability Act*. I am accountable for the basis on which the plan has been prepared.

A handwritten signature in black ink, appearing to read 'Mike Farnworth'.

Honourable Mike Farnworth  
Minister of Public Safety and Solicitor General  
February 4, 2020

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## Purpose of the Ministries

The Ministry of Attorney General and the Ministry of Public Safety and Solicitor General work together as the justice and public safety sector to advance a shared vision of a safe, secure, just and resilient British Columbia. The mission of the ministries is to administer justice, deliver public safety services and programs, and provide legal advice to government.

The Ministry of Attorney General is responsible for the following program areas: administrative tribunals; civil and family justice services; sheriff and court administration services; legal advice and services to government; legal aid; prosecution services; protection and promotion of human rights; gambling regulation and enforcement; problem gambling prevention and treatment services; liquor and cannabis licensing, compliance and enforcement as well as distribution; and investigation of complaints made by inmates at provincial correctional centres and probationers supervised in the community.<sup>1</sup>

The areas of responsibility within the Ministry of Public Safety and Solicitor General are: oversight of policing and law enforcement; correctional services; crime prevention and reduction; victim services; restorative justice; coroners services; civil forfeiture; non-medical cannabis legalization and regulation, including security screening of cannabis retail store applicants and workers and enforcement against illegal cannabis sales; road safety; criminal record checks; the protection order registry; private security industry regulation; consumer protection; guide dog and service dog certification; emergency management, including preparedness, mitigation/prevention, response and recovery; and fire prevention and safety.<sup>2</sup>

## Strategic Direction

The Government of British Columbia remains focused on its three strategic priorities: making life more affordable, delivering better services, and investing in a sustainable economy.

Ministries are actively working to provide quality, cost-effective services to British Columbia families and businesses. By adopting the Gender-Based Analysis Plus (GBA+) lens and Business and Economic Implications Framework to budgeting and policy development, ministries will ensure that equity is reflected in budgets, policies and programs.

Additional key initiatives underpinning lasting prosperity in 2020/21 and beyond are the implementation of:

- A Framework for Improving British Columbians' Standard of Living which will provide the foundation for quality economic growth in our province and a pathway to a more inclusive and prosperous society;
- The Declaration on the Rights of Indigenous Peoples Act and the Truth and Reconciliation Commission of Canada Calls to Action, demonstrating support for true and lasting reconciliation; and
- The CleanBC plan, putting B.C. on the path to a cleaner, better future – with a low carbon economy that creates opportunities while protecting our clean air, land and water.

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<sup>1</sup> The Attorney General is also responsible for a number of agencies, boards, commissions and tribunals (see Appendix A).

<sup>2</sup> The Minister of Public Safety and Solicitor General is also responsible for several agencies and boards (see Appendix A) and the Combined Forces Special Enforcement Unit – British Columbia (see Appendix B).

Ministry of Attorney General  
Ministry of Public Safety and Solicitor General

This 2020/21 – 2022/23 service plan outlines how the Ministry of Attorney General and the Ministry of Public Safety and Solicitor General will support the government's priorities, including selected action items identified in the July 2017 Attorney General's mandate letter and the Minister of Public Safety and Solicitor General's mandate letter, as well as the key priorities of the Parliamentary Secretary for Emergency Preparedness. Significant progress has been made on implementing these priorities and many have been substantially completed.

Over the previous year, the Ministry of Attorney General made progress on these priorities by:

- Providing new funding for legal clinics. The Province announced new funding to hire lawyers that will be able to offer legal advice on issues including poverty, housing, immigration and disability, and act as counsel in legal proceedings at no cost to their clients.
- Re-establishing the Human Rights Commissioner. Government passed legislative amendments in the fall of 2018 to re-establish the Office of the Human Rights Commissioner. Since then, the Ministry of Attorney General has supported implementation of the independent Office of the Human Rights Commissioner in Vancouver, which became operational in September 2019. The office has a mandate to provide education, as well as examine and address issues of discrimination, to promote human rights and combat widespread patterns of inequality and discrimination in society.
- Improving dispute resolution services for families in B.C. The Victoria Early Resolution and Case Management Model was launched in May 2019 to assist with family law matters, such as child and spousal support, parenting arrangements, contact and guardianship. It is designed to provide families with early opportunities to get information, referrals and resolution services to help them settle family disputes out of court. For those families that do need to go to court, this model is intended to provide families with more assistance to help them obtain just and timely decisions in Provincial Court.
- Implementing innovative ways to move certain types of disputes out of courtrooms. The Accident Claims Transformation Project, completed in April 2019, supported changes required to enable the Civil Resolution Tribunal's (CRT) increased mandate to handle ICBC minor injury claim disputes using online dispute resolution where there is disagreement between the customer and ICBC. These disputes include the entitlement to receive accident benefits, the classification of an injury as a minor injury, and liability and quantum decisions for motor vehicle injury claims up to \$50,000. As a result, these types of civil disputes have been moved out of courtrooms so that court resources may be reserved for the most serious matters.
- Establishing an independent Commission of Inquiry into Money Laundering in the province – led by B.C. Supreme Court Justice Austin F. Cullen – to assess the full scope of money laundering in British Columbia, including real estate, gaming, financial institutions and the corporate and professional sectors. The Commission will deliver an interim report by November 2020 and a final report by May 2021.

