

# Accountability Report 2017–2018

Public Prosecution Service

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Accountability Report 2017–2018

ISBN: 978-1-55457-867-2

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## Accountability Statement

The accountability report of the Nova Scotia Public Prosecution Service for the year ended March 31, 2018 is prepared pursuant to the Finance Act and government policies and guidelines. These authorities require the reporting of outcomes against the Public Prosecution Service's Statement of Mandate for the fiscal year just ended. The reporting of the Public Prosecution Service outcomes necessarily includes estimates, judgments and opinions by the Public Prosecution Service.

We acknowledge that this accountability report is the responsibility of the Nova Scotia Public Prosecution Service. This report is, to the extent possible, a complete and accurate representation of outcomes relative to the goals and priorities set out in the Public Prosecution Service 2017-2018 Business Plan.

In terms of accountability, it should be noted that the Nova Scotia Public Prosecution Service was established in 1990 as the first statutorily-based independent prosecution service in Canada. All prosecutions within the jurisdiction of the Attorney General of Nova Scotia are the responsibility of the Director of Public Prosecutions. Crown Attorneys responsible to the Director conduct prosecutions independently of the Minister. The only limitation on the operational independence of the Director permitted by the Public Prosecutions Act arises when the Attorney General issues written instructions to the Director of Public Prosecutions. These instructions are binding and must be made public. This procedure preserves the ultimate prosecutorial authority of the Attorney General. It is a means of ensuring accountability to the electorate for the manner in which public prosecutions are conducted.

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Martin E. Herschorn QC  
Director of Public Prosecutions

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Date

## Message from the Director of Public Prosecutions

I am pleased to present this accountability report of the Nova Scotia Public Prosecution Service for 2017-2018.

This year our 101 Crown Attorneys across the province dealt with 42,356 criminal charges and prosecuted 5,626 provincial statute violations.

This year the PPS addressed pressures associated with the delay framework established by Jordan, the 2016 Supreme Court of Canada decision.

(Under Jordan new rules were set for an accused's right to be tried within a reasonable time period. All Nova Scotia Supreme Court cases and all trials preceded by a preliminary inquiry must be concluded within 30 months from the date charges were laid. Cases heard in Nova Scotia Provincial Court must be complete within 18 months.)

In September, two term Crown Attorneys positions were added specifically to alleviate pressures caused by Jordan. Further, all Crown Attorneys continue to monitor their cases regarding delay and, should delay threaten to jeopardize any case, Crowns notify their Chief Crown Attorney so remedial action can be taken.

Since Jordan and as of the end of the 2017-2018 fiscal year, 26 delay applications were initiated by defence. Of those, 17 were dismissed; two were withdrawn; two were stayed for reasons unrelated to delay; one was pending; and four were granted.

The PPS continues its ongoing collaboration with other justice system partners on additional and varied strategies to ensure that the criminal justice system is operating within the Jordan framework.

Complementary to the province's sexual violence strategy, the PPS added two permanent Crown Attorneys to implement an enhanced prosecution model for sexual offences.

These two new Crowns:

- Are creating decision databases and other resources for their colleagues;
- Are providing legal research and brief-writing support in areas such as applications under section 276 of the Criminal Code for information on past sexual activity; children's evidence; videotaped evidence; preparing complainants to testify; sentencing; and inappropriate provision of personal records by police to Crown;
- Have provided and continue to provide training to Crowns, police, women's advocacy groups and other special interest groups;
- Are providing in-court support as necessary to Crown Attorneys.

The PPS is an integral part of the province's Domestic Violence Court. This initiative launched as a pilot in 2011-2012 in Sydney and term Crown Attorney and legal assistant positions were established. This year those positions were made permanent providing stability to this specialty court.

Further, the PPS added one Crown Attorney position this year to accommodate the province's Domestic Violence Court expansion to Halifax.

As usual, training and education was a major priority for the PPS this year. Crown Attorneys attended the PPS's annual fall conference for three days of education on a variety of criminal law topics. Additionally, many Crowns attended Ontario Crown School and the National Criminal Law Program.

