



PUBLIC PROSECUTION SERVICE OF CANADA

ANNUAL REPORT 2015-2016



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

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

Public Prosecution Service of Canada Annual Report 2015–2016

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Public Prosecution
Service of Canada

Service des poursuites
pénales du Canada

Office of the Director
of Public Prosecutions

Bureau du directeur
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Ottawa, Canada
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JUN 3 0 2016

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

Dear Attorney General:

Pursuant to section 16(1) of the *Director of Public Prosecutions Act*, I am pleased to present you with the 2015–2016 Annual Report of the Public Prosecution Service of Canada. The report covers the period from April 1, 2015 through March 31, 2016.

Sincerely,

Brian Saunders, Q.C.
Director of Public Prosecutions

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MESSAGE FROM THE DIRECTOR OF PUBLIC PROSECUTIONS

I am pleased to present the *Annual Report 2015–2016* of the Public Prosecution Service of Canada (PPSC).

The PPSC made a number of important strides in 2015–2016 that will help to ensure the organization's continued effectiveness. The PPSC Executive Council renewed the PPSC's strategic priorities for 2015–2016. They are:

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

The PPSC continued to implement new practices in the way files are assigned and managed, to ensure that prosecutions are effectively managed. Work began on developing a new prosecution-specific case management system to replace the existing system. Once introduced

in 2018–2019, the new system will allow the PPSC to better track and manage prosecution files.

The PPSC also developed internal initiatives to support employee wellness and security. In 2015–2016, PPSC employees undertook anti-harassment training, and the organization put in place a hazard prevention program to educate employees on how to prevent workplace hazards from occurring. In keeping with the Clerk of the Privy Council's focus on mental health, the PPSC is now working on developing a program to enhance employees' and managers' awareness of mental health issues.

In 2014, the PPSC asked investigative agencies to participate in a survey seeking their views on the PPSC's work in the criminal justice system. The results of the survey have now been analyzed, and the PPSC is using the information to strengthen its relationships with investigative agencies.

After a review of potential models for fine recovery, the PPSC signed a contract with a private collection agency to recover outstanding federal fines. The goal is to increase the deterrent effect of fines by increasing the recovery rate. The agency started work on April 1, 2016. The PPSC will evaluate the effectiveness of this new model for fine recovery in 2018.

Thanks to the hard work and dedication of PPSC employees, the PPSC was successful in delivering on its mandate in 2015–2016. Throughout the year, PPSC employees exemplified our key values of respect, integrity, excellence, and leadership.



Brian Saunders, Q.C.
Director of Public Prosecutions

THE PUBLIC PROSECUTION SERVICE OF CANADA – AN OVERVIEW

1

INTRODUCTION

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

The PPSC was created in December 2006. In the nearly ten years since its creation, the PPSC has established effective policies and procedures in all areas. It has developed and put in place the *PPSC Deskbook*, which sets out the guiding principles which all federal

prosecutors and persons acting as federal prosecutors must follow. It has also put in place policies and an organizational structure that reflect its maturity as an organization in such areas as finance, human resources, and security.

The legal landscape has changed considerably since 2006, with evolving jurisprudence and new legislation in areas such as evidence in the online world, terrorism, and elections. The PPSC has responded effectively to these new challenges, and continues to prosecute cases and provide legal advice of the highest caliber.



MANDATE

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

- initiate and conduct federal prosecutions;
- intervene in proceedings that raise a question of public interest that may affect the conduct of prosecutions or related investigations;
- issue guidelines to federal prosecutors;
- advise law enforcement agencies or investigative bodies on general matters relating to prosecutions and on particular investigations that may lead to prosecutions;
- communicate with the media and the public on all matters that involve the initiation and conduct of prosecutions;
- exercise the authority of the Attorney General of Canada in respect of private prosecutions; and
- exercise any other power or carry out any other duty or function assigned by the Attorney General of Canada that is compatible with the office of the DPP.

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

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

- initiate and conduct prosecutions under the *Canada Elections Act*; and
- act, when requested by the Attorney General of Canada, in matters under the *Extradition Act* and the *Mutual Legal Assistance in Criminal Matters Act*.

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

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

MISSION AND VALUES

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

- prosecuting cases with diligence, in a manner that is fair, impartial, and objective;

- seeking to protect the rights of individuals and to uphold the rule of law; and
- working within the criminal justice system to make Canada a safe and just society.

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

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

DIRECTIVES AND ASSIGNMENTS

On June 18, 2015, the Attorney General of Canada issued a directive in respect of the *Anti-Terrorism Act, 2015*. The directive confirmed the PPSC's role in the initiation and conduct of terror-related prosecutions, as well as how the PPSC works with other levels of government and law enforcement agencies on these matters.

On July 20, 2015, the Attorney General of Canada assigned to the DPP the powers, duties, and functions of the Attorney General



of Canada under a number of sections of the *Controlled Drugs and Substances Act* (CDSA) and the *Criminal Code*. This assignment confirmed existing practice for greater certainty and clarity.

The Attorney General did not assume conduct of any prosecutions in 2015–2016.

ROLES AND RESPONSIBILITIES

The PPSC prosecutes charges with respect to offences created by federal laws. Charges are laid following an investigation by a law enforcement agency. The PPSC is not an investigative agency and does not conduct investigations. The separation of law enforcement from the prosecution function is a well-established principle of the Canadian criminal justice system. However, cooperation between investigators

and prosecutors can be essential, particularly in the context of large and complex cases. Certain investigative tools, such as an application for a wiretap authorization, are only obtained on application to the court by a prosecutor. As a result, the PPSC often provides legal advice and assistance to law enforcement officials in the investigative stage.

In all provinces and territories except Quebec and New Brunswick, the PPSC is responsible for prosecuting all drug offences under the CDSA, regardless of which police agency investigates the alleged offences. In Quebec and New Brunswick, the PPSC prosecutes only drug offences investigated by the Royal Canadian Mounted Police (RCMP).

In all provinces and territories, the PPSC prosecutes charges under federal statutes such as the *Income Tax Act*, the *Fisheries Act*, the *Excise Act*, the *Customs Act*, the *Canadian*

Environmental Protection Act, 1999, and the *Competition Act*, as well as conspiracies and attempts to violate those statutes. In total, over 250 federal statutes contain offences that fall under the PPSC's jurisdiction to prosecute, and the PPSC regularly prosecutes offences under approximately 40 of those statutes.

The PPSC is responsible for prosecuting all *Criminal Code* offences in the territories. In the provinces, the PPSC prosecutes a limited number of *Criminal Code* offences, including those related to terrorism, criminal organizations, money laundering, proceeds of crime, and fraud.

Under arrangements with the provinces, the PPSC may also prosecute *Criminal Code* offences that are otherwise within provincial jurisdiction when the accused also faces charges within federal jurisdiction arising from the same incident.

ROLE OF THE PROSECUTOR

Prosecutors play a key role in the Canadian criminal justice system. This role is quasi-judicial in nature, imposing on prosecutors the duty to be objective, independent, and dispassionate. They must see that all cases deserving of prosecution are brought to trial and prosecuted with competence, diligence, and fairness. Prosecutors must be of integrity, above all suspicion, and must exercise the considerable discretion bestowed on them

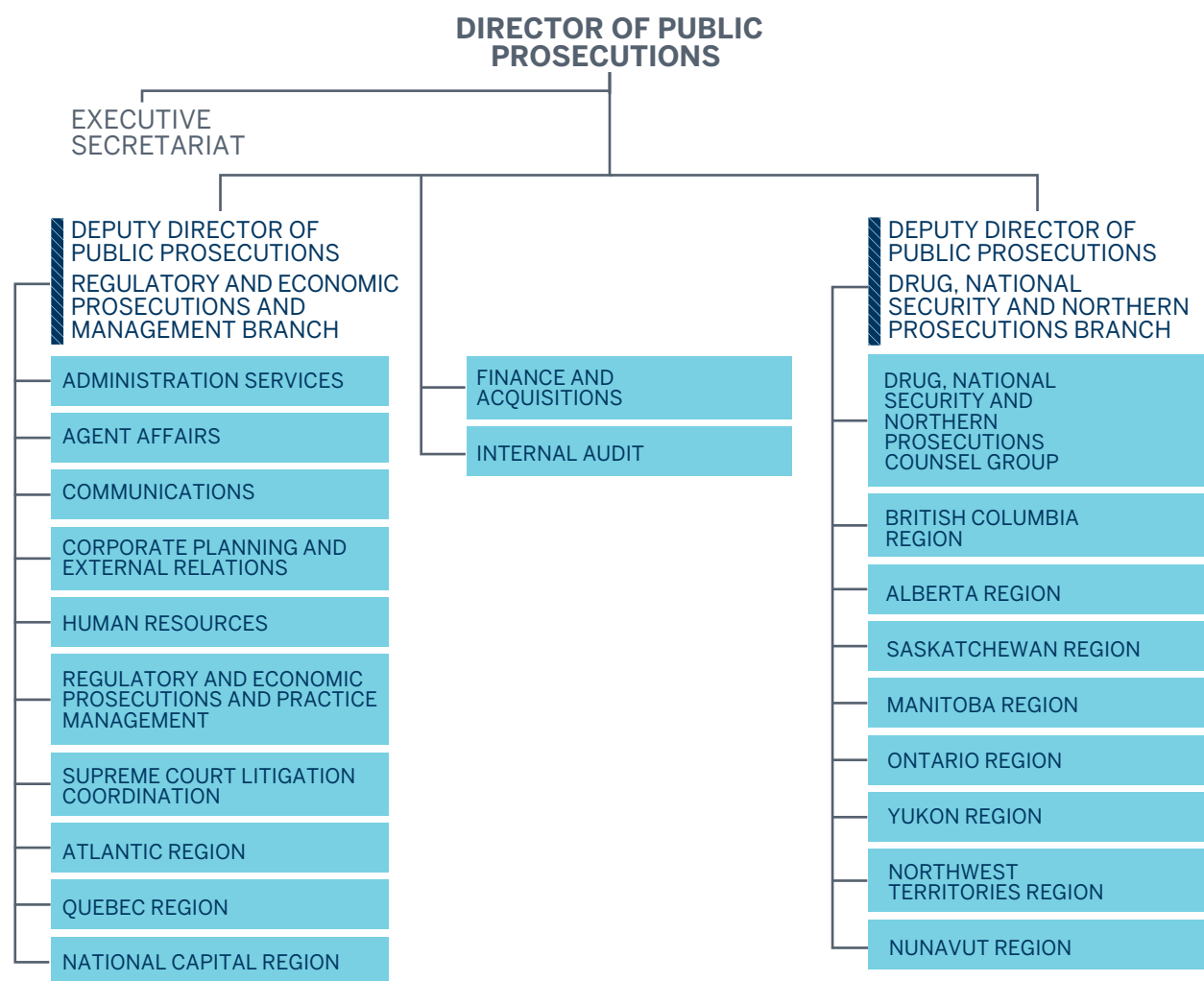
fairly, in good faith, and without any consideration of the political implications of their decisions. While they must be advocates, their role is not to win convictions at any cost, but to put before the court all available, relevant, and admissible evidence necessary to enable the court to determine the guilt or innocence of an accused.

ABOUT THE ORGANIZATION

As of March 31, 2016, the PPSC had 1,053 employees, 536 of whom were lawyers. In addition to staff prosecutors, the PPSC retained the services of 409 standing agents from 186 private-sector law firms.

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

ORGANIZATIONAL STRUCTURE



THE YEAR IN REVIEW

2

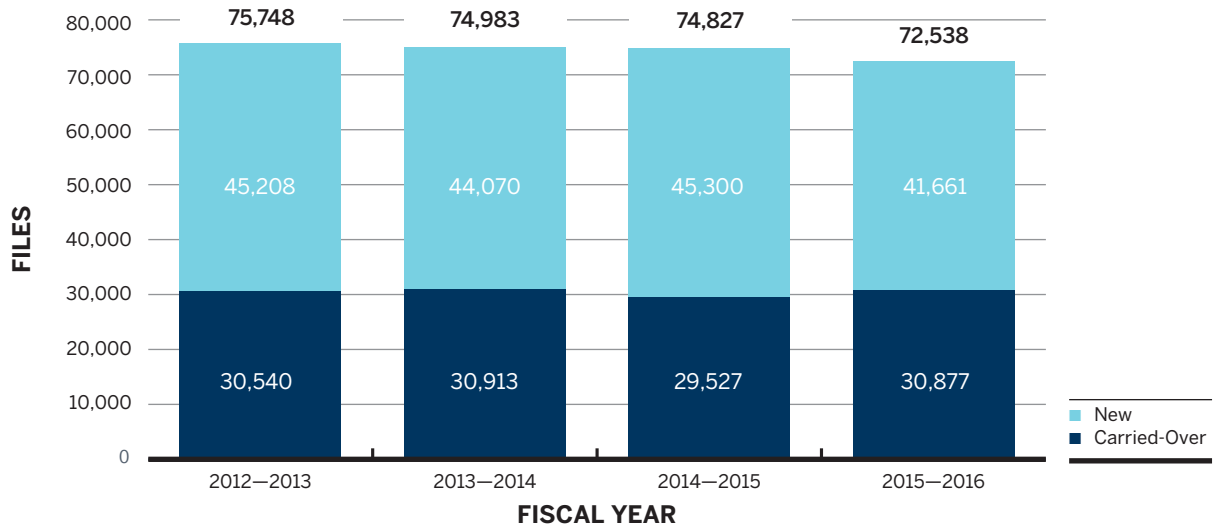
INTRODUCTION

In 2015–2016, the PPSC worked on 72,538 files. This figure includes 41,661 files opened during the year, as well as 30,877 carried over from previous years. A file typically consists of an information or an indictment and may include more than one charge, involve more than one accused, and include charges under multiple statutes.

The PPSC has updated the methodology used to count files prosecuted by agent firms, to more accurately reflect actual agent file numbers and hours worked. Some numbers that appeared in previous annual reports have been adjusted as a result of this revised methodology. A small number of agents (approximately 20 firms, each of which performs less than 200 hours of work per year for the PPSC) are not included in the PPSC's file tracking system, and are therefore excluded from these numbers.