Over the previous year, the Ministry of Public Safety and Solicitor General made progress on these priorities by:

- Supporting critical community engagement related to the emotional, psychological and physical safety of Indigenous women and girls in British Columbia, initiated in response to the final report of the National Inquiry into Missing and Murdered Indigenous Women and Girls. Path Forward Women and Girls Safety Community Sessions were held in twelve communities across the province to inform the development of strategies and initiatives related to the systemic causes of

violence against Indigenous women and girls in B.C., and to ensure that information sharing was done in a manner that considered culture and protocol and supported healing.

- Establishing the Community Safety Unit (CSU) responsible for compliance and enforcement activities under the *Cannabis Control and Licensing Act*, with a focus on the illegal retail sale of cannabis. Between April and December 2019, CSU officers visited approximately 220 unlicensed cannabis retailers for the purpose of education and awareness about cannabis laws, penalties and consequences for violating federal and provincial regulatory regimes and conducted 24 inspections resulting in seizures of illicit cannabis and records. As a result of educational and enforcement action taken, approximately 70 unlicensed cannabis retail locations have voluntarily closed.
- Proceeding with steps to replace the Nanaimo Correctional Centre (NCC) with a new centre that will better support staff and enhance NCC's unique, effective programs, including the Guthrie Therapeutic Community and vocational and educational programs delivered in partnership with Vancouver Island University. In addition to building on NCC's impressive history of changing the lives of inmates for the better, replacing the NCC will bring major regional economic benefits, including approximately 650 direct and 275 indirect jobs, plus about 100 spinoff jobs associated with spending by those workers.
- Launching public engagement to inform modernization of the *Emergency Program Act* to support more effective management of emergencies in B.C. by incorporating international best practices, including the *United Nations Sendai Framework for Disaster Reduction*, the *United Nations Declaration on the Rights of Indigenous Peoples*, and the *Draft 10 Principles that Guide the Province of British Columbia's Relationship with Indigenous Peoples*.
- Making significant progress in implementing recommendations made by George Abbott and Chief Maureen Chapman in the report commissioned by the Province, *Addressing the New Normal: 21st Century Disaster Management in B.C.*, after extensive consultations with First Nations, local governments, residents, industry and other stakeholders affected by recent flood and wildfire events. The second and most recent report on implementing the recommendations was released on October 31, 2019, detailing the work that has been done over the last year on each of the report's 108 recommendations.

In addition to these and many other significant accomplishments, during the past year the ministries continued to work in partnership with Indigenous leadership and communities to further government's commitment to reconciliation and to reducing the over-representation of Indigenous peoples in the justice and public safety sector, addressing violence against Indigenous peoples (especially women and girls), improving access to justice and justice services for Indigenous peoples, and designing culturally relevant and appropriate programs and services. The following key examples illustrate this commitment:

- The ministries are supporting the development of a First Nations Justice Strategy and a Métis Justice Strategy for British Columbia. As part of this work, the Province supported the British Columbia First Nations Justice Council in hosting a First Nations provincial leadership forum and four regional justice forums throughout the province and supported the Métis Nation British Columbia to host seven community engagement sessions to inform development of the strategies. These forums brought together Indigenous leadership, practitioners and subject matter experts with an in-depth understanding of Indigenous justice issues to discuss transformative change.
- The ministries continued work on developing and implementing a multi-year plan for the justice and public safety sector to adopt and strategically align its work with the *Draft 10 Principles that*

*Guide the Province of British Columbia's Relationship with Indigenous Peoples and the B.C. Declaration on the Rights of Indigenous Peoples Act.*

The following performance plan outlines how the Ministry of Attorney General and the Ministry of Public Safety and Solicitor General will continue to track progress on key mandate letter commitments and other emerging government priorities.

## Performance Planning

### Goal 1: The justice and public safety sector in British Columbia is fair

Fairness in the justice and public safety sector is bolstered by improving the public's access to justice, including affordable, effective and lasting resolution to civil and family disputes, as well as criminal legal proceedings.

#### Objective 1.1: Increased access to justice

##### Key Strategies:

- Improve and support legal aid programs and services for British Columbians;
- Support the creation of an integrated network of independent community legal clinics to provide family law and poverty law services, as well as other related services;
- Improve dispute resolution services for B.C. families;
- Deliver client-based, accessible and effective court services that people count on while supporting the smooth operation and security of the Courts of British Columbia; and
- Improve access to information and the use of technology that supports the public's access to justice.

Performance Measure: Distance Services	2018/19 Baseline	2019/20 Forecast	2020/21 Target	2021/22 Target	2022/23 Target
1.1 Number of family justice services provided. <sup>1</sup>	844	935	1,027	1,118	1,210

<sup>1</sup> Data Source: Family Justice Services Division, Ministry of Attorney General.

##### Linking Performance Measure to Objective:

Specially trained Family Justice Counsellors provide initial needs determination (information, assessment and referral), needs assessment and mediation services to families through the use of distance technologies (teleconferences and video-conferences). This new performance measure assesses increasing access to justice for the public, such as dispute resolution services, by extending the reach beyond local offices, making services available to citizens in all corners of the province, including rural and remote areas, and beyond for families where one party lives outside B.C.



## Goal 2: The justice and public safety sector in British Columbia protects people

A key role of British Columbia's justice and public safety sector is to protect people, especially those who are most vulnerable.