Work continued on establishing a comprehensive electronic case management system. This system will be vital to the PPS in tracking cases and measuring workload.

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Martin E. Herschorn, QC  
Director of Public Prosecutions

**Accountability Report – Financial Table and Variance Explanation**

*Instructions: Variance explanations should be for material differences only.*

	<b>2017-2018 Estimate</b>	<b>2017-2018 Actuals</b>	<b>2017-2018 Variance</b>
<b>Public Prosecution Service</b>	<i>(\$thousands)</i>		
<b>Departmental Expenses:</b>			
Head Office	2,608	2,824	216
Cape Breton Region	3,549	3,557	8
Central Region	3,059	2,917	(142)
Halifax Region	7,964	8,583	619
Western Region	3,031	3,141	110
Appeals	1,079	1,068	(11)
Special Prosecutions	2,490	2,310	(180)
<b>Total: Departmental Expenses</b>	<b>23,780</b>	<b>24,400</b>	<b>620</b>
<b>Additional Information:</b>			
Ordinary Revenue	0	0	0
Fees and Other Charges	0	0	0
Ordinary Recoveries	262	426	164
<b>Total: Revenue, Fees and Recoveries</b>	<b>262</b>	<b>426</b>	<b>164</b>
TCA Purchase Requirements	<b>0</b>	<b>0</b>	<b>0</b>
Provincial Funded Staff (FTEs)	<b>173.3</b>	<b>170.3</b>	<b>(3.0)</b>
<b><u>Departmental Expenses Variance Explanation:</u></b>			
Pressure due to higher than anticipated operating costs. It is also related to increased expenditures primarily training, brochures, and travel cost resulting from increased Federal and Interprovincial recoveries.			
<b><u>Revenue, Fees and Recoveries Variance Explanation:</u></b>			
Increase in federal recoveries for the Federal Victims Strategy, National Flagging System Program and a secondment as well as increased recoverable travel cost from the Province of Newfoundland and Labrador.			
<b><u>Provincial Funded Staff (FTEs) Variance Explanation:</u></b>			
Variance due to vacancy savings.			

## Measuring Our Performance

OUTCOME DESCRIPTION	WHAT DOES THIS MEASURE TELL US?	WHERE ARE WE NOW?	WHERE DO WE WANT TO BE?
<p><b>High quality trial work</b></p>	<p>That the PPS is delivering high quality trial work by Crown Attorneys who attain a performance evaluation of competent or higher; are provided with adequate preparation time for in-court work; are supported by continuing legal education; and, where applicable, are mentored by senior colleagues. These elements ensure the delivery of high quality trial work in presenting the evidence thoroughly and fairly to ensure the proper verdict is reached.</p>	<p>All Nova Scotia Crown Attorneys have achieved a performance rating of competent or higher. They are generally given adequate time to prepare cases for court. They are provided with continuing legal education. A mentoring program has been developed and is in place.</p>	<p>Crown Attorney performance evaluations would be enhanced by in-court monitoring. A case management information system would maximize efficiencies as Crowns prepare for and deliver their cases in court.</p>
<p><b>High quality appeal work</b></p>	<p>That the PPS is delivering high quality appeals work by Crown Attorneys who attain a performance evaluation of competent or higher; are provided with adequate preparation time for in-court work; are supported by continuing legal education; and, where applicable, are mentored by senior colleagues. These elements ensure the delivery of high quality appeal work in presenting the evidence thoroughly and fairly to ensure the proper decision is reached.</p>	<p>All Appeals Crown Attorneys have achieved a performance rating of competent or higher. They are always given adequate time to prepare cases for court. They are provided with continuing legal education. A mentoring program has been developed and is in place.</p>	<p>Crown Attorney performance evaluations would be enhanced by in-court monitoring. A case management information system would maximize efficiencies as Crowns prepare for and deliver their cases in court.</p>