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

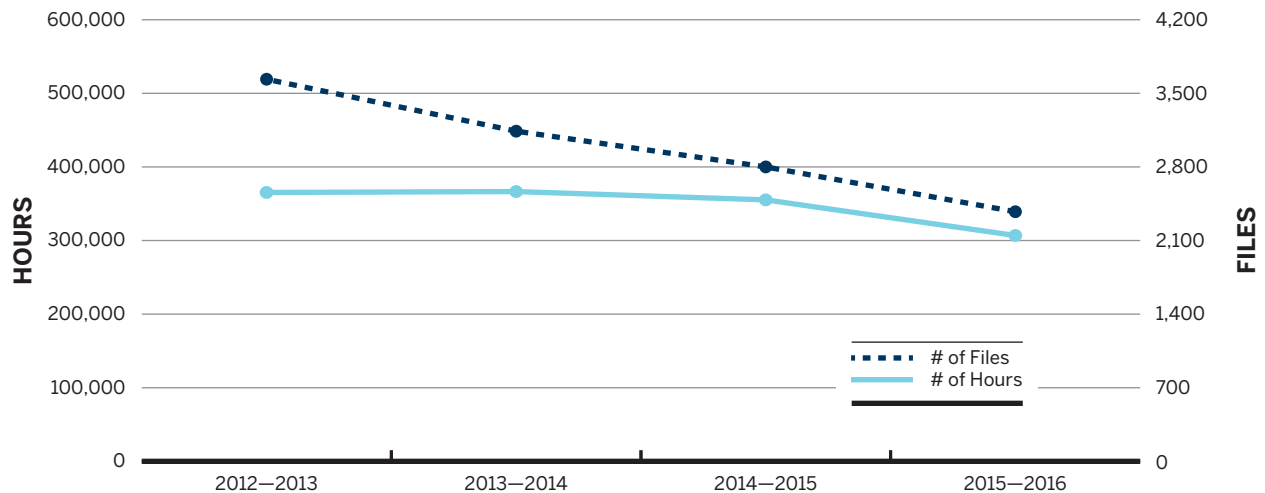


Each file handled by the PPSC is assigned a complexity rating. Low-complexity files are generally defined as routine cases involving the application of well-established legal principles to relatively straightforward facts. Medium-complexity files generally involve

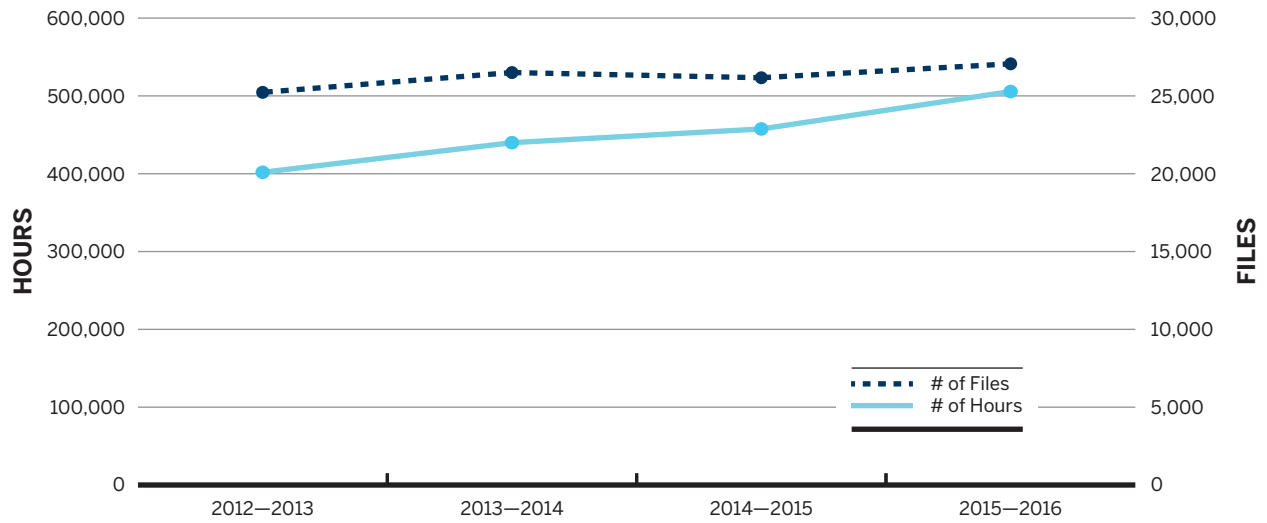
more complex factual situations or legal issues. High-complexity files are comprised of cases involving highly complex factual elements; cases involving complex or multiple legal issues requiring significant preparation time; or cases raising complex or multiple policy issues

requiring significant preparation time, including cases where the law is new or not clearly established. A high-complexity rating can only be assigned in consultation with a PPSC manager or their delegate.

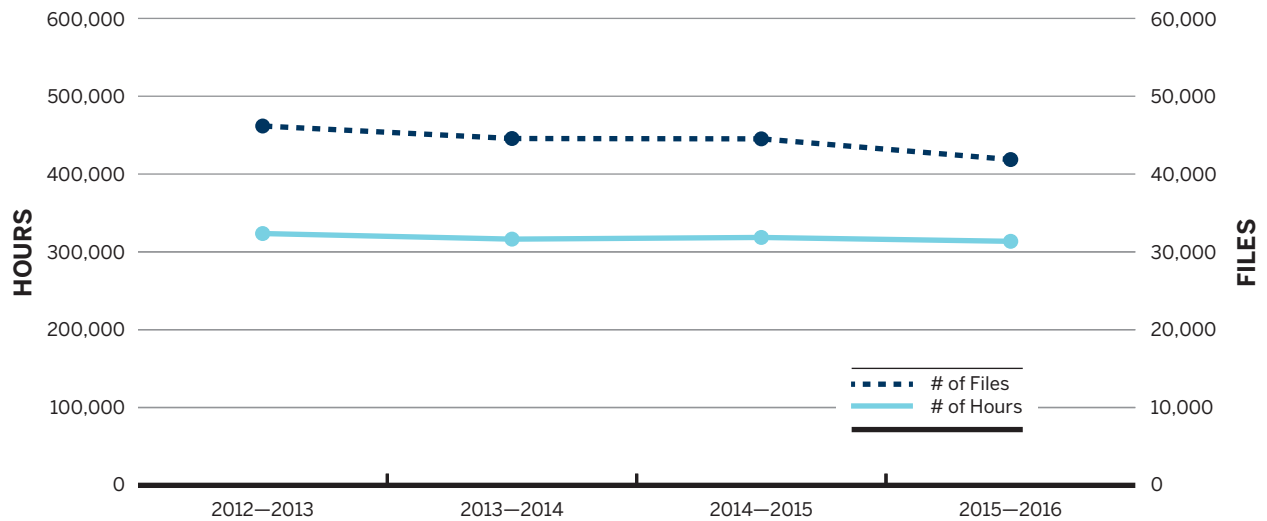
HIGH COMPLEXITY FILES AND TIME



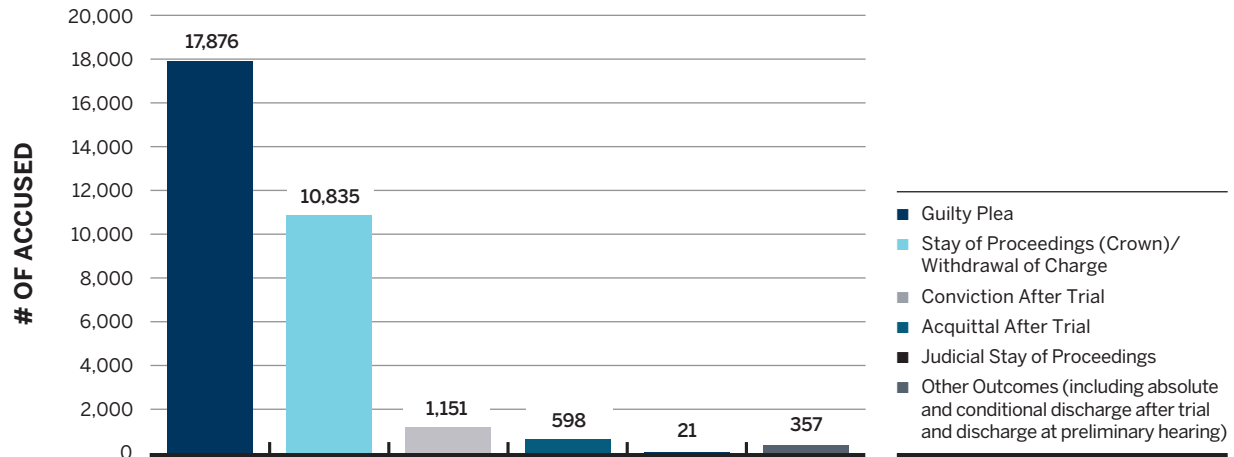
MEDIUM COMPLEXITY FILES AND TIME



LOW COMPLEXITY FILES AND TIME



MOST SERIOUS OUTCOME PER ACCUSED PER FILE DURING FISCAL YEAR 2015–2016



DRUG, NATIONAL SECURITY, AND NORTHERN PROSECUTIONS

Drug Prosecutions

Drug prosecution files continue to represent the most significant portion of the PPSC's total caseload. In 2015–2016, the PPSC handled 56,704 prosecution files related to offences under CDSA. Of those, 31,553 files were new and 25,151 were carried over from previous years. The complexity and scope of these prosecutions varies greatly, ranging from simple cases of possession of small quantities of marijuana to complex schemes to import large quantities of cocaine or to manufacture methamphetamine for domestic use or for export.

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

constitutionality of the legislation, or disclosure. There may also be allegations of abuse of process or unreasonable delay. While high-complexity files represented only 2.39% of counsel's drug caseload in 2015–2016, they took up 30.98% of the time dedicated to drug prosecutions.

Offences involving drugs are very often revenue-generating crimes, and these types of cases continued to represent the majority of offences prosecuted by the PPSC that led to the forfeiture of proceeds of crime and of the property used to commit the crime ("offence-related property"). In 2015–2016, the PPSC handled 14,174 CDSA files involving either proceeds of crime or offence-related property (7,181 were new, and 6,993 were carried over from previous years). The proceeds or property at issue ranged from the money used to buy drugs from an undercover officer to real estate bought with proceeds of crime or used to produce drugs.

Particular challenges are created by addiction-driven crime. To try to address the addiction and to decrease the crime committed to support it, there are a number of Drug Treatment Courts (DTCs) in Canada, such as those located in Vancouver, Edmonton, Calgary, Regina, Winnipeg, Toronto, Kitchener, Durham, Peterborough, Halton, London, Kenora, Ottawa, and Kentville. These courts focus on the supervised treatment of an offender. Prosecutors work with judges, defence counsel, treatment providers, and others to cooperatively but accountably deal with the issues raised by the conduct of offenders appearing before these courts. PPSC prosecutors or agents currently staff all of Canada's DTCs with the exception of the Regina DTC, which is staffed by prosecutors from the Ministry of the Attorney General of Saskatchewan, although a PPSC agent attends to represent the PPSC when necessary.

FENTANYL PROSECUTIONS

Fentanyl is a powerful synthetic opioid drug, commonly used in hospitals as an anesthetic. It is 80 to 100 times more powerful than morphine and approximately 25 to 50 times more powerful than heroin. Its growing use as a street drug has led to an increasing number of drug overdose deaths in Canada in recent years. It has also led to an increase in the number of PPSC prosecutions for possession for the purpose of trafficking and trafficking of fentanyl, not only in large Canadian cities, but as far-reaching as communities in the Northern territories.

An RCMP investigation in Yellowknife, NWT, resulted in the seizure of a large quantity of drugs at a storage locker and at the residence of Mr. Castro, including almost 600 fentanyl tablets. Also seized was \$212,955 cash. *R. v. Castro* was the first time that a NWT court dealt with the possession of fentanyl for the purpose of trafficking. Mr. Castro was sentenced on December 21, 2015, to the equivalent of 6 years' incarceration (including time served), taking into account the dangers of fentanyl.

As a result of a combined police unit investigation in Edmonton, Alberta, police seized a large quantity of drugs from Mr. Soanes' vehicle and residence, including 755 fentanyl pills (80 mg per pill), which were estimated to have a street value of \$60,400. They also seized cash totalling nearly \$20,000. The court noted that fentanyl has become a scourge in this country, and that it is a drug worse than heroin. Despite having no prior criminal record, Mr. Soanes was sentenced to six years' imprisonment for possession of fentanyl for the purpose of trafficking.

Due to the alarming increase in fentanyl-related deaths in Canada, the PPSC created a working group of PPSC prosecutors across the country to track the fentanyl cases in each region. The PPSC has also gathered expert evidence to support the argument that the appropriate sentence range upon conviction for fentanyl trafficking or manufacturing should be higher than the starting point for morphine and heroin sentences. Approximately 25 sentencing decisions involving fentanyl have been made, and the sentences range from 3 years' incarceration for trafficking in small amounts to 6 years for trafficking or producing larger amounts.

ORGANIZED CRIME PROSECUTIONS

One of the main activities of many organized criminal groups is trafficking in drugs. Cases involving criminal organizations have remained high in recent years, largely as a result of the continuing priority given by police forces to the investigation of such organizations. Many serious drug prosecutions conducted by the PPSC during the year involved an organized crime element, whether or not explicit criminal organization charges were laid. As well, over the past year, PPSC prosecutors provided advisory assistance to police in respect of a number of significant organized crime investigations.

Project Roadmaster was a three-year Niagara-based joint-forces investigation into the large-scale importation of cocaine into Canada and the laundering of the proceeds of that crime. At its core, the investigation concerned the importation of multiple shipments containing hundreds of kilograms of cocaine at a time, concealed in large granite boulders. More than forty shipments of granite boulders containing 2,431 kg of cocaine were delivered to a warehouse in Port Colborne, Ontario in the year 2013 alone. Several members of the group are alleged to have committed offences relating to the alleged proceeds of the criminal activity. Bulk cash drops were conducted totaling more than \$13.3 million.

\$1.19 million was laundered through undercover police officers posing as money brokers.

The multi-jurisdictional investigation concluded in September of 2014 with the laying of charges against fourteen individuals, including possession of cocaine for the purpose of trafficking and money laundering. Five accused have pleaded guilty and jail sentences ranging from seven months to nine years' incarceration were imposed. Seven accused face trial commencing in November of 2016.