### Objective 2.1: Improved outcomes for Indigenous people across the justice and public safety sector through strengthened partnerships with Indigenous leadership and communities

#### Key Strategies:

- Continue to build and improve existing partnerships to support engagement and reconciliation with Indigenous peoples through implementation of the *Truth and Reconciliation Commission of Canada's Calls to Action* and by bringing B.C.'s laws into alignment with the *United Nations Declaration on the Rights of Indigenous Peoples*;
- Partner with Indigenous leadership and communities to reduce the over-representation of Indigenous people involved in and impacted by the justice and public safety sector;
- Continue to develop and implement Crown Counsel policies which seek to address disproportionate impacts upon accused persons from disadvantaged and vulnerable communities and to reduce the over-representation of Indigenous people in the criminal justice system without endangering public safety;
- Provide evidence-based and culturally-appropriate programming in correctional centres and create memorandums of understanding (MOUs) with First Nations to support the successful reintegration of Indigenous people being released from custody and/or under community supervision who are returning to their communities;
- Provide comprehensive Coroners Service mortality data and analyses to the First Nations Health Authority and First Nation communities to inform community-based initiatives that reduce health and safety risks and support wellness and safe communities;
- Continue to work with Indigenous partners on non-medical cannabis legalization issues through the First Nations Leadership Council joint working group, leading to negotiation of agreements with Indigenous Nations under section 119 of the *Cannabis Control and Licensing Act* to address community-specific interests; and
- Partner with First Nation communities to improve emergency management services and supports through initiatives such as First Nations Regional Emergency Management Partnership Tables.

Performance Measure: First Nations communities with a letter of intent to create an MOU with B.C. Corrections	2018/19 Baseline <sup>2</sup>	2019/20 Forecast	2020/21 Target	2021/22 Target	2022/23 Target
2.1a Total number of First Nation communities with a letter of intent to create an MOU with B.C. Corrections to support the successful reintegration of Indigenous people returning to their community and/or remaining connected to their community. <sup>1</sup>	8	10	12	14	16

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<sup>1</sup> Data Source: Results for this measure are derived from B.C. Corrections, Ministry of Public Safety and Solicitor General. The forecast and target numbers are cumulative and therefore represent the total number of communities that have signed a letter of intent to create an MOU, not the number of new communities engaged in the process in a given fiscal year. The wording of the measure has been refined since publication of the *Ministry of Attorney and Ministry of Public Safety and Solicitor General 2019/20 – 2021/22 Service Plan* to more accurately reflect what is being measured.

<sup>2</sup> The 2018/19 baseline and subsequent year forecast and targets for this measure have been revised since publication of the *Ministry of Attorney General and Ministry of Public Safety and Solicitor General 2019/20 – 2021/22 Service Plan* due to progress being made more quickly than anticipated.

### Linking Performance Measure to Objective:

Supporting the successful reintegration of Indigenous people returning to their community and/or remaining connected to their community contributes to the objective of creating better outcomes for Indigenous people across the justice and public safety sector.

The MOUs between First Nations and B.C. Corrections outline the process to work with each client and the community to facilitate reintegration, including release planning for those in custody and collaborative supports for those under community supervision, through engagement with community resources and the provision of ongoing support to the community.

Performance Measure: Community participation on First Nations Emergency Management Partnership Tables	2018/19 Baseline	2019/20 Forecast	2020/21 Target	2021/22 Target	2022/23 Target
2.1b Percentage of on-reserve First Nation communities participating on First Nations Regional Emergency Management Partnership Tables. <sup>1</sup>	42	50	60	65	70

<sup>1</sup> Data Source: Emergency Management BC First Nations Coordination Unit.

### Linking Performance Measure to Objective:

First Nations Emergency Management Regional Partnership Tables provide a venue for First Nations and provincial agency emergency managers to meet in partnership on emergency management issues and initiatives related to all phases of emergency management – planning and preparedness, mitigation, response and recovery.

Community participation will be varied through multiple forms of engagement, which could include partnership table meetings, partnership table teleconference calls and in-community engagement specific to partnership table activities. This definition of participation reflects the value of varied forms of participation by First Nation communities, particularly those in remote locations.

## Objective 2.2: Strengthened prevention, protection and support for victims of crime, and marginalized and vulnerable women and children

### Key Strategies:

- Support the Province's response to the final report of the National Inquiry into Missing and Murdered Indigenous Women and Girls, including working in partnership with Indigenous leadership and communities to lead the Province in developing strategies and initiatives to address the systemic causes of violence against Indigenous women and girls in B.C.;

- Continue to enhance the existing continuum of victim services and violence against women programs across B.C. to better support people who experience domestic violence, sexual assault and other crimes;
- Support domestic violence prevention and intervention measures, such as Domestic Violence Units, Domestic Violence Courts, domestic violence programming in Corrections, and the Protection Order Registry;
- Conduct and report on B.C. Coroners Service death review panels that specifically explore marginalized and vulnerable populations (e.g. panels on intimate partner violence, youth in care transitioning into adulthood, and First Nations youth and young adults);
- Create a dedicated domestic violence coroner position to assist in identifying trends and patterns in domestic violence deaths and to make recommendations to prevent deaths in similar circumstances; and
- Continue to develop the cross-sector curriculum on trauma-informed practice for the justice, public safety and anti-violence community sectors to support personnel to: recognize and understand trauma and its effects on victims and witnesses; understand how violence and abuse may shape victims' responses; assess their own practice with a trauma-informed lens; and incorporate these learnings to reduce potential re-traumatization experienced by victims and witnesses participating in the justice system.

Performance Measure: Timeliness of Victim Financial Assistance claim adjudication		2018/19 <sup>2</sup> Baseline	2019/20 Forecast <sup>3</sup>	2020/21 Target <sup>4</sup>	2021/22 Target <sup>5</sup>	2022/23 Target
2.2	Average number of days to adjudicate claims for financial assistance from victims and others impacted by violent crime <sup>1</sup>	102	130	180	130	100

<sup>1</sup> Data Source: Results for this measure are derived from the Electronic Victim Information System, considering the dates claims were received and the dates they were completed, as well as the cases that remain outstanding.