<p><b>Provide police with high quality legal advice and assistance</b></p>	<p>That the PPS is providing police with high quality legal advice and assistance when requested during the course of police investigations. This helps police in collecting evidence and laying appropriate charges. Ultimately, high quality legal advice to police helps to ensure quality trial work when the case goes to court.</p>	<p>The PPS continues to provide timely responses to requests from police and provincial enforcement officers for legal advice on particular cases or direction on matters of criminal law.</p> <p>The PPS requires Crown Attorneys to record all advice given to police so that the PPS may measure both quality and quantity of advice.</p>	<p>All advice to police should be examined and evaluated to make a determination on volume and Crown workload. As well, a quality assessment analysis should be undertaken.</p>
<p><b>Provide Crown representation in the development of criminal law and criminal prosecution policy</b></p>	<p>That the PPS provides input into the development of criminal law and criminal prosecution policy from both an administrative and a frontline perspective.</p>	<p>The PPS participates in joint meetings, including Federal/Provincial/Territorial (FPT) Ministers and Deputy Ministers meetings, Coordinating Committee of Senior Justice Officials and FPT Heads of Prosecutions, meetings of the Provincial Justice Partners Committee and the International Association of Prosecutors. Crown Attorneys also participate in provincial policy initiatives. The PPS continues to liaise with other prosecution services to maintain awareness of best practices for delivery of prosecution services.</p>	<p>To maintain or enhance the existing level of contribution to policy development.</p>

## APPENDICES

*All statistics with the exception of appeals received  
through the kind co-operation of the Nova Scotia Department of Justice*

**APPENDIX A**  
**Criminal Code Charges in Provincial Court**  
**by Offence Category and Judicial Centre 2017-2018**

OFFENCE CATEGORIES	HALIFAX	DARTMOUTH	AMHERST	KENTVILLE	BRIDGEWATER	PICTOU
Homicide	5	14	0	0	1	0
Attempted Murder	4	12	2	0	0	0
Robbery	165	77	0	10	4	3
Sexual Assault	94	44	16	57	24	19
Other Sexual Offences	127	63	10	74	43	14
Major Assault	506	476	56	123	48	57
Common Assault	673	614	160	269	184	190
Uttering Threats	439	391	90	142	85	81
Criminal Harassment	59	90	9	15	13	4
Other Crimes Against a Person	97	108	16	25	13	19
Theft of Motor Vehicle	45	26	6	17	3	1
Theft	1,211	673	73	155	113	70
Break and Enter	182	96	53	111	33	36
Fraud	505	364	77	78	30	35
Mischief	310	305	101	110	105	88
Possession Stolen Property	1,311	660	56	201	61	28
Other Property Crimes	37	32	5	15	12	6
Failure to Attend Court	189	125	10	17	5	17
Breach of Probation	2,352	1,365	88	158	133	69
Unlawfully at Large	43	139	0	4	3	2
Failure to Comply with Order	2,554	2,009	304	453	293	289
Other Administration of Justice	225	162	32	45	31	28
Weapons Offences	580	1,071	137	80	58	64
Prostitution	103	17	0	3	0	2
Disturbing the Peace	45	19	22	11	21	3
Residual Criminal Code	73	37	21	35	7	27
Impaired Driving	570	620	109	243	185	134
Other Criminal Code Traffic	135	190	36	72	29	31
<b>TOTAL</b>	<b>12,639</b>	<b>9,799</b>	<b>1,489</b>	<b>2,523</b>	<b>1,537</b>	<b>1,317</b>

