

PUBLIC PROSECUTION
SERVICE OF CANADA

Departmental
Performance Report

2008-09

The Honourable Robert Douglas Nicholson
Attorney General of Canada





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MESSAGE FROM THE ATTORNEY GENERAL OF CANADA

Since it was created in 2006, the Public Prosecution Service of Canada has provided prosecutorial advice to law enforcement agencies and has prosecuted matters on behalf of the federal Crown. In three short years, the PPSC has become a model of independence, transparency and accountability in federal prosecutions.

This *Departmental Performance Report* shows the work done by the Public Prosecution Service in acting on behalf of the Crown and the Attorney General of Canada to prosecute criminal offences under federal law. The Public Prosecution Service is contributing to the strengthening of our criminal justice system through its prosecution of criminal offences, independent of any improper influence, and in the best interests of the public.

As it has demonstrated over the past year, the Public Prosecution Service has performed its criminal justice role while dealing with the wide range of challenges before it. I am confident the PPSC is well placed to continue playing an important role in Canada's fight against crime.

The Honourable Robert Douglas Nicholson
Attorney General of Canada



MESSAGE FROM THE DIRECTOR OF PUBLIC PROSECUTIONS

I am pleased to present the *2008-09 Departmental Performance Report* of the Public Prosecution Service of Canada (PPSC). The PPSC is an independent organization that prosecutes offences under federal jurisdiction.

The PPSC prosecutes a broad range of criminal activity, including drug-related offences, organized crime, regulatory and economic crime, terrorism, war crimes and crimes against humanity. This report shows results over the past year and demonstrates benefits to Canadians, while providing performance analysis and outlines of lessons learned.

Over the past year, the PPSC has worked tirelessly in delivering on its strategic outcome as well as its operational and management priorities. In each of its program activities, the PPSC contributes to ensuring a safe and secure Canada through the conduct of prosecutions, the provision of prosecution-related advice and litigation support. It has dealt with issues such as the threats posed by international crime IT networks, the stresses related to working in Canada's North, rising workload and operational costs, and competing for scarce resources. I am proud to report that in all these areas, the PPSC has met expectations in the performance of its critical criminal justice role.

I would also like to acknowledge the efforts of all PPSC staff and the role they play in our continued success. Their hard work and dedication contribute greatly to the safety and security of Canadians.

Brian Saunders
Director of Public Prosecutions

SECTION I: ORGANIZATIONAL OVERVIEW

1.1 Summary Information

Raison d'être

The mandate of the Public Prosecution Service of Canada (PPSC) is set out in the *Director of Public Prosecutions Act*¹. The Act calls on the PPSC to provide prosecutorial advice to law enforcement agencies, and to prosecute matters on behalf of the Crown that are within the jurisdiction of the Attorney General of Canada. The PPSC's sole strategic outcome is the prosecution of criminal offences under federal law in a manner that is independent of any improper influence and respects the public interest.

The PPSC plays an integral role in the criminal justice system, promoting due process and working to safeguard the rights of all those who come into contact with the system. The benefits to Canadians from the work carried out by the PPSC include:

- Provision of legal advice to federal investigative agencies and government departments on the criminal law implications of investigations and prosecutions;
- Appropriate enforcement of federal laws through principled and independent decisions by prosecutors; and
- Confidence in the administration of justice through professionally-conducted prosecutions that result in a judicial determination on the merits of the evidence.

The PPSC is a national prosecution service with a network of offices located across Canada. As of March 31, 2009, it had 802 full-time equivalents (FTEs), the majority of whom were staff prosecutors. The remainder includes other professionals, such as senior managers, paralegals, administrators and corporate services staff. The PPSC also employs the services of private-sector legal agents in locations where it is more cost effective than to have an office or staff counsel on travel status, or where the demand for prosecution services exceeds available staff resources. In 2008-09, the PPSC engaged the services of some 243 standing agent firms across Canada, representing approximately 704 individually appointed counsel.

¹ The PPSC was created on December 12, 2006, when the *Director of Public Prosecutions Act*, Part 3 of the *Federal Accountability Act*, came into force. The Public Prosecution Service of Canada is the Office of the Director of Public Prosecutions' applied title.