<sup>2</sup> The 2018/19 baseline has been revised from the 95 reported in the [2018/19 Annual Service Plan Report](#) for the justice and public safety sector and remains subject to change as some 2018/19 files are still being adjudicated.

<sup>3</sup> The 2019/20 forecast reflects a 24.5 per cent increase in applications compared to 2018/19 and remains subject to change as some 2019/20 files are still being adjudicated and more will be received before March 31, 2020.

<sup>4</sup> The 2020/21 target reflects an upward trend in the volume of applications received by the program, a trend that is expected to continue.

<sup>5</sup> The 2021/22 and 2022/23 targets reflect anticipated improvements and efficiencies in claim processing.

### Linking Performance Measure to Objective:

This measure indicates the level of client service and system efficiency in administering the [Crime Victim Assistance Program](#) within the Ministry of Public Safety and Solicitor General under the *Crime Victim Assistance Act*. The program assists victims, immediate family members and some witnesses in coping with the effects of violent crime.

### Objective 2.3: Improved public safety for all British Columbians

#### Key Strategies:

- Address gang and gun violence in B.C. through a number of comprehensive, focused and sustained initiatives that build upon successes and bolster the Province's response to gangs and

guns in B.C. communities, including continued implementation of recommendations from the Illegal Firearms Task Force;

- Administer the Crime Prevention and Remediation Grant Program to provide one-time civil forfeiture grant funding to organizations from across the province to support community safety and crime prevention related projects;
- Utilize civil action to address problem properties in communities that are habitually being used for unlawful activities, including drug trafficking, firearm offences and gang activities through implementation of the *Community Safety Amendment Act, 2019*;
- Develop an integrated, cross-sector, strategic approach to enhancing the use of restorative justice in B.C. and support the restorative justice community in delivering trauma-informed, victim-centric restorative justice programs;
- Continue to strengthen the ability of police to interdict the supply of illicit drugs in the province, targeting mid-level and high-level drug traffickers;
- Implement initiatives to increase and improve the efficiency of traffic enforcement, with a focus on reducing high-risk driving behaviours (alcohol, drugs, speeding and distraction);
- Implement and monitor the regulatory framework for non-medical cannabis, including distribution, licensing of retailers and retail sales to allow adults safe, legal, controlled access to non-medical cannabis, with public health and safety top of mind;
- Monitor the regulatory compliance and enforcement program through the activities of the Community Safety Unit, which is focused on the illegal retail sale of cannabis without a license in B.C.;
- Continue to explore the factors resulting in unexpected and unnatural deaths in British Columbia with the goal of identifying and addressing public safety risks; and
- Continue to enhance emergency management, consistent with adoption of the *United Nations Sendai Framework for Disaster Risk Reduction*, through:
  - Continued implementation of Government's Action Plan: Responding to Wildfire and Flood Risks;
  - Modernization of the *Emergency Program Act* to address the current gaps in the legislation, reflecting international best practices as well as a series of recommendations for change;
  - Modernization of Emergency Support Services, informed by an integrated, province-wide framework for support services;
  - Development of a sustainable funding model for Ground Search and Rescue, a resource of critical importance to the emergency management system; and
  - Amending the *Fire Safety Act*, which received Royal Assent on May 19, 2016, but has not yet been brought into force.

Performance Measure: Police-reported crime rates ( <i>Criminal Code</i> offences per 1,000 persons) <sup>1</sup>	2018 <sup>2</sup> Baseline	2019 Forecast <sup>3</sup>	2020 Target <sup>4</sup>	2021 Target	2022 Target
2.3a Violent crime rate <sup>5</sup>	11.6	11.3	11.0	10.7	10.4
2.3b Property crime rate <sup>6</sup>	47.7	47.4	46.3	45.1	44.0
2.3c Other crime rate <sup>7</sup>	14.7	14.4	14.1	13.7	13.4
2.3d Overall <i>Criminal Code</i> crime rate	74.0	73.1	71.3	69.5	67.8

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<sup>1</sup> Data Source: Criminal incident counts are obtained through the Uniform Crime Reporting Survey, administered by Statistics Canada's Canadian Centre for Justice Statistics, and population estimates are obtained through BC Stats. Crime rates are based on all police-reported violent crime, property crime, and other *Criminal Code* offences, but do not include traffic, drug, or other federal-statute violations.

<sup>2</sup> Results are reported by calendar year. The most recent year for which data are available is 2018. The baseline, forecast and target rates have been updated since publication of the *Ministry of Attorney General and Ministry of Public Safety and Solicitor General 2019/20 – 2021-22 Service Plan* based on updated crime data to 2018.

<sup>3</sup> The forecast for 2019 was calculated based on the linear trend from the last five years.

<sup>4</sup> The targets were calculated as a 2.5 per cent decrease each year, starting from the 2019 forecast.

<sup>5</sup> Violent offences include homicide, attempted murder, sexual and non-sexual assault, firearm offences, robbery, forcible confinement or kidnapping, abduction, extortion, criminal harassment, uttering threats, threatening or harassing phone calls, and other violent offences.

<sup>6</sup> Property offences include theft, motor vehicle theft, possession of stolen property, trafficking in stolen goods, identity theft, identity fraud, breaking and entering, arson, mischief, fraud, and other property offences.

<sup>7</sup> Non-traffic *Criminal Code* offences which are not violent or property-related are classified as "other" offences. These include but are not limited to: counterfeiting, disturbing the peace, and offences against the administration of justice.