National Security Prosecutions

ANTI-TERRORISM

Since 2001, 52 individuals have been charged with terrorism offences in Canada.

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

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

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

of the evidence by investigators and prosecutors, both in regional offices and at headquarters. Such consent was granted six times in 2015–2016.

Prosecutions in Canada's North

The PPSC handles the prosecution of all *Criminal Code* offences in the territories as well as offences under all other federal legislation, such as the *Controlled Drugs and Substances Act*, the *Youth Criminal Justice Act*, and the *Fisheries Act*.

The PPSC has regional offices in each of the territorial capitals. All three regional offices also occasionally use the services of fly-in counsel from southern Canada. These counsel are prosecutors from one of the PPSC's southern regional offices, or, on occasion, prosecutors from provincial prosecution services.

PPSC prosecutors and Crown Witness Coordinators (CWCs) attend court in over sixty communities across the North. Court is held at varying but regular intervals in each of the communities, most of which are accessible only by air (all of the communities in Nunavut are only accessible by air, and those in

the Northwest Territories (NWT) are mainly accessible only by air. The communities in Yukon are generally accessible by road).

A significant percentage of the population, particularly outside the territorial capitals, is Aboriginal. In Yukon, approximately 25% of the population is Aboriginal, while in the NWT 50% is Aboriginal. In Nunavut, 85% of the population is Inuit. The PPSC requires all prosecutors, CWCs, and paralegals to participate in training aimed at increasing cultural awareness.

The territories have among the highest rates of violent crime in the country, particularly as it relates to sexual abuse (including historical sex abuse cases) and domestic violence. There is also a high rate of homicides. In 2015–2016, the PPSC had a total of 28 active homicide prosecutions before the courts (14 in Nunavut, 10 in the NWT and 4 in Yukon), 7 of which were concluded this past fiscal year. All others are still before the courts at various stages of proceeding. These cases include manslaughter, second and first degree murder charges and impaired driving causing death cases.

The high rate of violent crime involving offenders with significant rates of recidivism has led to the implementation of coordinated high-risk offender flagging processes in the North. In each regional office, paralegals assist in coordinating the flagging of high-risk offenders in the territory. This enables a more effective and organized preparation of prosecution files in order to effectively conduct long-term offender and dangerous offender applications. In 2015–2016, there were ongoing assessments in Yukon and the NWT, and two successful dangerous offender applications were completed in Yukon.

YOUTH TERRORISM PROSECUTION

After an investigation by the Montreal RCMP, a 15-year-old youth was charged on December 3, 2014 with terrorism offences. Specifically, he was charged with committing an offence for the benefit of, at the direction of, or in association with, a terrorist group, contrary to s.83.2 of the *Criminal Code*, and attempting to leave Canada to participate in the activities of a terrorist group, contrary to s.83.181.

He was tried in September 2015 in the Court of Quebec, Youth Division, and was found guilty on December 17, 2015. The court ordered a presentencing report and a psychological evaluation. On April 6, 2016, the youth, now 16, was sentenced to a two-year custody and supervision order plus 12 months of probation.

This was the first conviction in Canada for an offence under s.83.181 (leaving Canada to participate in the activities of a terrorist group).

Because of the vicarious trauma the prosecutors and CWCs may experience due to their constant exposure to persons who have witnessed and experienced trauma and violence, arrangements are in place in each northern office to provide all PPSC staff with annual on-site counselling as well as telephone counselling. Additional counselling opportunities are available and will be provided to any staff exposed to the potentially added traumatic effects of having to work on a case requiring the viewing of video and audio evidence depicting the commission of violent offences.

REGULATORY AND ECONOMIC PROSECUTIONS

The PPSC provides prosecution services related to legislation aimed at protecting the environment and the safety, health, economic security, and general welfare of the public. In addition to the imposition of fines and sentences of imprisonment, these cases can result in the imposition of measures designed to enhance public health and safety, improve the management and protection of environmental resources, or discourage financial and economic malfeasance. In 2015–2016, the PPSC handled 6,019 files involving regulatory and economic offences, of which 2,720 were carried over from previous years.

Regulatory Prosecutions

CORRUPTION OF FOREIGN PUBLIC OFFICIALS

In 2015–2016, the PPSC continued to provide pre-charge advice and training to RCMP units engaged in the investigation of offences under the *Corruption of Foreign Public Officials Act* (CFPOA).

The prosecution of Ramesh Shah, Kevin Wallace, Zulfiquar Ali Bhuiyan, and Abul Hasan Chowdhury for alleged violations of the CFPOA is ongoing. The charges relate to bribes allegedly to be paid to officials in Bangladesh in order to secure a contract for SNC-Lavalin in relation to a bridge construction project financed by the World Bank.

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

ENVIRONMENTAL OFFENCES

The PPSC prosecutes offences under statutes aimed at managing environmental resources and at protecting the natural environment, wildlife, and public health, such as the *Canadian Environmental Protection Act, 1999*, the *Fisheries*

Act, the *Migratory Birds Convention Act, 1994*, and the *Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act* (WAPPRIITA).

On May 20, 2015, Progress Energy Canada Ltd. pleaded guilty to one count of depositing a substance harmful to migratory birds, contrary to the *Migratory Birds Convention Act*. The charge related to the use by Progress Energy of an above-ground tank (about 45 metres in diameter) to store hydraulic fracturing flowback fluids. The tank did not have a lid and there were no bird-deterrent measures in place, such as netting. In May 2012, 17 dead mallard ducks were discovered in the tank. Progress Energy Canada was sentenced to a total financial penalty of \$250,000.

On July 28, 2015, Panther Industries (Alberta) Inc. was sentenced on three charges under the *Fisheries Act*, the *Canadian Environmental Protection Act, 1999*, and the *Environmental Emergency Regulations* for a spill of hydrochloric acid that leaked

R. V. CANAPORT LNG LIMITED PARTNERSHIP

Between September 13 and 15, 2013, approximately 7,000 migratory song birds died as a result of direct or indirect contact with a flaring natural gas stack at the terminal for liquefied natural gas operated by Canaport LNG Limited Partnership at Saint John, New Brunswick. An examination of the dead birds determined there were 26 different species protected under the *Migratory Birds Convention Act*, including four Canada Warblers, protected under both the *Migratory Birds Convention Act* and the *Species at Risk Act*. The natural gas flare had been running continuously as a result of a mechanical breakdown. Canaport LNG was charged on November 5, 2014 with depositing a substance harmful to migratory birds, contrary to the *Migratory Birds Convention Act*, and with unlawfully killing Canada Warblers, contrary to the *Species at Risk Act*. In November of 2015, Canaport LNG Limited Partnership pleaded guilty to the charges and paid a total penalty of \$750,000. Canaport was also ordered to conduct weekly monitoring of the bird migration forecast for the Bay of Fundy region and to take appropriate action to mitigate mortality of migrating birds.

from tanks into a storm drain and then into a tributary of the North Saskatchewan River near Edmonton, Alberta. Nearby businesses had to be evacuated due to the resulting acid cloud. Panther was fined \$5,000 and sentenced to pay \$370,000 to the Environmental Damages Fund, to be used for the conservation and protection of fish habitat. The Court noted that Panther's negligence turned a 1.5km stretch of a creek into a "complete dead zone".

Ali Eldin, owner of Edmonton dry-cleaning facilities First Class Cleaners and Todd Cleaners, pleaded guilty on February 23, 2016 to offences in contravention of the *Tetrachloroethylene (Use in Dry Cleaning and Reporting Requirements) Regulations of the Canadian Environmental Protection Act, 1999*. He was sentenced to a conditional sentence of four months, which included 75 days of house arrest, a curfew, 60 hours of community service, and an order to pay for the publication of an article in an industry magazine to outline the facts of the case and the sentence. Tetrachloroethylene, commonly known as PERC, is used as a dry-cleaning solvent, and is listed as a toxic substance under the *Canadian Environmental Protection Act, 1999*. The sentence of imprisonment for such offences was significant.

On May 8, 2015, Ronald Leslie Martin was fined \$20,000 in Yukon Territorial Court after pleading guilty to illegally importing and exporting wildlife, contrary to the WAPPRIITA. Mr. Martin, an outfitter from Haines, Alaska, pleaded guilty to the illegal possession of an Alaskan brown bear (grizzly bear) hide, two black bear hides and three wolverine hides, all of which had been imported or transported in contravention of WAPPRIITA. He also pleaded guilty to the illegal export of two Dall sheep from Yukon, the

export of moose meat without a permit to Alaska, as well as the illegal transport of a Yukon grizzly bear hide to Alberta. In addition to the \$20,000 fine, Mr. Martin received a ten year prohibition from carrying a firearm and accompanying anyone hunting in the Yukon, with a condition allowing him to hunt with a bow for subsistence beginning in 2020. He is also banned for ten years from obtaining any Yukon export permits or any import or export permits.

IMMIGRATION OFFENCES

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

In 2009, a ship called the "MV Ocean Lady" arrived off the west coast of Canada carrying 76 undocumented Tamil migrants from Sri Lanka. Four men were charged by direct indictment in June 2012 with organizing the illegal entry into Canada of a group of ten or more individuals,

contrary to s. 117 of the *Immigration and Refugee Protection Act*. The four accused challenged the constitutionality of the provision. In November 2015, the Supreme Court of Canada ruled that the offence provision was overbroad, as it criminalized the conduct of people who were acting for humanitarian reasons in bringing people into Canada or who were themselves refugees and were helping one another to come into the country. Since none of the accused claimed to fall into either of these categories, the prosecution against them will proceed.

In *R. v. Roske* the accused, an American citizen, was traveling from the United States on his way through Manitoba to Minnesota. He was examined by officers of the Canada Border Services Agency (CBSA) and found in possession of several pieces of computer equipment. Forensic examination of the computers turned up thousands of images and videos depicting child pornography. He was charged with several offences under the *Customs Act*, and pleaded guilty

R. V. WANG

R. v. Wang was the largest immigration fraud prosecution in British Columbia to date. Mr. Wang operated an immigration consulting business through two companies. He employed various sophisticated criminal schemes to help foreign nationals make fraudulent applications for citizenship or permanent resident card renewal. These schemes included passport fraud, address fraud, employment fraud, false documents, and coaching clients to mislead immigration authorities. Approximately 1,200 clients paid Mr. Wang a total of \$10 million for his fraudulent immigration services. Mr. Wang also committed various tax offences: he evaded paying \$730,837 of income tax on earnings from his business, and fraudulently obtained benefits under the *Income Tax Act* for low income earners for 146 clients, totaling \$187,901.24.

Mr. Wang was charged with offences under the *Immigration and Refugee Protection Act*, the *Criminal Code*, and the *Income Tax Act*. He pleaded guilty and received a seven-year sentence and \$918,738.24 in fines. Mr. Wang has filed an appeal of his sentence, which is set to be heard in September 2016 in the British Columbia Court of Appeal.

R. V. SHENANDOAH AND THOMPSON

Alicia Shenandoah and Elaine Thompson, residents of Cornwall Island in Ontario, were charged with violating required reporting procedures for crossing the border under the *Immigration and Refugee Protection Act*. The accused sought an exemption from aspects of the IRPA alleging that the reporting requirements violated their aboriginal and treaty rights and were contrary to ss. 7, 15 and 2(d) of the *Canadian Charter of Rights and Freedoms*. Following a lengthy and complex hearing, including evidence from a number of experts about the history of the Mohawks of Akwesasne dating back to the 17th century, the applications were dismissed and the existing border procedures upheld.

to smuggling child pornography. Following a contested sentencing, he was sentenced to two and a half years in prison, with the judge noting that Manitoba consistently imposes the most stringent sentences of any jurisdiction in Canada for smuggling child pornography.

Economic Prosecutions

COMPETITION LAW

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

In 2015–2016, the PPSC handled 58 files dealing with competition law.

In Quebec, 44 charges were laid against companies and individuals for bid rigging related to the provision of water services to Quebec municipalities. Several businesses and individuals were charged with bid rigging for private contracts to install ventilation systems and municipal sewer systems in the Montreal area; three of those companies have pleaded guilty and were ordered to pay large fines.

A Japanese tire manufacturer pleaded guilty to bid rigging in relation to a tender put out by Toyota, and was required to pay a \$1.7 million fine. Another Japanese manufacturer of automotive components pleaded guilty to bid rigging charges related to its participation in an international conspiracy and was fined \$13 million.

In the Octane investigation into anti-competitive price fixing among gasoline retailers in Victoriaville, Sherbrooke, and Magog, one company was found guilty after a trial and fined one million dollars.

In Ontario, an investigation into alleged anti-competitive price fixing of chocolate confectioneries led to criminal proceedings against three companies and three individuals in 2013. One company pleaded guilty in 2013; in the fall of 2015, the PPSC stayed proceedings against the other accused.

INTEGRATED MARKET ENFORCEMENT TEAMS

The Integrated Market Enforcement Teams (IMET) located in Vancouver, Calgary, Toronto, and Montreal investigate serious capital market fraud. PPSC counsel provide training, as well as pre-charge and general legal advice and support to IMET teams. They may also support or participate in prosecutions of IMET cases. When a fraud charge is laid following an IMET investigation, the attorney general of the province in which the charge is laid has the right of first refusal to prosecute the offence. Where provinces choose not to exercise that right, the PPSC may assume carriage of the prosecution.

Two important trials stemming from IMET investigations took place in 2015–2016. In the “Carrefour” file, the Montreal IMET laid charges following a lengthy investigation into the use of stock market transactions to illegally withdraw money from retirement pension funds. In the course of the trial, which started in February 2016, Messrs. Quan, Dumais and Paquin pleaded guilty to fraudulent manipulation of the stock market. Mr. Paquin was sentenced on April 4 to a conditional sentence of six months’ imprisonment and to 60 hours of community service. Mr. Dumais was sentenced on May 27, 2016 to a conditional sentence of twelve months’ imprisonment and 120 hours of community service. Mr. Quan’s sentencing is expected to occur in September 2016.

R. V. PITT MEADOWS MEATS LTD.

Pitt Meadows Meats Ltd. was prosecuted under the *Food and Drugs Act* for the sale of 1,500kg of tainted meat. A sample taken from that batch of meat tested positive for *E.coli*, but the company decided not to recall the meat. The company pleaded guilty and was fined \$125,000. This fine was the largest ever in British Columbia for a case of this kind.