*Continued...*

**APPENDIX A**  
**Criminal Code Charges in Provincial Court**  
**by Offence Category and Judicial Centre 2017-2018**

OFFENCE CATEGORIES	SYDNEY	TRURO	ANTIGONISH	PORT HAWKESBURY	YARMOUTH	DIGBY	TOTAL
Homicide	3	2	0	0	0	0	25
Attempted Murder	4	7	0	0	5	4	38
Robbery	39	6	4	4	2	6	320
Sexual Assault	61	49	14	19	20	16	433
Other Sexual Offences	77	69	3	24	39	31	574
Major Assault	221	117	37	43	45	68	1,797
Common Assault	473	258	58	92	161	151	3,283
Uttering Threats	303	165	29	58	91	98	1,972
Criminal Harassment	18	18	5	7	8	4	250
Other Crimes Against a Person	26	41	3	7	19	14	388
Theft of Motor Vehicle	29	33	3	6	8	10	187
Theft	303	178	35	49	98	51	3,009
Break and Enter	102	49	5	21	45	23	756
Fraud	111	76	7	4	71	52	1,410
Mischief	351	122	33	47	77	96	1,745
Possession Stolen Property	154	117	13	16	36	15	2,668
Other Property Crimes	38	12	0	0	22	3	182
Failure to Attend Court	96	33	4	5	14	7	522
Breach of Probation	531	331	66	75	199	72	5,439
Unlawfully at Large	11	2	1	0	3	0	208
Failure to Comply with Order	1,969	596	149	281	296	225	9,418
Other Administration of Justice	103	51	9	20	36	14	756
Weapons Offences	188	149	7	90	78	117	2,619
Prostitution	0	6	0	0	0	0	131
Disturbing the Peace	11	10	5	9	21	2	179
Residual Criminal Code	54	20	2	8	18	2	304
Impaired Driving	309	288	89	121	203	95	2,966
Other Criminal Code Traffic	106	91	14	20	31	22	777
<b>TOTAL</b>	<b>5,691</b>	<b>2,896</b>	<b>595</b>	<b>1,026</b>	<b>1,646</b>	<b>1,198</b>	<b>42,356</b>

## APPENDIX B

### Provincial Statute Cases by Judicial Centre 2017- 2018 (only cases with prosecutor assigned)

	MOTOR VEHICLE ACT	LIQUOR CONTROL ACT	OTHER PROVINCIAL STATUTES	TOTAL
Halifax	1,884	75	442	2,401
Dartmouth	146	0	165	311
Amherst	149	4	36	189
Kentville	349	43	28	420
Bridgewater	260	10	26	296
Pictou	197	24	18	239
Sydney	281	9	33	323
Truro	379	7	55	441
Antigonish	129	41	23	193
Port Hawkesbury	100	10	26	136
Yarmouth	266	19	78	363
Digby	261	6	47	314
TOTAL	4,401	248	977	5,626

## APPENDIX C Appeals Statistics 2017-2018

The following are statistics related to the operations of the Appeal Branch covering the period April 1, 2017 to March 31, 2018.

The Branch participated in 28 appeals heard by the Court of Appeal. Of this number:

- 4 were initiated by the Crown
- 24 were initiated by offenders

Of the appeals initiated by the Crown:

- 2 dealt with acquittal
- 2 dealt with sentence.

Of the 24 appeals initiated by offenders:

- 14 dealt with conviction,
- 6 dealt with sentence,
- 4 involved a motion for fresh evidence.

Of the appeals initiated by the offenders, none fell under the *Youth Criminal Justice Act* and one was argued by a self-represented inmate.

The Appeals Branch was involved in nine appeals which were abandoned, quashed or dismissed without a full hearing in the Court of Appeal. Of this number, four had been initiated by the Crown and five by offenders.

The Appeals Branch participated in 149 Chambers motions heard by a single judge of the Court of Appeal. Chambers motion includes motions for a hearing date and the filing of the appeal books and factums, adjournments, bail pending appeal, extension of time to appeal, directions and status updates in appeals, appointment of counsel in prisoners' appeals and striking appeals from the Court's docket. Uncontested motions are usually conducted over the telephone (teleconference Chambers), and both contested and uncontested motions are heard in open court (regular Chambers).

The Appeals Branch received eleven recommendations for appeal from trial Crown Attorneys, of which six were approved for appeal.

In the Supreme Court of Canada, the Appeals Branch filed one notice of appeal and received a notice of appeal from an offender. The Branch received decision in one application for leave to appeal (dismissed), and one motion to extend time to file an application for leave to appeal (dismissed). The Branch participated in one full hearing before the Court (awaiting decision).

APPENDIX D

Public Interest Disclosure of Wrongdoing

INFORMATION REQUIRED UNDER SECTION 18 OF THE ACT	FISCAL YEAR 2017-2018
The number of disclosures received	0
The number of findings of wrongdoing	0
Details of each wrongdoing	N/A
Recommendations and actions taken on each wrongdoing	N/A