### **Linking Performance Measure to Objective:**

While government does not control crime rates and many factors influence them, crime prevention and reduction are a priority of the justice and public safety sector and these rates are tracked as an indicator of progress toward increased public safety for all British Columbians. Crime rates are a better indicator of trends in crime than are the actual numbers of offences because the rates account for population differences.

## **Goal 3: The justice and public safety sector in British Columbia is sustainable**

The justice and public safety sector must be innovative and efficient to remain sustainable.

### **Objective 3.1: Strengthened sustainability of the justice and public safety sector to deliver accessible and effective programs and services**

#### **Key Strategies:**

- Reform the administrative justice sector in B.C. through technology, co-location and further advancements;
- Continue to implement and support innovative ways to move certain types of disputes out of courtrooms, such as the CRT and the Immediate Roadside Prohibition program, so that court resources may be reserved for the most serious matters;
- Lead an ICBC business transformation initiative, including changes to legislation, policy and operational business delivery for ICBC;
- Modernize and streamline liquor regulation and distribution practices that balance public safety and public interest considerations, and facilitate improved public services;
- Continue to implement electronic ticketing (eTicketing) across the province to help intervene more quickly with dangerous drivers, enable online violation ticket payment and gather improved business intelligence on road safety enforcement;
- Implement the justice and public safety sector digital strategy to unify the sector's digital transformation efforts and coordinate investments in data, technology and resources to optimize how the ministries work and deliver services;
- Continue to strengthen evidence-based workforce planning with a focus on leadership development, as manager and supervisor roles are the primary connection between the

strategic goals of the justice and public safety sector and the people who work towards accomplishing them; and

- Work across the ministries and with other levels of government to help establish and maintain overall provincial business continuity plans, including prioritization of the critical infrastructure assets and services that our governments, citizens, businesses and visitors rely on, and continuity of government operations to ensure an effective command and control structure following an emergency or disaster.

<b>Performance Measure: User satisfaction results for minor injury accident claims assessed by the Civil Resolution Tribunal<sup>1</sup></b>		<b>2019/20 Baseline</b>	<b>2019/20 Forecast</b>	<b>2020/21 Target</b>	<b>2021/22 Target</b>	<b>2022/23 Target</b>
3.1a	Percentage of respondents who felt the CRT treated them fairly throughout the process	75	75	75	75	80
3.1b	Percentage of respondents who felt CRT staff were professional	80	80	80	80	80
3.1c	Percentage of respondents who felt the CRT handled their dispute in a timely manner	65	65	70	75	80
3.1d	Percentage of respondents who would recommend the CRT to others	70	70	75	75	80

<sup>1</sup> Data Source: Civil Resolution Tribunal, Ministry of Attorney General.

#### **Linking Performance Measure to Objective:**

This measure tracks users' experience of minor injury accident claims assessed by the CRT. On April 1, 2019, the CRT assumed expanded jurisdiction over certain motor vehicle accident claims up to \$50,000, where there are certain disagreements between the customer and ICBC. It is important to understand the user experience as the sector continues to find innovative ways to move certain types of disputes out of courtrooms, when possible, and strengthen the sustainability of the sector.

#### **Goal 4: The justice and public safety sector in British Columbia has the public's confidence**

Citizens must have confidence in the integrity and effectiveness of the justice and public safety sector for it to function effectively and to ensure continued public participation and support.

#### **Objective 4.1: Increased public confidence in the justice and public safety sector**

##### **Key Strategies:**

- In partnership with other ministries, develop and implement a long-term, Provincial Anti-Money Laundering (AML) Strategy so that B.C. has a strong and sustainable AML regime by effectively using targeted actions and tools to identify, prevent and disrupt illicit activity;
- Continue a coordinated approach between government's gambling regulator – the Gaming Policy and Enforcement Branch – the British Columbia Lottery Corporation and police, to prevent money laundering of the proceeds of crime in B.C.'s gambling facilities;

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- Enhance gambling regulation and enforcement in British Columbia, including implementation of an independent office and a standards-based regulatory model;
- Enhance the effectiveness of the gambling regulatory framework and enforcement in British Columbia;
- Create an automated system to facilitate complaints by citizens about problem properties habitually being used for unlawful activities in their neighbourhoods under the *Community Safety Act*, and implement a progressive enforcement model that effectively resolves the majority of complaints informally without accessing the courts;
- Continue to develop and implement *British Columbia Provincial Policing Standards* and evaluate the compliance of police with those standards;
- Conduct independent Coroners Service investigations, inquests and death review panels into unexpected deaths, including overdose deaths;
- Shift consumers of non-medical cannabis to safer, regulated products and away from illicit sources, and monitor the effectiveness of enforcement actions taken to disrupt the illegal supply chain and reduce the size of the illegal market;
- Inform and support initiatives to strengthen consumer protection, including supporting MLA Bob D'Eith, B.C.'s lead on telecommunications, to advocate to the federal government to reduce the cost of wireless services for British Columbians and to enhance contract and billing transparency;
- Maintain specialized regional emergency management partnership agreements with local governments, cross-border arrangements, and agreements with key stakeholders aimed at enhancing B.C.'s emergency preparedness, response and recovery efforts for catastrophic or emergency events; and
- In collaboration with local governments and First Nations, lead training and exercise events in support of Exercise Coastal Response 2022, which will be B.C.'s second full-scale earthquake and tsunami response exercise, including real-time and simulated activities involving functions such as emergency operations, logistics, public information, operational communications, and care for the needs of those affected or displaced.