R. V. KENDALL AND HOUSTON AND R. V. SORENSON AND BROST

These two cases provide an example of the type of complex files that the Integrated Market Enforcement Teams (IMET) and the Canada Revenue Agency (CRA) have undertaken. Both the CRA and the Calgary IMET investigated a Registered Retirement Savings Plan (RRSP) strip scheme. Investors were falsely promised excellent returns without having to pay tax. CRA was deprived of \$14.1 million, namely the amount of unpaid taxes on the RRSP funds that investors directed in a Ponzi scheme. Although the total amount of the investment fraud could not be determined, the judge concluded that it was over \$150 million. Both Messrs. Kendal and Houston received 5 years of imprisonment for their involvement in the tax fraud. Messrs. Sorenson and Brost received 12 year jail terms for their involvement in the Ponzi scheme. Almost 600 victim impact statements were submitted to the Court for the sentencing hearing of Messrs. Sorenson and Brost.

In Halifax, the prosecution of Messrs. Clarke, Colpitts, and Potter continued. They are accused of fraud, fraud affecting the public market, and conspiracy to commit fraud affecting the public market in connection with the trading of stock in Knowledge House Inc. A series of pre-trial motions was heard by the court in 2015–2016, and the trial began in November 2015. In the course of the trial, Mr. Clarke pleaded guilty to conspiracy and fraud. He received a three year jail term on April 15th, 2016.

REVENUE OFFENCES

The PPSC prosecutes offences under all statutes administered by the Canada Revenue Agency (CRA), notably the *Income Tax Act*. Across Canada, specialized PPSC prosecutors provide advice from the beginning of the investigation, conduct prosecutions, and provide training to investigators. In 2015–2016, 407 prosecutions were concluded.

On February 12, 2016, a jury found Russell Porisky, founder of the Paradigm Education Group (“PEG”),

and his wife, Elaine Gould, guilty of a number of charges under the *Income Tax Act*, included counselling fraud (the fraud being tax evasion). This was their second trial. Mr. Porisky is a tax protestor; through PEG, he taught others to evade tax. A number of people who taught the PEG system (known as “Educators”) have been prosecuted across Canada. The sentencing hearing for Mr. Porisky and Ms. Gould is expected to take place later this year.

The prosecutions in *R. v. Stancer & LaValley* involved two tax preparers who set up a business to implement

a scheme that they used to claim false business and capital losses totaling over \$192 million dollars in order to obtain \$9.9 million in tax refunds. The scheme was largely unsuccessful, and the CRA paid out only \$53,000 in refunds to the clients. The accused were charged with offences under the *Income Tax Act* (making false or deceptive statements, fraudulently attempting to obtain refunds) and the *Criminal Code* (fraud, counselling fraud). Both accused were convicted by a jury on all charges. Ms. Stancer was sentenced to 33 months’ imprisonment and a \$62,980 fine. Ms. LaValley, whose involvement in the scheme was less significant, received a 16-month conditional sentence order and a \$17,439 fine.

SUPREME COURT OF CANADA LITIGATION

Federal prosecutors appeared before the Supreme Court of Canada in six cases in 2015–2016 and responded to 19 applications for leave to appeal. Of these 19, two applications for leave were granted by the Supreme Court. The DPP authorized the making of an application for leave to appeal to the Supreme Court in one case, for which leave was granted on April 14, 2016.

WORLD BANK GROUP V. WALLACE

In late 2014, in the prosecution of Ramesh Shah, Kevin Wallace, Zulfiquar Ali Bhuiyan, and Abul Hasan Chowdhury for alleged violations of the *Corruption of Foreign Public Officials Act*, the trial judge ordered the World Bank to disclose third party records kept by the World Bank headquarters in Washington, D.C. The World Bank appealed the order to the Supreme Court of Canada. The Supreme Court released its judgement on April 29, 2016, upholding the World Bank’s claim of immunity over its documents and further ruling that the disclosure of these documents would not be required under Canadian law even without immunity. This ruling clears the way for the prosecution to continue.

In *R. v. Lloyd*, federal prosecutors argued unsuccessfully in defence of the mandatory minimum penalty of one year in jail provided for in s. 5(3)(a)(i)(D) of the CDSA upon conviction for possession for the purpose of trafficking of controlled substances in certain circumstances.

TRAINING

PPSC prosecutors participated in legal training to meet the requirements set by their provincial bar associations and to promote professional development. In 2015–2016, prosecutors received approximately 33,000 hours of training. This included training provided at the School for Prosecutors and specialized conferences throughout the year.

The PPSC continued its use of technology in providing training. A training conference in the Ontario Regional Office addressed legal knowledge, practice, and the ethical and professional obligations that attach to that practice. The training was shared with prosecutors across the country by videoconference. The PPSC also hosted webinars on emerging legal issues, such as the *Canadian Victims Bill of Rights* and the *Protecting Canadians from Online Crime Act*.

School for Prosecutors

The PPSC School for Prosecutors offers annual training designed to promote professional development relevant to the prosecution function.

In 2015, the School delivered three courses: one for junior counsel, one for senior counsel, and a legal writing course. There were a total of 116 participants in the three courses.

Level One (Prosecution Fundamentals) focused on criminal law topics, including the role of the Crown, the law and procedure on voir-dires, and the trial.

Level Two (Advanced Issues for Prosecutors) focused on various aspects of complex case management. The goal of this training was to enhance the ability of experienced practitioners to analyse complex legal, operational, and technological issues that arise in federal prosecution practice.

The objective of the Written Advocacy course was to help counsel perfect factum-writing skills.

The teaching methods included a combination of lectures, seminars, panel discussions, and small group problem solving and workshop sessions.

OUTREACH

During 2015–2016, the PPSC continued to support and advance external relations with national and international stakeholders involved in the law.

FPT Heads of Prosecutions Committee

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

The Committee held two meetings in 2015. The first was held in Gatineau in April, and the second, which was organized jointly with the Criminal Justice Branch of

British Columbia, was held in Vancouver in October and featured the National Prosecution Awards Ceremony. The Committee also held a teleconference in June to deal with emerging issues between the two meetings.

International Association of Prosecutors

The International Association of Prosecutors (IAP) is a non-governmental and non-political organization. It promotes the effective, fair, impartial, and efficient prosecution of criminal offences through high standards and principles, including procedures to prevent or address miscarriages of justice. The DPP is an elected member of the Executive Committee of the IAP and a PPSC representative sits as vice-president on the board of the *Association internationale des procureurs et poursuivants francophones*, a sister organization of the IAP. The PPSC participated in the Twentieth Annual Conference and General Meeting of the IAP in Zurich, Switzerland, in September 2015, where the DPP chaired a special interest group meeting and attended a meeting of the Executive Committee.

Foreign Delegations

In October 2015, a visiting delegation of Palestinian prosecutors met with Justice Canada and PPSC senior officials to discuss comparative criminal justice systems. This visit was part of Justice Canada's Sharaka Project, a technical legal assistance program to ensure a fair and effective criminal justice system in the West Bank. The PPSC has participated in the exchange of information with Palestinian prosecutors since the Project's inception in 2008.

As well, on April 22, 2015, the PPSC's Special Advisor on Northern Issues met with members of a Swedish Governmental Commission that included a Chief Judge of the Stockholm district court as well as an Associate Justice of the Court of Appeal to discuss the prosecution of sexual assault offences in Canada's northern territories.

Training for Investigative Agencies

PPSC employees regularly provide training on prosecution-related topics to members of police services and federal regulatory agencies. In 2015–2016, PPSC employees provided over 10,000 hours of such training.

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

INTERNAL SERVICES

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

Some internal services divisions had significant milestones or launched major initiatives in 2015–2016.

Administration

The Administration Services Division launched the PPSC Hazard Prevention Program to reduce the risk of work-related injuries and illnesses, and provided online training to all employees on the prevention of violence in the workplace.

The PPSC implemented sustainable workplace operations measures in support of the Government of Canada's *Policy on Green Procurement*. These measures

included increasing the ratio of employees to printing units and lowering the ratio of information technology assets to employees.

Fine Recovery

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

The PPSC has developed a new model for fine recovery, after a significant consultative process examining a wide range of options. On March 1, 2016, a contract was signed with Partners in Credit Inc., a private collection agency, for the collection of outstanding federal fines. Partners in Credit began collecting federal fines on behalf of the PPSC on April 1, 2016.

Human Resources

Blueprint 2020 and the priorities of the Clerk of the Privy Council continue to drive the implementation of key human resource management changes.

The human resources planning exercise continued to evolve with new efficiencies and improvements. The exercise provided a coherent human resources management framework for management decision making and accountability at the lowest possible level.

The PPSC continued to simplify its approach to job descriptions through the implementation of paralegal generic job descriptions. The paralegal generics will contribute to further professionalizing the paralegal community through clearer and more consistent roles and responsibilities. They will also facilitate competency development, performance objectives and more coherent training and career development.

In preparation for the New Direction in Staffing initiative introduced by the Public Service Commission of Canada on April 1, 2016, the PPSC adopted staffing programs that promote the use of methodologies permitted by the *Public Service Employment Act* while managing relevant risk in staffing activities.

Internal Audit

The Internal Audit Division (IAD) assesses the effectiveness of the PPSC's processes and works with the Departmental Audit Committee (DAC) to provide objective advice

and recommendations to the DPP regarding the sufficiency, quality, and results of the organization's risk management, control, and governance frameworks and processes.

In 2015–2016, the IAD published two internal audit reports: the *Audit of iCase File Compliance* and the *Audit of the British Columbia Regional Office*. The IAD also conducted two consulting engagements for management. The IAD conducted a follow-up review of management action plans addressing prior audit recommendations. The DAC met three times during the year and reviewed a number of audit-related items including values and ethics, risk management, internal controls, governance, planning, and financial reporting.

Research and Evaluation

2014 PPSC SURVEY OF INVESTIGATIVE AGENCIES

In 2014, the PPSC conducted an in-house survey of investigative agencies. Over 1,100 members of police and federal regulatory agencies throughout Canada participated in the survey. The results underscored the importance of ongoing and respectful communication between investigators and prosecutors in supporting effective and efficient operational practices.

The Management Response and Action Plan, which describes key actions that both the PPSC and investigative agencies can take to maintain or enhance such practices, was presented to PPSC senior management for endorsement in the first quarter of 2016–2017, and will be implemented over the course of the fiscal year.

SURVEY ON PPSC KNOWLEDGE MANAGEMENT SITE

In 2015–2016, the PPSC conducted an in-house survey to help determine the future development of the PPSC's Knowledge Management (KM) site. The KM site supplements traditional legal research sites by collecting PPSC work products and other materials that are not readily available or searchable elsewhere (for example, facts, research memoranda and training materials, unpublished case law, and sentencing decisions). The survey, which explored how the site can facilitate the work of legal counsel and paralegals, and how the site might be improved to better meet their practice needs and produce further efficiencies, closed in March 2016. Its results will be analyzed and presented to senior management in the first quarter of 2016–2017.

REGIONAL PROFILES

3

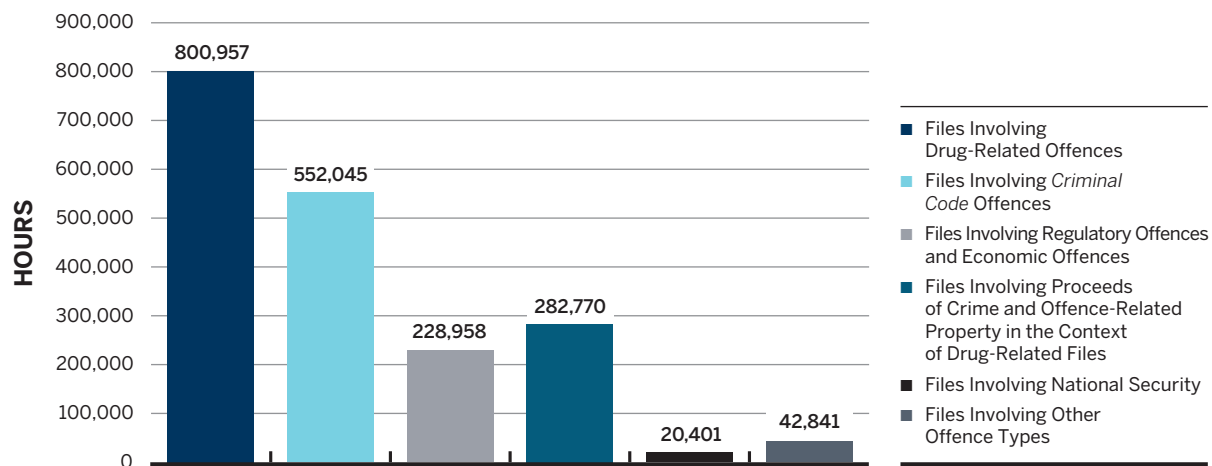
OVERVIEW

The PPSC has 11 regional offices across Canada, as well as seven local offices. Each local office is part of

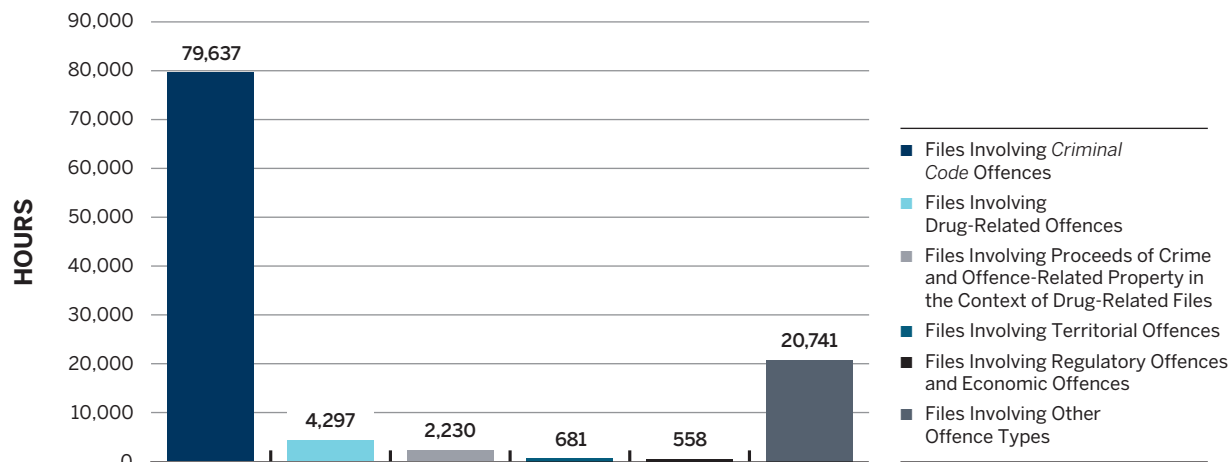
a regional office, and each regional office is headed by a Chief Federal Prosecutor (CFP).