Responsibilities

The PPSC undertakes key duties on behalf of the Attorney General of Canada. These key duties, to be carried out in an objective and non-partisan manner, are:

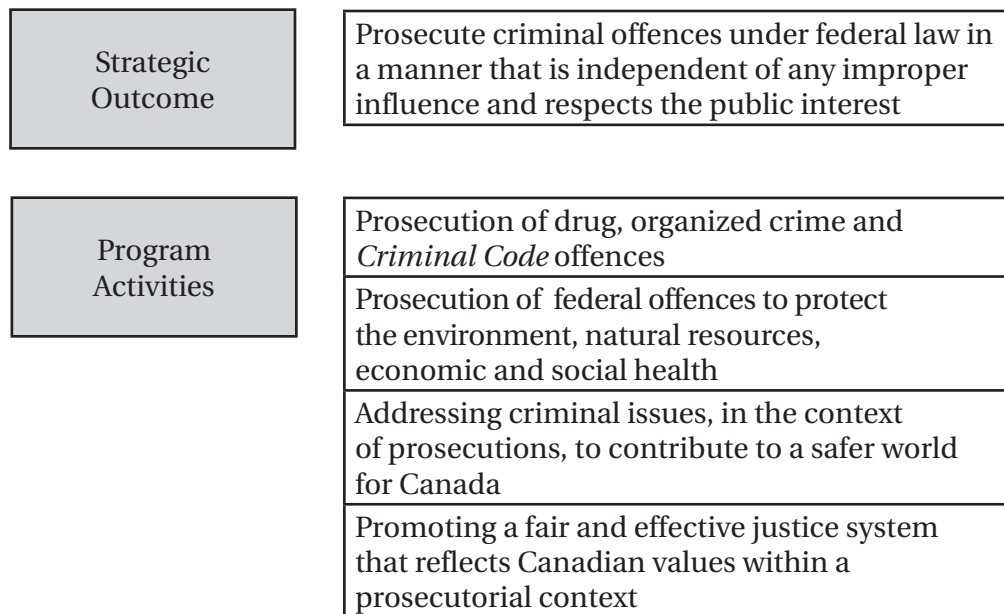
- **The duty to act independently in making decisions related to criminal prosecutions** – This constitutional principle recognizes that decisions to prosecute, stay proceedings or launch an appeal must be made solely in accordance with legal criteria. The public interest must be taken into account, but not considerations of a partisan political nature.
- **The duty to act independently in providing prosecution-related legal advice** – While prosecution-related advice to law enforcement and other federal investigative agencies will take into account the agency's legal and policy setting, prosecutors cannot be drawn into the agency's policy making and program administration such that their ability to provide impartial, accurate and effective legal advice is undermined.

The PPSC prosecutes cases under federal statutes that are referred to it by the Royal Canadian Mounted Police (RCMP), other federal investigative agencies, provincial police forces and municipal police forces.

The PPSC's prosecution-related work is part of the criminal justice continuum, which includes federal investigative agencies, law enforcement, the courts and correctional services. Prosecution-related advice during the police investigation has become crucial to ensure that police techniques and procedures are consistent with evolving rules of evidence and the *Canadian Charter of Rights and Freedoms'* protections. The advantage of early prosecutorial advice includes reducing the risk that operational decisions, such as those about methods of obtaining evidence, will detrimentally affect the admissibility of evidence at trial.

Strategic Outcome and Program Activity Architecture

The PPSC has one strategic outcome as indicated in the following chart which also presents the PPSC's framework of program activities in 2008-09. Together, these activities contributed to achieving the strategic outcome:



1.2 Summary of Organizational Performance


2008–09 Financial Resources (\$ millions)

Planned Spending	Total Authorities	Actual Spending
148.4	164.8	132.2

2008–09 Human Resources (FTEs)