Performance Measure: Public confidence in the justice system, the courts and police <sup>1</sup>		2013 Baseline	2018 Forecast <sup>3</sup>	2020 Target	2021 Target	2022 Target
4.1a	Percentage of British Columbians who have confidence in the justice system and courts <sup>2</sup>	51	NOT AVAILABLE	54	55	56
4.1b	Percentage of British Columbians who have confidence in the police <sup>2</sup>	74	NOT AVAILABLE	77	78	79

<sup>1</sup> Data Source: Statistics Canada General Social Survey (GSS) on Social Identity. Established in 1985, Statistics Canada's GSS program was designed as a series of independent, annual, cross-sectional surveys, each covering one topic in-depth. The GSS on Social Identity is conducted every five years and includes questions on confidence in public institutions.

<sup>2</sup> Includes those respondents who stated they had a great deal of confidence or some confidence. Responses of "don't know/not stated" are excluded from the calculation of percentages.

<sup>3</sup> There is currently no release date for the results of the 2018 GSS on Social Identity.

### Linking Performance Measure to Objective:

The ministries track long-term trends in public confidence in the justice system, the courts and police as indicators of public confidence in the justice and public safety sector.

## Resource Summary: Ministry of Attorney General

Core Business Area	2019/20 Restated Budget <sup>1</sup>	2020/21 Estimate	2021/22 Plan	2022/23 Plan
<b>Operating Expenses (\$000)</b>				
Justice Services	129,485	150,110	151,697	154,260
Prosecution Services	143,091	146,429	149,231	152,249
Court Services	117,152	120,948	124,383	126,657
Legal Services	27,901	27,314	27,675	27,675
Agencies, Boards, Commissions and other Tribunals	30,616	35,679	35,922	35,922
Liquor and Cannabis Regulation	1	1	1	1
Gaming Policy and Enforcement	19,437	19,437	19,539	19,539
Executive and Support Services	24,524	24,639	26,034	26,051
Judiciary	79,697	83,572	85,258	86,504
<i>Crown Proceeding Act</i>	24,500	24,500	24,500	24,500
Independent Investigations Office	9,400	9,075	9,093	9,093
Public Guardian and Trustee Operating Account	0	0	0	0
<i>Public Inquiry Act</i>	0	10,136	989	0
<b>Total</b>	<b>605,804</b>	<b>651,840</b>	<b>654,322</b>	<b>662,451</b>
<b>Ministry Capital Expenditures (Consolidated Revenue Fund) (\$000)</b>				
Agencies, Boards, Commissions and other Tribunals	10	10	10	10
Executive and Support Services	5,093	5,740	3,027	2,002
Judiciary	570	920	1,020	770
Public Guardian and Trustee Operating Account	363	363	363	363
<b>Total</b>	<b>6,036</b>	<b>7,033</b>	<b>4,420</b>	<b>3,145</b>

<sup>1</sup> For comparative purposes, amounts shown for 2019/20 have been restated to be consistent with the presentation of the 2020/21 Estimates.

\* Further information on program funding and vote recoveries is available in the [Estimates and Supplement to the Estimates](#).



## Major Capital Projects

Major Capital Projects (over \$50 million)	Targeted Completion Date (Year)	Project Cost to Dec 31, 2019 (\$ millions)	Estimated Cost to Complete (\$ millions)	Approved Anticipated Total Capital Cost of Project (\$ millions)
<b>Abbotsford Courthouse</b>	2020	\$90	\$62	\$152
<p>Construction of a new 14-room courthouse in Abbotsford will add needed court capacity and address recommendations in the <i>Lower Fraser Valley Regional Plan Court Capacity Expansion Project Final Report</i>.</p> <p>The project is being delivered as a public-private partnership, with the private partner providing the design, construction, partial financing and facility maintenance for a 30-year period following construction. Construction began in summer 2018 with project completion in 2020.<sup>1</sup></p> <p>The new courthouse will double the number of courtrooms available in the current facility and create over 1,000 jobs during the course of construction.</p>				

<sup>1</sup> Note that the Ministry of Attorney General is the project lead for reporting purposes, while the project capital budget resides with the Ministry of Citizens' Services.

## Resource Summary: Ministry of Public Safety and Solicitor General

Core Business Area	2019/20 Restated Budget <sup>1</sup>	2020/21 Estimate	2021/22 Plan	2022/23 Plan
<b>Operating Expenses (\$000)</b>				
Corrections	250,528	253,459	256,599	256,552
Policing and Security	396,882	405,474	405,233	404,611
Victim Services and Crime Prevention	51,369	58,870	59,899	60,550
BC Coroners Service	16,667	17,116	17,161	17,214
RoadSafetyBC	17,313	16,758	17,052	17,052
Emergency Management BC	18,568	29,454	29,927	36,138
Executive and Support Services	20,409	19,221	19,312	19,312
<i>Emergency Program Act</i>	14,819	36,527	36,613	36,613
Statutory Services <sup>2</sup>	14,796	14,814	14,825	14,825
<b>Total</b>	<b>801,351</b>	<b>851,693</b>	<b>856,621</b>	<b>862,867</b>
<b>Ministry Capital Expenditures (Consolidated Revenue Fund) (\$000)</b>				
Executive and Support Services	12,059	11,262	10,988	10,988
<b>Total</b>	<b>12,059</b>	<b>11,262</b>	<b>10,988</b>	<b>10,988</b>

<sup>1</sup> For comparative purposes, amounts shown for 2019/20 have been restated to be consistent with the presentation of the 2020/21 Estimates.

<sup>2</sup> Statutory Services includes Civil Forfeiture Account, Corrections Work Program Account, Criminal Asset Management Fund, and Victim Surcharge Special Account.