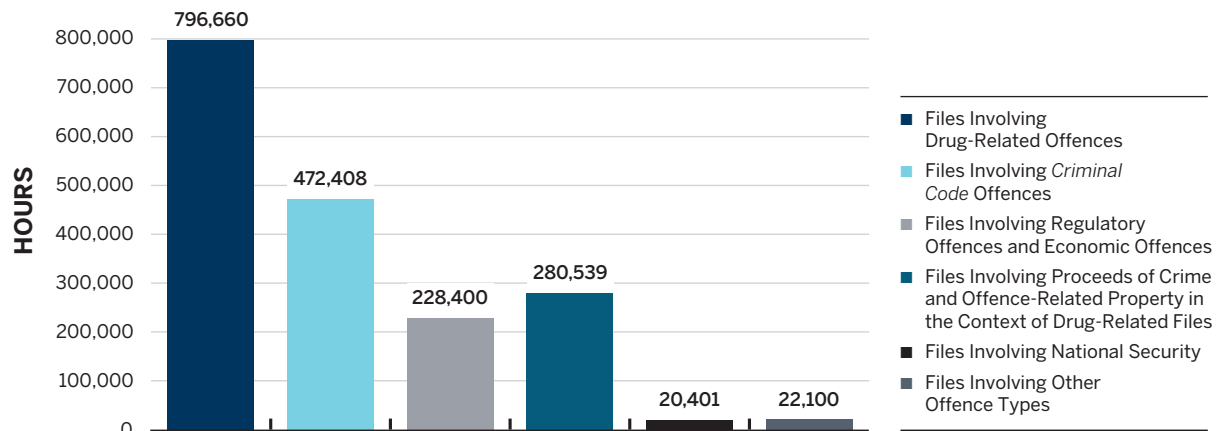
TIME SPENT BY OFFENCE TYPE – ALL PPSC OFFICES



TIME SPENT BY OFFENCE TYPE – REGIONAL OFFICES LOCATED IN THE TERRITORIES



TIME SPENT BY OFFENCE TYPE – REGIONAL OFFICES LOCATED IN THE PROVINCES



ALBERTA

EMPLOYEE DISTRIBUTION

Employees	119
Lawyers (LP)	60
Law Management (LC)	2
Paralegals (EC)	18
Program and Administrative Services	39

The Alberta Regional Office serves the province of Alberta, with offices in Edmonton and Calgary.

The region's work is primarily focused on drug and organized crime prosecutions, which often

present complex *Canadian Charter of Rights and Freedoms* issues.

There is also a notable volume of economic crime and regulatory prosecutions. National security work has become a priority in recent years.

The Alberta Regional Office is implementing an Intensive Prosecution Management Plan, involving significant organizational changes and changes to internal office systems. The plan will improve efficiencies and effectiveness in case management in the office. In 2015, the Alberta Regional Office converted to a centralized case assignment calendar system, coordinated with the Provincial Court scheduling system.

ATLANTIC

EMPLOYEE DISTRIBUTION

Employees	65
Lawyers (LP)	44
Law Management (LC)	2
Paralegals (EC)	2
Program and Administrative Services	17

The Atlantic Regional Office is responsible for federal prosecutions in Nova Scotia, Newfoundland and Labrador, New Brunswick and Prince Edward Island. The regional headquarters is located in Halifax, Nova Scotia, and there are local

offices in Moncton, New Brunswick and St. John's, Newfoundland and Labrador.

The region has four major areas of prosecution focus: CDSA prosecutions; regulatory prosecutions,

including environmental and fisheries matters; proceeds of crime; and economic crime.

Major files handled in the region in 2015–2016 included the prosecution of a former immigration consultant who had established a complex set of false addresses, occupations, and activities for his clients to create the appearance that they resided in Canada as required under immigration guidelines. He pleaded guilty and received a conditional sentence of two years less one day.

BRITISH COLUMBIA

EMPLOYEE DISTRIBUTION

Employees	106
Lawyers (LP)	67
Law Management (LC)	2
Paralegals (EC)	4
Program and Administrative Services	33

The British Columbia Regional Office (BCRO) is responsible for federal prosecutions throughout the province of British Columbia. The regional headquarters is in Vancouver.

The region has four major areas of prosecution focus: drug prosecutions, national security

prosecutions, economic crimes, and regulatory prosecutions, including environmental protection, fisheries, and immigration cases.

The BCRO supports specialized courts, including the Drug Treatment Court of Vancouver (DTCV). The DTCV has taken innovative approaches to expanding

its services to those in need, including expanding its geographic catchment. The program has been extensively evaluated and has been found to significantly reduce recidivism amongst drug-affected offender participants.

In 2015–2016, the BCRO saw an increase in the number of national security files referred to the PPSC by the RCMP. The BCRO continued to work closely with the BC Criminal Justice Branch, police, and other investigative agencies on a series of initiatives to improve the quality of materials for use in court.

MANITOBA

EMPLOYEE DISTRIBUTION

Employees	46
Lawyers (LP)	24
Law Management (LC)	1
Paralegals (EC)	4
Program and Administrative Services	17

The Manitoba Regional Office (MRO) is responsible for federal prosecutions throughout the province of Manitoba. The regional headquarters is in Winnipeg, and the office provides legal advice and prosecution services at more than 65 provincial court circuit points, superior court in six cities and towns, and the Manitoba Court of Appeal in Winnipeg.

The majority of the files handled in the MRO involved CDSA offences, ranging from low-complexity matters to prosecutions of sophisticated criminal organizations. The remaining files involved regulatory and economic crimes such as tax evasion, cross-border smuggling and immigration offences,

environmental and wildlife offences, and offences relating to the health and safety of Canadians generally.

In 2015–2016, the MRO continued to work closely with municipal police forces and the RCMP, who have targeted specific criminal organizations, resulting in arrests, and seizures of drugs, weapons, and the proceeds of crime.

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

NATIONAL CAPITAL

EMPLOYEE DISTRIBUTION

Employees	89
Lawyers (LP)	56
Law Management (LC)	2
Paralegals (EC)	12
Program and Administrative Services	19

The National Capital Regional Office (NCRO) is responsible for federal prosecutions in the East, Northwestern, and Northeastern

regions of Ontario, as well as in judicial districts in western Quebec. The regional headquarters is located in Ottawa.

The NCRO's areas of prosecution focus are controlled drugs and substances; terrorism and national security; competition law; and other regulatory statutes.

In 2015–2016, NCRO prosecutors provided pre-charge advice and training to a variety of investigative agencies, took carriage of complex prosecutions in cities spread throughout the region, and assisted with cases involving the smuggling of people and contraband across the St. Lawrence River.



NORTHWEST TERRITORIES

EMPLOYEE DISTRIBUTION

Employees	46
Lawyers (LP)	19
Law Management (LC)	1
Paralegals (EC)	2
Program and Administrative Services	24

The Northwest Territories Regional Office (NWTRO) is responsible for the prosecution of all federal offences in the NWT. The regional headquarters is located in Yellowknife. Communities throughout the NWT are served by circuit in both the Territorial and Supreme

Court and prosecutors travel by air to some 20 communities and by road to one (Behchoko).

The NWTRO prosecutes *Criminal Code* offences, in addition to offences under other federal statutes typically prosecuted by the PPSC. The case load of the regional

office includes a high number of personal injury offences, including homicide cases, sexual assaults, aggravated assault and assault causing bodily harm or with a weapon. The region actively reviews the files of high risk offenders and applies in appropriate cases for dangerous or long-term offender status following conviction.

In 2015–2016, prosecutors and Crown Witness Coordinators in the NWTRO received training on winter driving and skid control, aircraft safety, and first aid, as well as training on the *Canadian Victims Bill of Rights*.

NUNAVUT

EMPLOYEE DISTRIBUTION

Employees	51
Lawyers (LP)	22
Law Management (LC)	2
Paralegals (EC)	3
Program and Administrative Services	24

The Nunavut Regional Office (NRO) is responsible for federal prosecutions in the territory of Nunavut. The regional headquarters is located in Iqaluit, and there is a local office in Yellowknife,

which covers the Western Nunavut Region.

The NRO deals primarily with *Criminal Code* offences, including homicide and sexual and personal

injury offences. It also handles regulatory, drug-related, and territorial offence prosecutions.

The NRO prosecuted several major first- and second-degree murder files in 2015–2016, including the prosecution of Jeffrey Salomonie for first-degree murder in the 2009 death of a young Inuit woman. The trial had been delayed by various circumstances, including advances in DNA technology which resulted in more accurate DNA evidence.



ONTARIO

EMPLOYEE DISTRIBUTION

Employees	185
Lawyers (LP)	116
Law Management (LC)	3
Paralegals (EC)	22
Program and Administrative Services	44

The Ontario Regional Office (ORO) is responsible for federal prosecutions in southern and southwestern Ontario, from Windsor in the west to Trenton in the east, and northward to Georgian Bay and the districts

encompassing Barrie, Lindsay, and Peterborough. The regional headquarters is located in Toronto, with local offices in Brampton, Kitchener, and London.

The majority of the files handled in the ORO involved drug-related offences. Counsel also prosecuted criminal organization, terrorism, and tax evasion offences, as well as offences under the *Canada Elections Act* and the *Corruption of Foreign Public Officials Act*.

Major files handled by the ORO in 2015–2016 included the prosecution of charges related to a multi-jurisdictional wiretap investigation into the importation of granite boulders believed to contain cocaine. Five of the accused have pleaded guilty, and seven face trial in the coming year.

QUEBEC

EMPLOYEE DISTRIBUTION

Employees	89
Lawyers (LP)	56
Law Management (LC)	2
Paralegals (EC)	10
Program and Administrative Services	21

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

Prosecutors in the QRO deal primarily with large and high-profile prosecutions, particularly those related to organized crime (especially those linked to drugs and money laundering), economic crime, national and border security, regulatory law, and the fight against corruption.

In 2015–2016, prosecutors continued to work on prosecutions under the *Fisheries Act* that raised complex questions, such as Aboriginal ancestral rights claims. They also conducted several prosecutions under the *Immigration and Refugee Protection Act*, including cases of false claims of permanent residence in Canada and human smuggling. They dealt with environmental and rail safety charges arising from the 2014 Lac Mégantic tragedy. The number of terrorism files increased during the year.

The QRO continued to work with Quebec's Director of Criminal and Penal Prosecutions in the prosecution of complex murder files and organized crime offences.

SASKATCHEWAN

EMPLOYEE DISTRIBUTION

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

The Saskatchewan Regional Office is responsible for federal prosecutions throughout the province of Saskatchewan. The regional headquarters is located in Saskatoon, and some PPSC counsel are co-located with the

RCMP in an Integrated Proceeds of Crime (IPOC) office in Regina. The IPOC unit deals with restraint orders and management orders for real property, vehicles, and cash, in conjunction with prosecutions involving the forfeiture or seizure

of the profiles of drug-related criminal activity.

The region's areas of prosecution focus are drugs, organized crime, money laundering, proceeds of crime, economic crime, and regulatory offences.

Major files handled by the office in 2015–2016 included the prosecution of grain handling company Viterra for offences under the *Canada Labour Code* arising from the death of a worker in a grain receiving pit.

YUKON

EMPLOYEE DISTRIBUTION

Employees	37
Lawyers (LP)	12
Law Management (LC)	1
Paralegals (EC)	2
Program and Administrative Services	22

The Yukon Regional Office (YRO) is responsible for prosecutions throughout Yukon Territory. The regional headquarters is located in Whitehorse.

The region's areas of prosecution focus are *Criminal Code* prosecutions, prosecutions under the CDSA, and regulatory prosecutions.

In 2015–2016, the YRO continued to be a partner in the Domestic Violence Treatment Option Court, which focusses on domestic violence offences, and in the Community Wellness Court, which focusses on offenders with alcohol or drug addiction, mental health issues, or Foetal Alcohol Spectrum Disorder and other

cognitive issues. The YRO also continued its partnership with the RCMP, Victim Services, Family and Children Services, and others in Project Lynx, which coordinates support for children going through the justice system. The YRO worked in partnership with the RCMP and Offender Supervision and Services on the Prolific Offender Management Program, which identifies prolific offenders. The YRO also worked with the RCMP, Correctional Service Canada, and the Yukon Territorial Government to provide restorative justice training to Aboriginal Court Workers and First Nations Justice representatives.

STRATEGIC ORGANIZATIONAL PRIORITIES

4

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

Building on the work and successes of recent years, the PPSC continued to focus on excellence in prosecution management, employee training and development, and working collaboratively with investigative agencies throughout the 2015–2016 reporting period.

EXCELLENCE IN PROSECUTION MANAGEMENT

The PPSC is committed to improving the effectiveness of its prosecution management practices, from the way files are assigned to how they are managed and tracked throughout the lifecycle of a prosecution. It seeks to ensure that prosecutions are managed in the most modern and effective way possible. In order to do so, the PPSC learns from practices and recommendations



developed by its provincial and international partners and counterparts.

The PPSC adopted recommendations identified in internal audits of regional offices with respect to file information systems and the assignment and management of prosecution files, including compliance with protocols for closing files and the capture of key information in the iCase legal case management system.

The organization also identified best practices throughout the year. Through participation in Federal-Provincial-Territorial Heads of Prosecutions Committee meetings, PPSC employees have shared knowledge and discussed matters of mutual interest with their provincial counterparts.

Given that iCase, the PPSC's case management system, is at the end of its lifespan and does not fully address the PPSC's business requirements, the PPSC is working to develop a customized, prosecution-specific case management system to meet the needs of prosecutors and other timekeepers.