Planned	Actual	Difference
751	802	51

2008-09 Performance Summary

Strategic Outcome: Prosecute criminal offences under federal law in a manner that is independent of any improper influence and respects the public interest.						
Performance Indicator	Target	2008-09 Performance				
Total time spent on active files, as well as total number and percentage of files handled, nationally and in regions	Not applicable	The PPSC's total caseload in 2008-2009 was 74,674 files ² . The total time spent on active files was 1,026,510 hours. Approximately 88% of files were related to drug, <i>Criminal Code</i> and organized crime offences, and 12% involved the prosecution of federal regulatory offences and economic crime.				
Program Activity	2007-08 Actual Spending	2008-09 (\$ thousands)³				Alignment to Government of Canada Outcomes
		Main Estimates	Planned Spending	Total Authorities	Actual Spending	
Prosecution of drug, organized crime and <i>Criminal Code</i> offences	86.0	116.4	120.6	136.6	107.3	 Social Affairs: A Safe and Secure Canada
Prosecution of federal offences to protect the environment, natural resources, economic and social health	18.8	14.1	18.8	19.3	19.2	
Addressing criminal issues, in the context of prosecutions, to contribute to a safer world for Canada	4.3	5.4	6.2	5.2	4.8	
Promoting a fair and effective justice system that reflects Canadian values within a prosecutorial context	0.8	2.8	2.8	3.7	0.9	
Total	109.9	138.7	148.4	164.8	132.2	

² This comprises cases opened, as well as those carried over from the previous fiscal year, both for staff counsel and private-sector legal agents.

³ The difference of \$16.4 million between total authorities and planned spending in 2008-09 was due to an increase in funding received for the prosecution of drug offences and to provide greater support for Crown agents across Canada. Actual spending was \$32.6 million lower than the total authorities due to \$20 million in frozen allotments which were not released as the conditions established by the Treasury Board were not fulfilled (e.g., the passage of specific legislation) and to \$12.6 million in unspent funds.

Contribution of Priorities to Strategic Outcome

Operational Priorities	Type	Status	Links to Strategic Outcome:
1. Prosecuting criminal offences under federal law	Ongoing	<p><i>Met expectations:</i></p> <p>The PPSC handled 74,674 prosecution files in 2008-09, independent of any improper influence and in the public interest.</p>	<p><i>Prosecute criminal offences under federal law in a manner that is independent of any improper influence and respects the public interest.</i></p> <ul style="list-style-type: none"> A central element of the PPSC's mandate is to prosecute matters on behalf of the Crown that are within the jurisdiction of the Attorney General of Canada.
2. Providing legal advice to investigative agencies	Ongoing	<p><i>Met expectations:</i></p> <p>In 2008-09, the PPSC analyzed the results of its first survey of investigative agencies. Respondents in the provinces and territories repeatedly stated that case specific legal advice supports investigators in determining appropriate charges, identifying evidence to support those charges, drafting judicial authorizations, preparing for and testifying in court, and avoiding errors that can negatively impact on case outcomes. Survey results also show that the need for advice is enhanced by the currently high retirement rates and high numbers of junior officers in RCMP and other investigative agencies.</p>	<ul style="list-style-type: none"> Prosecution-related advice during police investigations, particularly large-scale and complex investigations, is crucial to ensure that investigative techniques and procedures conform with the evolving rules of evidence and the protections found in the <i>Canadian Charter of Rights and Freedoms</i>.
3. Contributing to strengthening the criminal justice system	Ongoing	<p><i>Met expectations:</i></p> <p>The PPSC continued to participate fully in federal/provincial/territorial forums, contributed to law enforcement efforts at the international level, thereby addressing criminal justice issues of common interest, and contributed to improving the efficiency of the criminal justice system by providing legal training to prosecutors and law enforcement investigators.</p>	<ul style="list-style-type: none"> The PPSC plays an important role in contributing to the government priority of strengthening the criminal justice system across Canada and improving its efficiency.