\* Further information on program funding and vote recoveries is available in the [Estimates and Supplement to the Estimates](#).

## Major Capital Projects

Major Capital Projects (over \$50 million)	Targeted Completion Date (Year)	Project Cost to Dec 31, 2019 (\$ millions)	Estimated Cost to Complete (\$ millions)	Approved Anticipated Total Capital Cost of Project (\$ millions)
Nanaimo Correctional Center	2023	\$3	\$154	\$157
<p>The Nanaimo Correctional Center (NCC) Replacement Project will replace the current aging and outdated 190-cell correctional center located in Nanaimo, B.C. The new center will be constructed on the existing site while the current center remains operational, after which the existing center will be deconstructed. The new NCC will be a 202-cell multi-security level facility with a campus-type configuration, including a 12-cell unit for short term accommodation of women from Vancouver Island.</p> <p>In addition to an estimated \$140 million in direct capital expenditures, it is estimated that a project of this size will generate approximately 650 direct jobs during development, 275 jobs associated with indirect activity, and 95 jobs associated with re-spending by workers.</p>				

## **Appendix A: Agencies, Boards, Commissions and Tribunals<sup>3</sup>**

### **Ministry of Attorney General**

- Applied Science Technologists & Technicians of BC
- Association of BC Forest Professionals
- Attorney General's BC Supreme Court Rules Committee
- British Columbia Ferry Commission
- BC Family Maintenance Agency
- BC Human Rights Tribunal
- BC Lottery Corporation
- British Columbia Institute of Agrologists
- British Columbia Review Board
- British Columbia Utilities Commission
- Building Code Appeal Board
- Civil Resolution Tribunal
- College of Applied Biology
- Community Care and Assisted Living Appeal Board
- Employment Standards Tribunal
- Engineers and Geoscientists BC
- Environmental Appeal Board
- Financial Services Tribunal
- Forest Appeals Commission
- Health Professions Review Board
- Hospital Appeal Board
- Independent Investigations Office of BC
- Industry Training Appeal Board
- Insurance Corporation of British Columbia
- Investigation and Standards Office
- Judicial Council of the Province of BC
- Labor Relations Board
- Legal Services Society
- Liquor Distribution Branch
- Mental Health Review Board
- Notaries Public Board of Examiners
- Oil and Gas Appeal Tribunal
- Property Assessment Appeal Board
- Public Guardian and Trustee of British Columbia
- Safety Standards Appeal Board
- Surface Rights Board

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<sup>3</sup> <https://www2.gov.bc.ca/gov/content/justice/about-bcs-justice-system/crowns-agencies-boards-commissions>

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- Consumer Protection BC
- Motor Vehicle Sales Authority of British Columbia
- Police Boards

## **Appendix B: Combined Forces Special Enforcement Unit – British Columbia**

In 1999, the Organized Crime Agency of British Columbia (OCABC) was created as an independent Designated Policing and Law Enforcement Unit under the *Provincial Police Act*.

In 2004, the Combined Forces Special Enforcement Unit – British Columbia (CFSEU-BC) was developed in consultation with the provincial government as an initiative to integrate the OCABC, the municipal police departments and the RCMP. The Board of Governance for the OCABC also acts as the Board of Governance for the CFSEU-BC. The board is comprised of: the Deputy Commissioner Pacific Region and Commanding Officer “E” Division RCMP; the President of the BC Association of Chiefs of Police; the President of the BC Association of Municipal Chiefs of Police; and the Chief Constable of the Vancouver Police Department. The board determines the strategic direction of the CFSEU-BC and ensures its operational priorities are aligned with the policing priorities for British Columbia. The CFSEU-BC operates under the RCMP policies and procedures. Board members do not receive any remuneration.

The Chief Officer in charge of the CFSEU-BC leads an executive team comprised of civilian members in addition to regular RCMP and municipal officers seconded from across the province. The CFSEU-BC Gang Enforcement Unit, Investigation Teams, and the Joint Illegal Gaming Investigation Team are just a few of the teams that fall under the responsibility of the CFSEU-BC. Offices for the CFSEU-BC are located in the Lower Mainland, Prince George, Kelowna and Victoria.

The mission of the CFSEU-BC is to facilitate the disruption and suppression of organized crime that affects British Columbians. Its mandate is to investigate, prosecute, disrupt and suppress criminal organizations, consistent with local, regional, national and international priorities. The CFSEU-BC also supports other agencies by assisting in organized crime and major crime investigations. More information can be found at: [www.cfseu.bc.ca](http://www.cfseu.bc.ca).

## Ministry of Attorney General Acts/Responsibilities<sup>1</sup>

ATTORNEY GENERAL	
Column 1 ACT	Column 2 DETAILS
Administrative Tribunals	
Adult Guardianship	
Age of Majority	
Agrologists	
Apology	
Applied Science Technologists and Technicians	
Arbitration	
Assessment	Sections 43 (1), (4) and (8), 43.1, 44, 45, 46, 49, 51, 55, 57, 59, 60, 62 and 63, Part 7 and section 74 (2) (g) (iv), (k), (s), (t) and (u).
Attorney General	The Act except sections 2 (e), 5 and 6 as those provisions relate to the portfolio of the Minister of Public Safety and Solicitor General.
Builders Lien	
Building	Part 4.
Cannabis Control and Licensing	The following: (a) sections 4, 5 and 9; (b) section 11 (2) as it relates to distribution and retail agreements; (c) sections 13 and 16, Part 4, Division 1 of Part 6, Divisions 1 and 2 of Part 7 and sections 121 and 122; (d) section 129 as it relates to the application of Part 4; (e) sections 131, 133 to 135 and 137 (a) to (e).
Cannabis Distribution	
Charitable Purposes Preservation	
Civil Resolution Tribunal	