EMPLOYEE TRAINING AND DEVELOPMENT

The PPSC focusses on providing its staff with access to the tools and opportunities they need to improve their skills and further their professional development.

A learning and development framework for PPSC employees was established. Targeted legal training was provided to prosecutors both to meet the requirements set by the provincial bar associations, and to promote professional development.

Ongoing on-the-job training and information sharing was also offered by regional offices to all employees through lunch and learn sessions and discussion groups.

Many PPSC supervisors and managers have taken part in the Canada School of Public Services (CSPS) training pilots, including the Supervisor Development Program, which provided them with the latest training on how to become effective leaders. PPSC employees have also enrolled in the CSPS Manager Development Program and Aspiring Directors Program.

The Joint Learning Program has been used to provide training on "Creating a Harassment-Free Workplace," with many sessions held across the country. The PPSC has 15 qualified facilitators who have trained over 300 employees to date. The organization aims to deliver this training to all employees over the next few years.

WORKING COLLABORATIVELY WITH INVESTIGATIVE AGENCIES

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

The PPSC has taken steps to ensure ongoing communication and liaison with police and investigative agencies. It attends the RCMP's weekly

national priority-setting exercises and has a seat on the RCMP's External Advisory Committee on the re-engineering of the force. Participation in these activities facilitates the PPSC's ability to coordinate and prioritize the use of its resources according to stated investigative priorities and better coordinate projects that span two or more regions.

Chief Federal Prosecutors maintain regular contacts with the heads or deputy heads of police forces, including the Criminal Operations Officers of the RCMP. Crown prosecutors, both at Headquarters and in the regions, also regularly meet with their counterparts in the investigative agencies to whom they most often provide prosecution services.

The PPSC currently has agreements with many police and investigative agencies which set out what the PPSC expects from them in terms of timing and content of disclosure, and approaches to the vetting of routine and sensitive information in the disclosure package. Moreover, it is working in collaboration with investigative agencies to develop training programs for investigators in keeping with the demands arising from current trends in the law and the ongoing evolution of investigative tools and techniques.

In a follow-up to the 2008 PPSC survey of investigative agencies in both the provinces and territories, the PPSC distributed a questionnaire in the summer of 2014 to seek input on the PPSC's legal advice and prosecution-related activities from members of the police and federal regulatory agencies that initiate most of the cases that the PPSC prosecutes. An action plan to address the feedback received has been developed and will be implemented starting in April 2016.

FINANCIAL INFORMATION

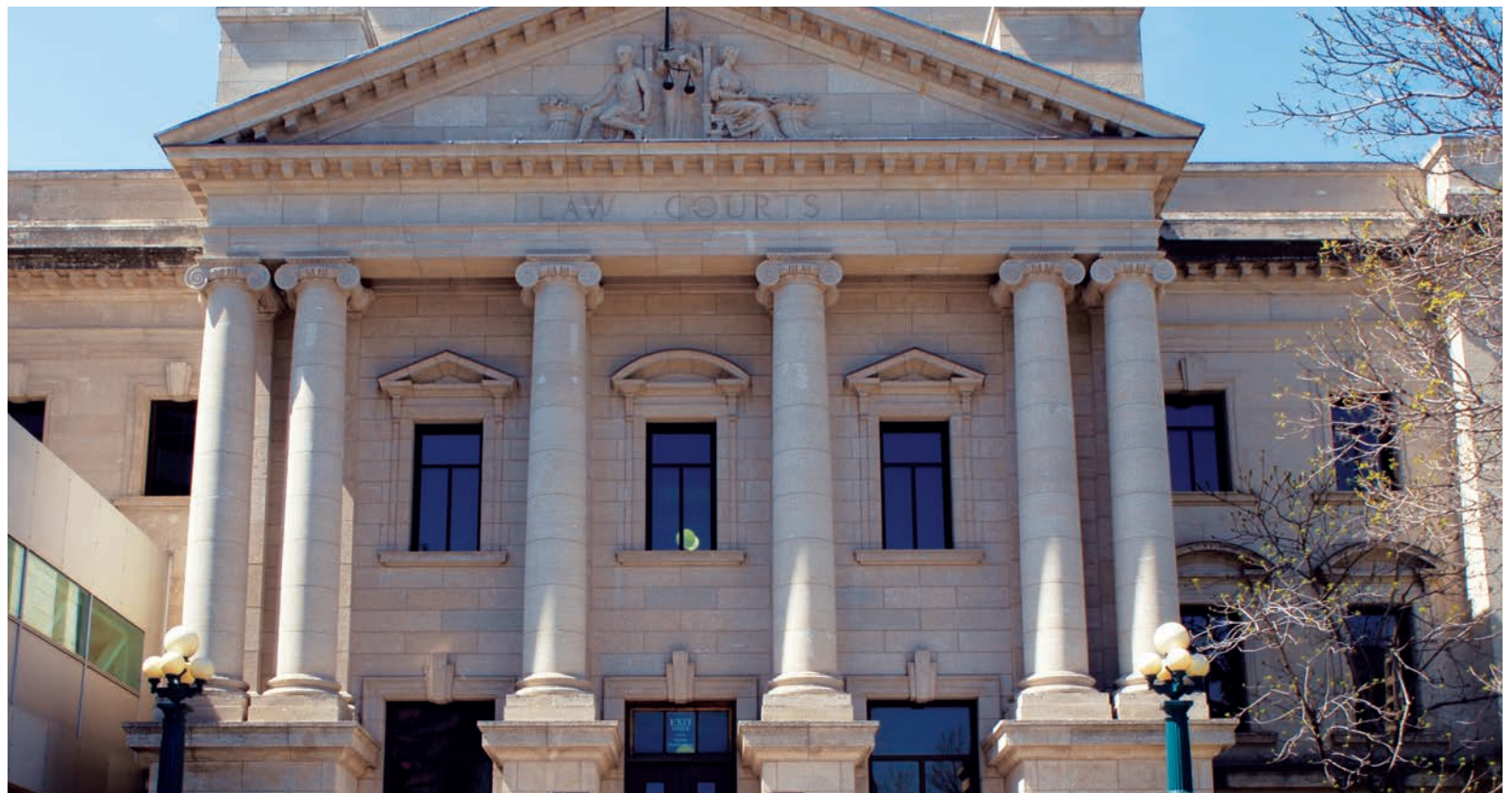
5

OPERATING BUDGET

During fiscal year 2015–2016, the PPSC was allocated an operating budget of \$189.1 million. In addition, the PPSC had authority to spend up to \$19.3 million recovered from other government agencies for prosecution activities related to their mandates.

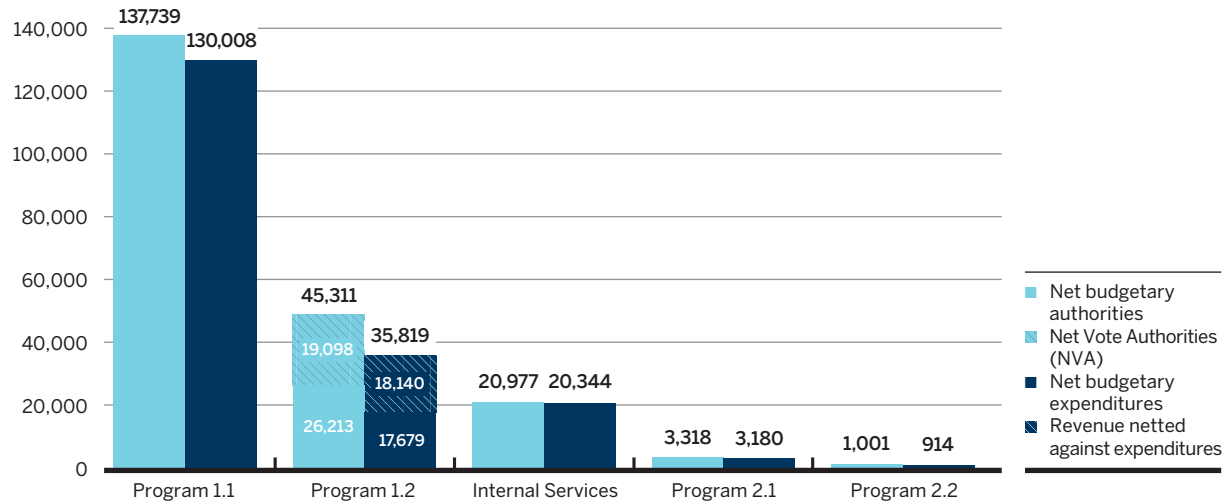
SPENDING BY PROGRAM

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



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

AUTHORITIES AND EXPENDITURES FOR FISCAL YEAR 2015–2016 (IN THOUSANDS OF DOLLARS)



STRATEGIC OUTCOME 1

Program 1.1: Drug, *Criminal Code*, and terrorism prosecution program

The \$7.7 million variance between the total operating budget of \$137.7 million and actual spending of \$130 million is mainly due to the timing of funding and expenditures related to the implementation of new initiatives: the *Protecting Canadians from Online Crime Act* and the *Canadian Victims Bill of Rights*.

Program 1.2: Regulatory offences and economic crime prosecution program

The variance of \$8.5 million between the total operating budget of \$26.2 million and actual spending of \$17.7 million is mainly due to funding received for the outsourcing of federal fines but unspent due to delays in awarding a contract to a private collection agency.

INTERNAL SERVICES

A minimal amount of Net Vote Authorities and revenues netted against expenditures (\$190K) is included in internal services for IM/IT services delivered to northern offices of Justice Canada.

STRATEGIC OUTCOME 2 (CCE)

For additional information, please refer to the CCE section of the Annual Report.

CONTACT INFORMATION

6

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Government
of Canada

Gouvernement
du Canada

Commissioner of
Canada Elections

Commissaire aux
élections fédérales

2015–2016 ANNUAL REPORT

YVES CÔTÉ, QC, COMMISSIONER OF CANADA ELECTIONS



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**SECURE ONLINE
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info@cef-cce.gc.ca

May 2, 2016

Mr. Brian Saunders, QC
Director of Public Prosecutions
160 Elgin Street, 12th Floor
Ottawa, Ontario
K1A 0H8

Dear Mr. Saunders,

Pursuant to subsection 16 (1.1) of the *Director of Public Prosecutions Act*, I am pleased to submit the 2015-2016 Annual Report for my office. In accordance with the requirements described in subsection 16 (1.1), this report provides an overview of our activities and operations from April 1, 2015 to March 31, 2016, but contains no details of any investigations.

Sincerely,

A handwritten signature in blue ink that reads "Yves Côté". The signature is written in a cursive style and is underlined with a single horizontal line.

Yves Côté, QC
Commissioner of Canada Elections

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COMMISSIONER'S MESSAGE

I am pleased to present the 2015-2016 annual report for the Office of the Commissioner of Canada Elections.

As Canadians, we are particularly fortunate to live in a country where citizens can raise concerns and file complaints when compliance issues arise during an election. The role of my office in this process – to address and deal with these concerns and complaints – is one that we take very seriously. Extensive planning and preparation in the lead-up to the October 2015 general election ensured that we were ready to manage the increased volume of complaints during the writ period.

2015 GENERAL ELECTION

There are a few areas I would like to highlight with respect to the 42nd general election.

First, from a compliance and enforcement perspective, I believe that overall the campaign went well. Although there are a number of matters we are still looking into, it is fair to say that, at this point, no major issues affecting the integrity of the process have been identified. Interestingly, despite the campaign being almost twice as long as it was in 2011, we observed no significant growth in the overall number of complaints we received.

In addition to the overall conduct of the election, we noted – and appreciated – the positive collaboration we encountered in our dealings with political parties and candidates. Individuals and parties from across the political spectrum were generally receptive to interventions from our Office and were usually – though not always – quick to correct problems when they arose. This same willingness to comply was present in our dealings with third-party advertisers who participated in this election. For the most part, the

third-party advertisers with whom we interacted were prompt to take corrective measures to comply with the *Canada Elections Act* (the Act).

Throughout this fiscal year, we have continued to foster what I consider to be an extremely productive relationship with Elections Canada. In particular, during the campaign, there were timely and useful exchanges of information – at all levels of our respective organizations – that made it easier for us to deliver on our mandate.

Finally, it became clear during the election that the shift towards the use of social media, both by political and non-political entities, is beginning to give rise to issues that the Act is not currently designed to accommodate. Among the issues identified this year was the sharing of photos of marked ballots on social media. Under the legislation as it currently exists, this is not an offence (except in the rare circumstances described in greater detail

later in this report). If the secrecy of the vote is to be maintained, the Act will have to be amended.

COMPLIANCE AND ENFORCEMENT ACTIVITIES

In 2015-2016 our Office entered into 17 compliance agreements and laid charges against one individual. The decisions with respect to which compliance or enforcement tool was most appropriate in each particular case were made in accordance with the criteria set out in our *Compliance and Enforcement Policy*, which is accessible to the public on our Web site.

Compliance agreements can be an efficient tool to deal with certain types of non-compliance. Compared with a prosecution, they are relatively quick to complete. The fact that they are made public and published in the *Canada Gazette* provides a significant degree of transparency and acts as an important deterrent against future offences. However, as I noted in my 2012-2013 Annual Report, compliance agreements would be even more effective if the legislation made it possible to negotiate broader terms and

conditions (for example, the payment of monetary penalties to the Receiver General).

LOOKING AHEAD

We expect to receive, in the early part of 2016-2017, the first wave of referrals stemming from Elections Canada's auditing of financial reports submitted by parties, candidates and third parties. As they have in the past, these referrals will form the basis of much of our investigative work over the next several years.

I note also that the Minister of Democratic Institutions was given the mandate to "introduce amendments to the Act to make the Commissioner of Canada Elections more independent from Government." As we have in the past, our Office will do all it can to support Parliament in its examination of any legislative proposals it may be called upon to consider.

CONCLUSION

It has been a busy year for our Office and, although there is still work to be done with respect to the 2015 general election, I am very pleased with the results we have achieved this year.

In 2015-2016, our colleagues at the Public Prosecution Service of Canada provided us with excellent financial, human resources and corporate services that were critical to ensuring we had adequate resources in place both during and after the election period. I am thankful to them for their assistance.

Finally, and importantly, my most sincere thanks go out to my colleagues for their continued dedication and professionalism, and especially for all of the extra time and effort that they devoted to the general election.