Contribution of Priorities to Strategic Outcome

Management Priorities	Type	Status	Links to Strategic Outcome:
1. Completion of the organizational design	Ongoing	<p><i>Met expectations:</i></p> <p>The PPSC finalized the organizational design of its headquarters component, as well as an organizational and resource review of the entire organization. On March 23, 2009, a Memorandum of Understanding was signed with the Department of Justice Canada covering the provision of a broad range of administrative and technical services.</p>	<ul style="list-style-type: none"> The PPSC requires access to resources that will allow it to ensure its long-term sustainability as a new organization, and thus continue to contribute to the achievement of its strategic outcome.
2. Recruitment and retention	Previously committed to	<p><i>Met expectations:</i></p> <p>The PPSC increased the complement of senior-level practitioner positions; developed and implemented an HR framework that describes the responsibilities and accountabilities of management; implemented a National Mentoring Program; expanded the School for Prosecutors; and held a national conference in November 2008 for about 200 PPSC prosecutors.</p>	<ul style="list-style-type: none"> Ensuring that employees feel valued and appreciated, and that the organization is viewed as an employer of choice is essential, particularly given employment alternatives that exist with provincial prosecution services or the private sector.
3. Security	Previously committed to	<p><i>Met expectations:</i></p> <p>In 2008-09, the PPSC established its own security section. The section is working with the PPSC's Security Committee to develop a suite of measures to ensure the security of employees.</p>	<ul style="list-style-type: none"> Ensuring the safety and security of employees is of paramount importance. Prosecutors and other employees work in an environment where they may be exposed to incidents of threats and intimidation.
4. Development of an organizational performance measurement framework.	Previously committed to	<p><i>Met expectations:</i></p> <p>The PPSC has a timekeeping system to monitor the amount of resources devoted to files. Following a review, a revised timekeeping protocol was implemented in April 2009. This change is aimed at improving the PPSC's capacity for organizational analysis and strategic planning, for monitoring and measuring organizational performance, and ultimately for reporting on results achieved.</p>	<ul style="list-style-type: none"> As a federal government organization, the PPSC is accountable to the Canadian public for how it manages its resources and results achieved.

Risk Analysis

Workload and rising operational costs: Because the PPSC's workload is generated by police forces laying charges under federal statutes, it is largely based on police decisions regarding investigative priorities, tactics and allocation of resources. Increases in drug enforcement, for example, or policing resources can significantly affect the nature and volume of the PPSC caseload. Similarly, changes in police tactics to focus on the upper echelons of organized crime groups rather than on individuals in the lower ranks, affect the complexity and cost of prosecutions. In 2008-09, the volume of litigation files reached 74,674.

Sustainability: The PPSC requires access to resources that will allow it to ensure its long-term sustainability. In 2008-09, the PPSC assessed the resource gaps related to its capacity to deliver strategic corporate services and to conduct effective prosecution services. A resourcing strategy is being prepared to support the operational requirements of the organization, based on this assessment.

International crime networks: The continued globalization of crime networks poses significant dangers to national and global security. These networks are involved in organized crime, engaging in such activities as trafficking in human beings, telemarketing fraud, money laundering and drug trafficking. International criminal networks exploit national borders in an attempt to thwart the efforts of authorities in their battle to prevent trans-national crime. This new world reality has made it imperative for the PPSC and other organizations to work more effectively with international partners to challenge the serious threats posed by these international criminal networks, to uphold the rule of law, and to enhance safety and security at home and abroad. In 2008-09, the PPSC worked with several international bodies such as the International Association of Prosecutors, the Heads of Prosecuting Agencies Conference, and the International Network to Promote the Rule of Law.

The North: Crown prosecutors assigned to the North face the stressful working conditions and pressures associated with, among other things, isolation, cultural differences, geography and the socio-economic conditions that give rise to higher crime rates. Northern prosecutors who are required to travel on court circuits often spend many days away from their homes and families, and can be left stranded for extended periods due to extreme and unexpected weather conditions. Prosecutors and Crown Witness Coordinators are subject to the effects of vicarious trauma due to the nature of the work they do. Prosecutors and Crown Witness Coordinators are subject to the effects of vicarious trauma due to the nature of the work they do. Although Northern Regional Offices facilitate opportunities to openly discuss problems so as to provide some support to their colleagues who may be suffering trauma, the lack of local, formal counselling services often requires reliance on outside resources which can be costly and not always immediately available.