<sup>1</sup> <https://www.bclaws.ca/civix/document/id/amr/amr/1003139792>

Civil Rights Protection	
Class Proceedings	
Coastal Ferry	Part 4 and sections 70, 72 and 73.
College of Applied Biology	
Community Care and Assisted Living	Sections 29 (1), (1.1), (4) and (11), 29.1 and 34 (4) (c).
Conflict of Laws Rules for Trusts	
Constitution	The Act except sections 25 – 27.
Constitutional Amendment Approval	
Constitutional Question	
Correction	Division 5 of Part 2.
County Boundary	
Court Agent	
Court Jurisdiction and Proceedings Transfer	
Court of Appeal	
Court Order Enforcement	
Court Order Interest	
Court Rules	
Crown Counsel	
Crown Franchise	
Crown Proceeding	
Debtor Assistance	
Disciplinary Authority Protection	
Election	
Electoral Boundaries Commission	
Electoral Districts	
Electoral Reform Referendum 2018	
Employment Standards	Part 12.



Enforcement of Canadian Judgments and Decrees	
Engineers and Geoscientists	
Environmental Management	Division 1 of Part 8.
Escheat	
Estates of Missing Persons	
Evidence	
Expropriation	
Family Compensation	
Family Law	
Family Maintenance Enforcement	
Federal Courts Jurisdiction	
Financial Disclosure	
Financial Institutions	Sections 242.1 and 242.2.
Foreign Arbitral Awards	
Foreign Money Claims	
Forest and Range Practices	The following: (a) Part 8.1; (b) section 166 as that provision relates to the portfolio of the Attorney General.
Foresters	
Fraudulent Conveyance	
Fraudulent Preference	
Frustrated Contract	
Gaming Control	The Act except the following: (a) Division 4 of Part 2; (b) Part 6.
Good Samaritan	
Health Professions	Sections 50.51, 50.52, 50.65 and 55 (2) (r).
Holocaust Memorial Day	
Homeowner Protection	Section 29.4.

Hospital	Section 46 (1), (4), (4.1) and (4.2).
Human Rights Code	
Industry Training Authority	Part 4.
Infants	
Insurance Corporation	
Insurance (Vehicle)	
Interjurisdictional Support Orders	
International Commercial Arbitration	
International Sale of Goods	
International Trusts	
Interpretation	
Judicial Compensation	
Judicial Review Procedure	
Jury	
Justice Administration	
Justice Reform and Transparency	
Labour Relations Code	Sections 115 – 122, 125, 127, 129, 132 and 157.
Law and Equity	
Law Reform Commission	
Legal Profession	
Legal Services Society	
Legislative Assembly Management Committee	
Legislative Assembly Privilege	
Legislative Library	
Legislative Procedure Review	
Libel and Slander	
Limitation	

Liquor Control and Licensing	
Liquor Distribution	
Lobbyists Registration	
Local Government Bylaw Notice Enforcement	
Members' Conflict of Interest	
Members' Remuneration and Pensions	
Mental Health	Sections 24.1 and 24.2.
Ministry of Provincial Secretary and Government Services	The Act except sections 1, 2 (4) and 4.
Negligence	
Notaries	
Occupiers Liability	
Offence	
Oil and Gas Activities	Division 2 of Part 2.
Ombudsperson	
Partition of Property	
Patients Property	
Perpetuity	
Petroleum and Natural Gas	Sections 146, 148 – 153, 155 and 156.
Police	Part 7.1.
Power of Appointment	
Power of Attorney	
Presumption of Death	
Privacy	
Professional Governance	
Property Law	
Protection of Public Participation	
Provincial Court	

Public Guardian and Trustee	
Public Inquiry	
Public Interest Disclosure	
Queen's Counsel	
Recall and Initiative	
Referendum	
Regulations	
Representation Agreement	
Representative for Children and Youth	
Safety Standards	Part 8.
Senior Citizen Automobile Insurance Grant	
Settlement of International Investment Disputes	
Sheriff	
Small Claims	
Special Wine Store Licence Auction	
Statute Revision	
Subpoena (Interprovincial)	
Supreme Court	
Trespass	
Trust and Settlement Variation	
Trustee	
Trustee (Church Property)	
Utilities Commission	
Wills, Estates and Succession	
Youth Justice	Part 1 and section 44 (2) (a) and (b).

### Summary of Regular AG Briefings with Ministry

<b>Monthly</b>	<b>Name</b>	<b>Attendees</b>
	Monthly Meetings with BC Prosecution Service	AG, DAG, ADM BCPS
	Monthly meetings with Court Services Branch	AG, DAG, ADM CSB
<b>Bi-Weekly</b>	Bi-Weekly meetings with BC First Nations Justice Council, and Members	AG, DAG, Chair of BCFNJC and Members, ADM JSB and Supports
	Bi-Weekly with Justice Services Branch	AG, DAG, ADM JSB
	Litigation Briefings - Biweekly Meetings with Legal Services Branch	AG, DAG, ADM LSB, Litigation supports
<b>Weekly</b>	Weekly meetings with the Deputy AG	AG, DAG
	Weekly meetings with the Associate DM	AG, DAG, Associate DM
	Weekly ICBC Comms Check In	AG, Associate DM, supports, and GCPE

In addition to the meetings above – the AG schedules briefings on an as needed/required basis with the DAG, Associate DM and Ministry staff.