Yves Côté, QC
Commissioner of Canada Elections

ABOUT US

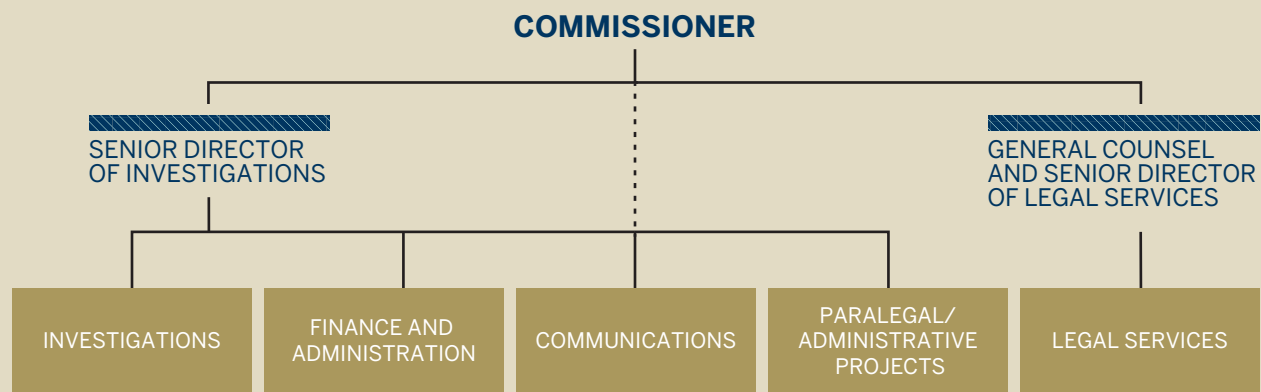
The position of Commissioner of Canada Elections (CCE) was originally created in 1974. The powers of the Commissioner of Election Expenses (as it was known at the time) were limited to compliance and enforcement of rules relating to election expenses. In 1977, the Commissioner's powers were significantly expanded to include all provisions under the

Canada Elections Act (the Act) and the position formally became known as the Commissioner of Canada Elections.

Today, the Commissioner of Canada Elections continues to play an important role in safeguarding Canadians' trust in the democratic process. As an independent officer, the Commissioner's dual roles of

ensuring compliance with, and enforcement of, the Act and the federal *Referendum Act*, are carried out with the aim of promoting the integrity of the electoral process.

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



COMPLAINTS AND REFERRALS

All complaints and referrals received by the Commissioner with respect to the Act are assessed to determine if they fall within the mandate of the office. Individuals whose complaints or allegations do not fall under the Commissioner's area of responsibility are advised and, wherever possible, are redirected to the appropriate complaint mechanism.

If, following a preliminary review, the Commissioner concludes that the allegations made in connection with a complaint or referral may

have merit, an investigation may be conducted to clarify the facts and gather evidence related to the alleged offence. At all times throughout the process, the Commissioner ensures that decisions are guided by the principles of independence, impartiality and fairness. Additional information regarding the Commissioner's mandate can be found in the *Compliance and Enforcement Policy of the Commissioner of Canada Elections* available on the Commissioner's Web site at: www.cce-cef.gc.ca.

Submitting a Complaint

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

by web form: www.cce-cef.gc.ca,

by email: info@cef-cce.gc.ca,

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

by postal mail:

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

THE YEAR IN REVIEW: 2015–2016

42ND FEDERAL GENERAL ELECTION

Ensuring compliance with, and enforcement of, the Act is an ongoing process that extends well beyond voting day. Although the office received more than 1000 complaints during the 42nd federal general election – and more than 100 on election day – CCE staff were actively engaged in evaluating, resolving and investigating complaints from Canadians throughout the 2015-2016 fiscal year. A statistical breakdown of the files handled by the Office throughout the year is available at Appendix A.

In addition to this investigative work, CCE staff also used the first half of 2015–2016 to finalize preparations for the election. Working in partnership with officials at Elections Canada and the Canadian Radio-television Telecommunications Commission (CRTC), CCE employees played a key role in developing best practices for sharing and redirecting complaints. They also oversaw the evaluation and implementation processes for various technological safeguards that were necessary to securely transfer complaint-related information between the three oversight bodies.

While some enforcement measures are taken during an election period, the vast majority of cases involve minor compliance issues that can be resolved quickly – and often informally – through the timely intervention of CCE staff. The ability to swiftly manage the influx of allegations of non-compliance associated with an election period is dependent on a team of skilled intake, investigative and legal personnel. In an election year, this core team is supported through the hiring of additional investigative resources. In 2015-2016, additional investigators were hired in anticipation of the election period. The increase in the number of employees and contractors was essential in the final weeks of the campaign when intake, investigations and legal staff were available seven days a week to receive, triage and in many cases, resolve complaints.

Over and above the hiring of additional investigators, during the election period, the CCE's legal services group established and maintained a legal 'hotline.' This service, monitored throughout the week and on weekends by members of the Legal Services directorate, provided a direct line of communication between the

Commissioner's legal staff and counsel for the various political parties, to quickly resolve issues.

To reinforce the work of CCE investigative and legal personnel, and to assist and educate Canadians about the requirements set out in the Act, the CCE also completed a redesign of its Web site during the election period. The changes made the site more user-friendly and easier to navigate by reorganizing and building on existing information. New elements included simplified home page navigation and a reformatted electronic complaint form. Moreover, individuals seeking to make a complaint were directed to a newly-created Frequently Asked Questions section. This process allowed complainants to make an informed decision about whether their concern fell under the CCE's jurisdiction prior to submitting their complaint.

ISSUES OF PARTICULAR INTEREST

Every election brings with it unique circumstances and events. Both before and during the 42nd general election, a number of issues arose that, while they did not factor among the most complained-about topics, deserve to be highlighted.

Political Financing Rules for Nomination Contestants

Prior to the 42nd general election, the CCE received complaints regarding nomination contests. The complaints alleged that certain nomination contestants had failed to report all expenses for goods or services used during their campaign. However, as it currently stands, the Act does not regulate all expenses associated with a nomination contest, such as expenses incurred before the start of the contest.

When informed of this, individuals who complained to the CCE felt that the fact that the legislation leaves many of the goods and services used by contestants in these types of contests unregulated allowed campaigns to easily circumvent the otherwise strict rules in the Act. This has the potential to significantly undermine public confidence both with respect to the political financing rules for nomination contestants and the CCE's ability to enforce them.

Promises and Commitments by Provincial Politicians

During the election period, members of the public approached the Office with concerns over promises and commitments made by provincial politicians. Complainants believed that these promises, which were contingent on the outcome of the election, constituted illegal bribes or inducements under the Act. The CCE carefully reviewed these complaints and concluded that the sections of the Act pertaining to bribes and inducements did not capture promises or commitments made by politicians on public policy issues.

Interference by Foreigners

Section 331 of the Act prohibits non-citizens who reside outside of Canada from inducing electors to vote in a particular way. During the campaign, the CCE received a number of complaints alleging that foreign nationals who were not permanent residents of Canada could not provide campaigning advice to federal registered parties without infringing section 331 of the Act.

After careful review, the CCE concluded that providing advice to a registered party, or possibly having an influence on how a registered party will carry out its own inducement activities, is not caught by the wording of the prohibition at section 331. Nevertheless, there appears to be some confusion regarding the intended breadth of section 331 and Parliament may wish to revisit its wording to bring greater clarity to its scope.

Pictures of Marked Ballots on Social Media

The appearance of photos of marked ballots on social media platforms during the 42nd general election was the source of a number of complaints to the CCE. For many Canadians, they were viewed as a serious breach of the principle of the secrecy of the vote.

After consultation with the Office of the Director of Public Prosecutions, the CCE concluded that the prohibition against showing one's marked ballot could only apply to an elector who posted a photo of their own ballot on social media while still physically inside the polling station. Conversely, posting a photo of another person's marked

ballot – regardless of where they are at the time the photo is uploaded – is captured by the existing provisions in the Act.

It is clear that the existing rules, adopted in a pre-Internet era, do not adequately address this issue. Consequently, consideration should be given to amending the Act if the secrecy of the vote is to be protected.

Removal of Anonymous Election Advertising

One of the prevailing themes during any election relates to missing authorization statements (taglines) on election advertising. During the 42nd general election, in addition to complaints regarding the absence of taglines, the CCE received complaints concerning the removal or interference with election advertising signs that did not contain the required authorization and failed to identify the third party responsible for the advertising.

Although signs missing this information are not compliant with the Act's transparency requirements, the Act currently makes no distinction between interfering with the transmission of compliant vs. non-compliant advertising. However, from the CCE's perspective, the public interest in taking formal enforcement or compliance action against a person who has interfered with anonymous third party advertising signs is unquestionably reduced.

Election Officers' Use of Elector's Personal Information

During the 42nd general election, the Office encountered a situation where an election officer used an elector's personal information – obtained in the course of the performance of his duties – for a purpose unrelated to the performance of those duties. Where it can be proven that this personal information was obtained from the list of electors, an existing prohibition in the Act can be used to take compliance or enforcement measures against the offender. However, where the information was obtained through other means in the course of the election officer's work, (for example, reviewing an elector's identification), there is no applicable prohibition in the Act. Indeed, while the Act does prohibit the communication of such information, it does not prohibit its use more generally.

Although the incident that occurred during the 2015 election was an isolated occurrence, the misuse of an elector's personal information has the potential to damage public confidence in the security of their personal information. Further, the inability to take action to address these breaches could undermine electors' trust in the electoral system. Consideration should be given to addressing this void.

Voting with Face Coverings

The CCE received a number of complaints of individuals who were alleged to have voted twice by showing up at the polls with their faces covered. In most cases, these complaints were filed after the

alleged "double voters" had posted statements on social media claiming that, by covering their faces, they were able to vote twice.

As of March 31, 2016, the Office had completed an examination of 34 such complaints and concluded that none had resulted in an elector having voted twice.

Third Party Use of Foreign Contributions

A number of complaints were received about third parties allegedly using foreign contributions to fund activities during the election period. Most third parties exist outside of an election period, and generally, the financing of their activities is only regulated under the Act to the extent that the financing is used to fund election advertising. As such, a third party can use foreign contributions to fund activities that do not include the transmission of election advertising messages. This includes carrying out election surveys, setting up election-related websites and using calling services to communicate with electors.

Campaigns Misleading Voters about the Vote

The Office received a number of complaints about voters receiving misleading information during the campaign. Most of these were with respect to various campaigns dropping off information leaflets containing information about times and places for voting that directed the members of the household to vote at the wrong polling station. After review, it was determined that, generally, these were the result of campaign volunteers dropping off the wrong information leaflet at

particular addresses; there was no intent to mislead and no one was prevented from voting. This serves as a reminder to electors that they should obtain this type of information from Elections Canada as the potential for errors exists when provided by other sources.

ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE

In May, the Commissioner and members of his management team met with officials from the Organization for Security and Co-operation in Europe's (OSCE) observation mission to discuss the role and mandate of the Commissioner of Canada Elections. The Commissioner provided an overview of the tools available to him, the changes to the compliance and enforcement scheme that had come about as a result of Bill C-23, and some of the challenges associated with enforcing the Act. The OSCE's report outlining their findings was published in February 2016 and contained a number of recommendations, including some directly related to the Commissioner's mandate. Among these was the priority recommendation that the "Commissioner of Canada Elections could be granted the right to compel witnesses and to impose administrative penalties as another option to resolve minor violations of the Elections Act with a view to improve the timeliness and effectiveness of investigations."¹

1 OSCE/ODIHR Election Assessment Mission Final Report: www.osce.org/odihr/elections/220661

COMPLIANCE AND ENFORCEMENT

The integrity of the electoral process relies on the good faith of participants and their willingness to follow the requirements set out in Canadian election law. The Commissioner's mandate reinforces and strengthens oversight of the electoral system, ensuring that all participants can confidently partake in the electoral process. The *Compliance and Enforcement Policy of the Commissioner of Canada Elections* outlines how the Commissioner exercises his mandate under the Act.

Caution Letters

Caution letters are an informal means of ensuring compliance with the Act. Between April 1, 2015, and March 31, 2016, the Commissioner issued 144 caution letters to address minor contraventions or inadvertent non-compliance. As is the case with other informal tools used by the CCE, caution letters are not made public.

Compliance Agreements

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

Between April 1, 2015 and March 31, 2016, the Commissioner entered into 17 compliance agreements:

- Nine agreements were entered into with organizations that made illegal contributions to one or more political entities. The Act prohibits any person or entity other than an individual who is a Canadian citizen or permanent resident of Canada from making contributions.
- One compliance agreement was entered into with an individual who had made over-contributions to their own 2014 nomination contest. The Act does place limitations on the amount an individual can contribute in a calendar year, in total, to the registered associations, nomination contestants and candidates of a particular registered party.
- Two compliance agreements were concluded with individuals who, following the 2011 general election, failed to provide complete electoral campaign returns.
- Three compliance agreements were entered into with individuals who made contributions to a number of political entities in excess of the individual contribution limits established by the Act.
- A compliance agreement was entered into between the Commissioner and a group who engaged in third party advertising during the 42nd general election. As part of the agreement, the group acknowledged that they had failed to register as a third

party advertiser – as required by the Act – and that their advertising did not contain the required authorization statement (tagline).

- One compliance agreement was entered into with an employer who had failed to provide their employees with time off to vote. The Act requires that employers provide the time required for the employee to dispose of three consecutive hours to vote.

The full text of these compliance agreements is available on the CCE's Web site at:

www.cce-cef.gc.ca

Charges and Prosecutions

If the Commissioner believes on reasonable grounds that an offence has been committed under the Act, he may refer the matter to the DPP, who has sole authority to decide whether charges will be laid. The DPP acts as an independent prosecution authority, with a mandate to prosecute cases under federal law and to provide legal advice to investigative agencies.

Charges were laid on May 6, 2015 in the Provincial Court of Newfoundland and Labrador in St. John's against official agent Reginald Bowers. He was charged with three counts: one count of failing to return ineligible contributions, and two counts of knowingly providing the Chief Electoral Officer with a document that contained a material statement that was false or misleading.