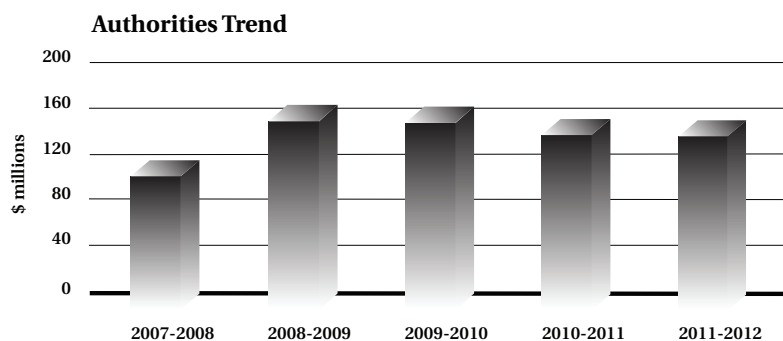
Retention of experienced and engaged personnel: Results from the 2008 Public Service Employee Survey regarding employee satisfaction raised some issues. Among these, the PPSC must address workload, opportunities for promotion, and employee-manager communications. During the past year, following an organizational and resource review, the PPSC increased its complement of senior-level practitioner positions. It also undertook and continues to move forward with several other initiatives to address these issues, including a national review of work streams, a review of resource mix (consistency and relativity), and the implementation of a national mentoring program.

Competition for scarce resources: Information gathered in 2008-09 confirmed that some regional offices face recruitment challenges. In certain regions of Canada, the salaries paid to provincial prosecutors exceed those paid to PPSC lawyers. This affects the PPSC's ability to attract and retain highly-skilled prosecutors. The PPSC will continue to undertake national focused recruitment campaigns, as well as post-secondary recruitment activities.

Security of staff: Due to the nature of their work, PPSC employees are exposed to incidents of threats and intimidation. Ensuring the safety and security of its employees is a PPSC priority. The PPSC has established a Security Committee to ensure that appropriate security measures are developed and implemented to protect its prosecutors and other employees. In 2008-09, the PPSC established its security section. This section is working with the Security Committee to develop a suite of security products, including policies, procedures and information, to meet the needs of all employees.

Expenditure Profile

In fiscal year 2008-09, the PPSC spent \$132.2 million to achieve the expected results of its program activities and contribute to its strategic outcome. This represents an increase of \$22.3 million compared to the actual spending of 2007-08. The following chart illustrates the PPSC's authorities trend from 2007-08 to 2011-12.



The increase of \$46 million in authorities between 2007-08 and 2008-09 is mainly due to funding of \$12 million for the PPSC's transition to an independent federal organization, an additional \$12 million resulting from an increase in funding to more effectively prosecute drug cases and to provide greater support for Crown agents across Canada, \$9 million for the National Anti-Drug Strategy, \$8 million in additional resources for the Restoring the Effectiveness of Federal Policing initiative, and \$5 million to support the investigation and prosecution of capital market fraud offences (Integrated Market Enforcement Teams).

The decrease of \$4 million between 2008-09 and 2009-10 is mainly due to the 2007-08 operating carry forward included in the 2008-09 authorities.

The decrease of \$6 million between 2009-10 and 2010-11 is mainly due to the timing of approval of funding to support the investigation and prosecution of fraud offences in capital markets (Integrated Market Enforcement Teams) which is currently part of the 2009-10 authorities.

Voted and Statutory Items

This table illustrates the way in which Parliament approved the PPSC's resources, and shows the changes in resources derived from supplementary estimates and other authorities, as well as how the funds were spent.

(\$ millions)

Vote or Statutory Item (S)	Truncated Vote or Statutory Wording	2006-07 Actual Spending	2007-08 Actual Spending	2008-09 Main Estimates	2008-09 Actual Spending
35	Program expenditures	N/A	99.8	124.1	120.7
(S)	Contributions to employee benefit plans	N/A	10.1	14.6	11.5
	Total	N/A	109.9	138.7	132.2

The major changes in actual spending between 2008-09 and 2007-08 total \$22.3 million and are due to the following:

- The increase in agent fee rates (\$12.4 million)⁴,
- An increase in staffing and organizational transition costs, e.g., accommodations and IM/IT (\$4.3 million), and
- An increase in hiring for the Restoring the Effectiveness of Federal Policing initiative (\$5.6 million).

⁴ Agent fee rates were increased for the first time in over 18 years, following approval from the Treasury Board of Canada. The new rates came into effect in April 2008 and will increase in future years in alignment with the Consumer Price Index.

SECTION II — ANALYSIS OF PROGRAM ACTIVITIES BY STRATEGIC OUTCOME

The Public Prosecution Service of Canada prosecutes criminal offences under federal law, and contributes to strengthening the criminal justice system.

Over 50 federal statutes confer prosecution and prosecution-related responsibilities on the Attorney General of Canada; these duties are carried out by the PPSC. In all provinces except Quebec and New Brunswick, the PPSC has responsibility for the prosecution of all drug offences under the *Controlled Drugs and Substances Act*, regardless of whether a federal, provincial, or municipal police agency lays the charges. In Quebec and New Brunswick, the PPSC is responsible for drug charges laid by the RCMP only.

In addition, in all provinces, the PPSC prosecutes violations of federal statutes such as the *Fisheries Act*, the *Income Tax Act*, the *Excise Act*, the *Customs Act*, the *Canadian Environmental Protection Act*, the *Canada Elections Act*, the *Competition Act* and the *Canada Shipping Act* as well as conspiracies and attempts to violate these statutes. Pursuant to agreements with the provinces, the PPSC also prosecutes *Criminal Code* offences where drug charges are involved and are the focus of the case. In the three Territories, the PPSC is additionally responsible for prosecuting all *Criminal Code* offences.

Hence, the PPSC performs a number of key roles in the criminal justice system, including:

- providing legal advice to law enforcement agencies and investigative bodies on the criminal law implications of investigations and prosecutions;
- providing litigation support during the investigative stage, including wiretap applications and orders to produce evidence;
- conducting charge reviews and exercising the Attorney General's discretion to prosecute;
- conducting legal risk assessment and management, and developing prosecution plans to manage mega cases;
- training prosecutors and investigators;
- communicating with the media; and

- playing a role as a centre of expertise for criminal law, national security and federal prosecution matters, and providing policy advice in the development of amendments to federal statutes relevant to the criminal justice system.

The following pages describe the PPSC's four Program Activities and results achieved during 2008-09.

2.1 Program Activity 1: Prosecution of drug, organized crime and *Criminal Code* offences

2008-09 Financial Resources (\$ millions)			2008-09 Human Resources (FTEs)		
Planned Spending	Total Authorities	Actual Spending	Planned	Actual	Difference
120.6	136.6	107.3	530	625	95

Expected Results	Performance Indicators	Targets	Performance Summary		
			Decisions	# of files	% of total files
Disposition of cases initiated and prosecuted	<ul style="list-style-type: none"> • Number and percentage of litigation files by outcome: guilty plea, guilty plea (other / lesser offence), conviction and conviction (other / lesser offence), acquittal, stayed by the Crown, withdrawn, charge declined, or diverted 	<ul style="list-style-type: none"> • Not applicable 	Guilty plea	19,678	58.1%
			Guilty plea (other / lesser offence)	1,130	3.3%
			Conviction	2,222	6.6%
			Conviction (other / lesser offence)	100	0.3%
			Acquittal	644	1.9%
			Stayed by the Crown	3,345	9.9%
			Withdrawn	5,512	16.3%
			Declined	42	0.1%
			Diverted	1,183	3.5%
			Total:	33,856	100%

Benefits for Canadians

This program activity contributes to ensuring a safe and secure Canada through the prosecution of a broad range of criminal activities. It deals mainly with drug-related offences and complex organized crime cases.