In October 2015, Mr. Bowers pleaded guilty to the count of having failed to return ineligible contributions, and to one count of having submitted a false or misleading return. The latter combined the elements of the two separate counts that dealt with the provision of false and misleading information for which he had been charged. The court imposed the following sentence in December 2015:

- A fine of \$500 for the ineligible contributions.
- A fine of \$1000 for providing a false or misleading document.

In addition, the trial for Mr. David Del Mastro, charged with Ms. Tory-Lynn Manchulenko, in October 2014 with knowingly concealing or attempting to conceal the identity of the source of a contribution and knowingly circumventing the campaign contribution limit for an individual donor, began in February 2016.

On January 29, 2016, Ms. Manchulenko pleaded guilty and received an absolute discharge. As of March 31, 2016, Mr. Del Mastro's case was still before the courts.

Finally, two additional cases remained before the courts at the end of 2015-2016. As of the writing of this report, the court's decision with respect to Mr. Dean Del Mastro's appeal was still pending and Mr. Michael Sona's appeal was scheduled to be heard in the spring of 2016. Additional information with respect to these two cases can be found in the *2014-2015 Annual Report*.

WRITTEN OPINIONS, GUIDELINES AND INTERPRETATION NOTES

Since December 19, 2014, as part of the amendments to the Act, the Commissioner is required to provide comments on draft written opinions, guidelines or interpretation notes proposed by the Chief Electoral Officer.

Guidelines and interpretation notes discuss the application of a provision of the Act to registered parties, registered associations, candidates, and/or leadership or nomination contestants (referred to collectively as "regulated political entities"). A guideline or interpretation note is issued for information purposes only and is not binding on regulated political entities. In keeping with the Act, the Commissioner has 15 days to comment on the drafts of these documents. When the guideline or interpretation note is officially issued, the Chief Electoral Officer must also publish the comments received from the Commissioner on the draft version.

Similar requirements exist when a registered party makes a request to the Chief Electoral Officer for a written opinion on the application of any provision of the Act. In this case as well, the Commissioner must comment on the draft within a 15-day consultation period, and these comments are published along with the final written opinion. If all material facts submitted with the application were accurate, the final

written opinion is binding on the Chief Electoral Officer and on the Commissioner with respect to the activity or practice of the registered party that made the request or of its affiliated regulated political entities. With respect to similar practices or conducts of all other regulated political entities, the written opinion has precedential value for the Chief Electoral Officer and the Commissioner.

During 2015-2016, the Chief Electoral Officer issued 14 guidelines and interpretation notes.² Of these 14 guidelines and interpretation notes, the CCE provided comments on 12 of the drafts that were circulated for consultation. The CCE was in full agreement with the positions put forth by Elections Canada in the two remaining guideline and interpretation notes and therefore did not provide comments. The guidelines and interpretation notes issued by the Chief Electoral Officer during this period included the five political financing handbooks for each of the regulated political entities (i.e., registered parties, registered associations, nomination contestants, candidates and leadership contestants), as well as clarification on important issues such as what constitutes advertising on the Internet, the application of the political financing rules on leaders' and candidates' debates and on the use by Members of Parliament of parliamentary resources. All of these instruments proved to be extremely useful in clarifying the application of the Act with respect to various aspects of candidates' and parties' campaigns.

2 There were no requests for a written opinion submitted by a registered party in 2015-2016.

LOOKING AHEAD

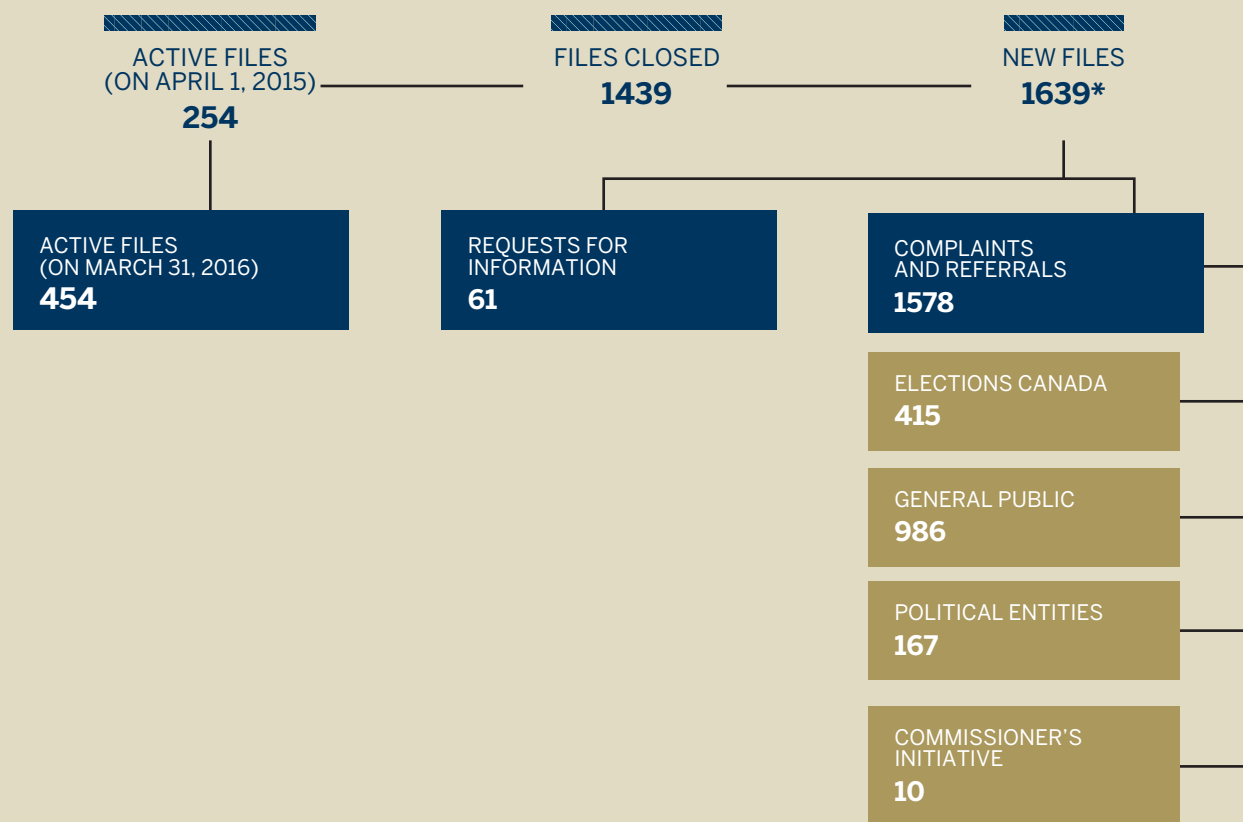
POST-ELECTION ENVIRONMENT AT THE CCE

Compliance is the primary focus during the election period, but work in the weeks, months – and in some cases years – following a federal election centres on enforcement.

Although a significant number of complaints are received during the writ period, post-election, the CCE also begins to receive referrals from Elections Canada's Political Finance and Audit Directorate. This group is responsible for auditing the financial reports and information submitted by political entities and registered third parties. Instances believed to contain some element

of non-compliance with the Act are referred to the CCE for potential compliance or enforcement action, aside from those instances of non-compliance that are resolved internally at Elections Canada in accordance with the *Administrative Compliance Policy for Political Financing* adopted by the Chief Electoral Officer after consultation with the CCE.

APPENDIX A – DISPOSITION OF CASES (APRIL 1, 2015 TO MARCH 31, 2016)



*1320 related to the 42nd general election

COMPARISON OF ACTIVE FILES PER YEAR:

	2012–2013	2013–2014	2014–2015	2015–2016
Active Files (March 31)	424	346	254	454

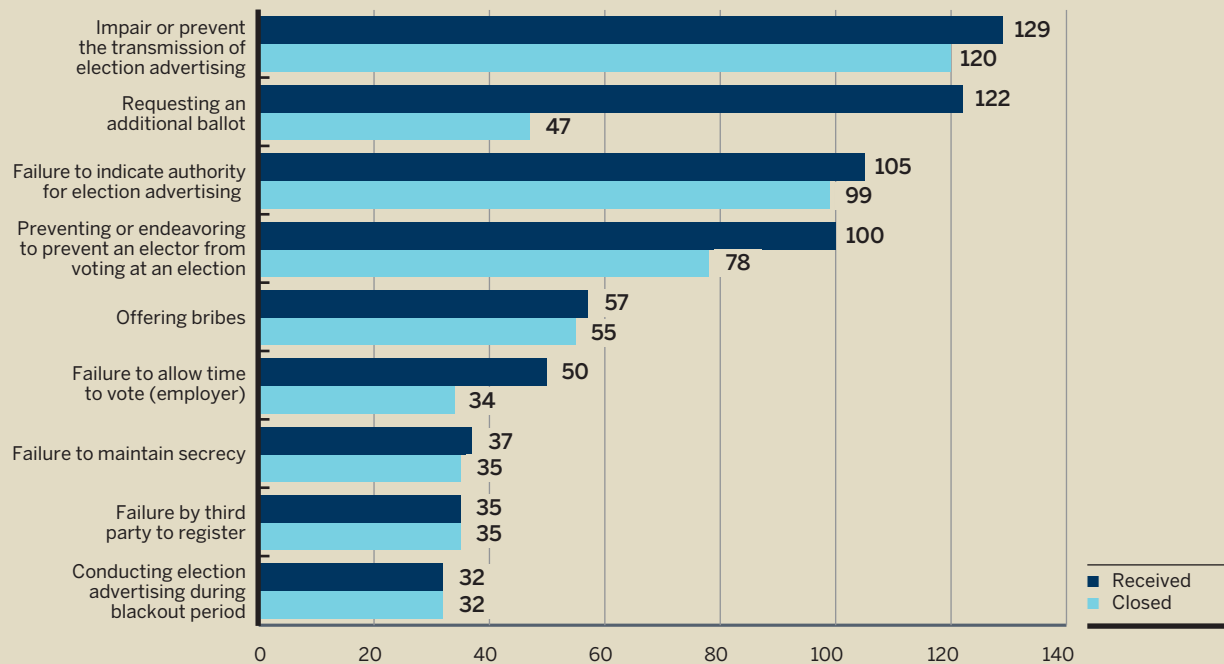
COMPLAINTS RELATED TO THE 42ND GENERAL ELECTION

The Office of the Commissioner of Canada Elections continues to receive complaints and referrals long after the end of an election period. This section provides a preliminary overview

of election-related complaints received by the Office at the end of the 2015-2016 fiscal year.

This chart displays complaints related to the 42nd general election by most common themes.

MOST COMMON COMPLAINTS*



*Note: This chart represents categories assigned during the initial intake process. These categories may be changed or modified depending on information arising out of an investigation. A more detailed explanation of each of these categories follows.

Impair or prevent the transmission of an election advertising message.

Under the Act it is an offence to prevent or impair the transmission of an election advertising message. During the campaign period, the Office received 129 complaints related to interference with the transmission of election advertising, of those, 23 were related to a single incident that had received significant media attention.

Requesting a second ballot

Of the 122 complaints regarding voting more than once, 37 were related to instances of electors having allegedly voted twice by showing up at the polls with their faces covered. As noted earlier in this report, as of March 31, 2016, none of the cases of double voting have been substantiated. Delays in obtaining additional supporting documentation account for the number of files that remained open

at the end of the fiscal year. These delays are normal in the immediate post-election environment and it is expected that the CCE will receive the records required to complete its analysis of existing files in 2016-2017.

Failure to indicate authority for election advertising

The Act requires that advertising contain an authorization or 'tag line' indicating the message is being transmitted with the consent of

either the official agent for a particular candidate or the registered agent of the party. The Act does not stipulate how large the font must be or – in the case of a radio broadcast – how quickly the authorization may be spoken.

There were 105 complaints alleging election advertising that failed to contain an authorization statement. Many of these complaints were resolved informally during the campaign by communicating with the candidate or party, others were deemed to be unfounded as the authorization was present albeit difficult to read.

Willfully preventing or endeavoring to prevent an elector from voting at an election

Willfully providing information that attempts to mislead or prevent electors from voting is not permitted.

The CCE received 100 complaints alleging that an elector had been misled. Of those, 62 claimed that various campaigns had provided inaccurate information about times and location for voting.

Following a review of these cases, it was determined that in most instances, wrong information was communicated to voters with no intent to mislead.

Offering bribes

Offering a bribe in an attempt to influence electors is an offence under the Act. The Office received 57 complaints relating to bribery during the election period. Of those, 26 originated from members of the public who were concerned that promises or commitments made by politicians at the provincial level – which were made contingent on the outcome of the election – constituted illegal bribes. As noted earlier in this report, following a review of these complaints, the CCE concluded that the sections of the Act pertaining to bribery were not intended to capture promises or commitments made by politicians on public policy issues.

Failure to allow time to vote

In total there were 50 complaints related to employers who failed to provide the required time off for voting. Some of these cases have been resolved through the use of compliance tools directed at employers who did not provide all their employees with three consecutive hours to vote on polling day.

Failure to maintain secrecy

It is incumbent upon everyone to maintain the secrecy of the vote. The CCE received 37 complaints related to failure to maintain secrecy, and more than 20 of those were related to circumstances

concerning electors posting their marked ballots on social media. This issue is discussed in greater detail in the Issues of Particular Interest section earlier in this report.

Failure by a third party to register

Third party advertisers who spend \$500 or more during an election period are required to register with Elections Canada and their expenses are subject to spending limits. These limits are dependent on the length of the electoral period and must be reported within four months of polling day.

Among the 35 complaints received by the CCE, a number were simply unfounded, while others were quickly resolved through interventions by investigators.

Conducting election advertising during blackout period

The Act prohibits the transmission, to the public, of election advertising on polling day. This prohibition applies to all advertising messages. Of the 32 complaints regarding election advertising during the blackout period, 12 were related to an email sent by a registered party on polling day. Following a review of these complaints, the complainants were advised that sending an email did not constitute transmission of election advertising.

APPENDIX B – FINANCIAL TABLES (APRIL 1, 2015 TO MARCH 31, 2016)

FISCAL YEAR 2015–2016

	APPROPRIATION	UNAPPROPRIATED FUNDS – CRF	TOTAL
	INDETERMINATE POSITIONS	OTHER	
Salaries*	\$1,291,236.00	\$863,088.00	\$2,154,324.00
Expenditures		\$1,939,317.00	\$1,939,317.00
			\$4,093,641.00

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