Performance Analysis

Under this program activity, the PPSC provides prosecution-related advice⁵ and litigation support during police investigations, and prosecutes all drug charges under the *Controlled Drugs and Substances Act*, regardless of whether a federal, provincial or municipal police agency lays the charges, except in the case of Quebec and New Brunswick, where the PPSC prosecutes drug charges laid by the RCMP. Many of these cases involve organized crime. Pursuant to agreements and arrangements with the provinces, the PPSC also prosecutes *Criminal Code* offences where they are related to drug charges and the drug aspect forms the major part of the case. In the three territories, the PPSC prosecutes all *Criminal Code* offences.

Highlights of performance during 2008-09 are as follows:

Drug prosecutions – The PPSC handled 54,705 prosecution files related to offences under the *Controlled Drugs and Substances Act*. This number included cases prosecuted by staff counsel and by private-sector legal agents, and represented approximately 73 per cent of the files that the PPSC prosecuted. Drug prosecutions can range from a simple case of possession of a few grams of marijuana to a complicated scheme to import kilograms of cocaine or to export methamphetamine made in a clandestine laboratory in a suburban neighbourhood. Some cases were relatively straightforward, while others raised complex legal issues and required weeks and sometimes months of testimony.

Organized crime – The RCMP and other Canadian police forces are increasingly focusing resources on organized crime. The investigations are usually complex, requiring preparation for the eventual disclosure of evidence throughout the investigative process. The PPSC is often called upon to provide pre-charge legal advice to the police during the investigative stage. The increased focus on organized crime has led to an increase in the complexity of prosecutions, including the phenomenon of mega-cases, prosecutions of extraordinary scope and complexity that can require the full-time assignment of several prosecutors for lengthy periods. In 2008-09, the PPSC prosecuted 436 cases related to organized criminal activity. While this represented approximately only 1.2 per cent of the number of files prosecuted during the year, the time spent on them amounted to almost 17 per cent of total time recorded by PPSC counsel.

Proceeds of crime and offence-related property – As revenue generating crimes, drug offences continued to represent most of

⁵ The operational priority for prosecution-related advice provided during investigations is primarily focussed on highly complex and mega cases and cases involving a high degree of legal risk.

the offences that produced proceeds of crime and property used to commit crime (“offence-related property”). In 2008-09, the PPSC handled 4,039 cases involving either proceeds of crime or offence-related property. The proceeds of property at issue ranged from money used to buy drugs from an undercover officer to real estate bought with the proceeds of crime or to house a marihuana grow operation or a methamphetamine laboratory. A total of \$29.9 million worth of proceeds of crime and offence-related property was forfeited during the year.

Prosecutions in Canada’s North – In the three territories, the PPSC prosecutes all *Criminal Code* offences as well as offences under other federal legislation. In 2008-09, the PPSC handled 9,306 files in the territories involving various types of offences, including 8,045 *Criminal Code* offences, 286 regulatory offences, and 510 territorial offences. Prosecutions undertaken included many offences of violence against the person, particularly domestic violence and sexual assault. During 2008-09, the three Northern regional offices handled a total of 23 homicide cases, including two cases involving the killing of on-duty police officers.

Lessons Learned

The PPSC follows a mega-case prosecution policy, which is included in the *Federal Prosecution Service Deskbook*, to implement the lessons learned in the management of these cases. The policy requires the early involvement of prosecutors, the preparation of a prosecution plan at an early stage, and the review of each mega case prosecution plan by the PPSC’s National Prosecution Advisory Committee.

The PPSC is an active participant in the Federal-Provincial-Territorial Heads of Prosecution Committee, and with the assistance of provincial prosecution officials, shares information, precedents and best practices.

In July 2007, the Department of Justice Canada released “*Northern Justice Consultations: A Report on Discussions about the Northern Justice System carried out in the Yukon, Northwest Territories and Nunavut in 2006*”. The Report contained recommendations for improving the criminal justice system and highlighted the need for creative, innovative and community based programs to deal with family violence, addictions and mental illnesses with a focus on rehabilitation and restoration.

In the fall of 2008, the PPSC issued its response to the Report’s recommendations which fell within the PPSC’s mandate. The PPSC agreed to address the recommendations and made a commitment to continue to work with the Department of Justice and with the territorial governments to improve the delivery of criminal justice to Northern communities.

2.2 Program Activity 2: Prosecution of federal offences to protect the environment, natural resources, economic and social health

2008-09 Financial Resources (\$ millions)			2008-09 Human Resources (FTEs)		
Planned Spending	Total Authorities	Actual Spending	Planned	Actual	Difference
18.8	19.3	19.2	177	136	41

Expected Results	Performance Indicators	Targets	Performance Summary		
			Decisions	# of files	% of total files
Disposition of cases initiated and prosecuted	<ul style="list-style-type: none"> Number and percentage of litigation files by outcome: guilty plea, guilty plea (other / lesser offence), conviction and conviction (other / lesser offence), acquittal, stayed by the Crown, withdrawn, charge declined, or diverted 	<ul style="list-style-type: none"> Not applicable 	Guilty plea	1,364	64.1%
			Guilty plea (other / lesser offence)	8	0.4%
			Conviction	385	18.1%
			Conviction (other / lesser offence)	4	0.2%
			Stayed by the Crown	146	6.9%
			Withdrawn	173	8.1%
			Declined	4	0.2%
			Diverted	1	0.0%
			Acquittal	44	2.1%
			Total:	2,129	100%
The National Fine Recovery Program is administered in a consistent and coordinated manner	<ul style="list-style-type: none"> Number and nature of recovery actions taken and results obtained nationally 	<ul style="list-style-type: none"> Not applicable 	<ul style="list-style-type: none"> Total recovered: \$5.2 million, via 9,283 recovery actions, distributed as follows: <ul style="list-style-type: none"> 3,207 demand letters (\$1.1 million) 1,245 payment agreements (\$1.3 million) 764 income tax/GST set-offs (\$400 thousand) 482 civil measures, e.g., garnishees (\$218 thousand) 3,585 other intervention types, e.g., extensions, bench warrants, bail seizure (\$2.1 million) 		

Benefits for Canadians

This program activity contributes to ensuring a safe and secure Canada through the prosecution of a broad range of illegal activities, including regulatory offences and economic crime.

Performance Analysis

Under this program activity, the PPSC provides prosecution-related advice and litigation support to federal investigative agencies, and prosecutes all non-drug prosecutions under 50 federal statutes, including regulatory offences and economic crimes. Examples of these types of offences include: environmental offences under the *Canadian Environmental Protection Act*, revenue offences under the *Income Tax Act*, and offences under the *Competition Act*, the *Fisheries Act* and the *Canada Elections Act*. The PPSC is also responsible for recovering, under provisions of the *Criminal Code*, outstanding fines related to regulatory offences.

Teams of prosecutors are dedicated to prosecutions where a specialized knowledge of legislation is required. For example, the offices in Toronto, Montreal and Vancouver have teams of counsel responsible for economic crimes prosecutions, whereas the Atlantic Regional Office has a team of counsel devoted full time to prosecuting fisheries offences.

Highlights of performance during 2008-09 are as follows:

Regulatory prosecutions – Regulatory prosecutions comprise the second-largest category of offences prosecuted by the PPSC, after drug prosecutions. In 2008-09, the PPSC handled 8,682 files involving regulatory offences. Regulatory prosecutions are often complex and resource intensive. Teams of regulatory prosecutors have been established in most PPSC regional offices. Their work is coordinated and supported by prosecutors at PPSC Headquarters in Ottawa.

Revenue offences – As part of its work to fight economic crime, the PPSC prosecutes offences under all statutes administered by the Canada Revenue Agency (CRA). The most common offences prosecuted are *Income Tax Act* offences such as tax evasion. The PPSC provides advice at the investigative stage, and prosecutions are conducted by specialized prosecutors throughout Canada.

Integrated Market Enforcement Teams – PPSC prosecutors assigned to Integrated Market Enforcement Teams (IMETs) work with RCMP members and other investigators, including investigative and forensic accountants and are located in Vancouver, Calgary, Toronto and Montréal. Prosecutors assigned to IMETs were consulted on 35 investigations in 2008-09. The PPSC has concurrent jurisdiction in cases of fraud charges pursuant to section 380 of the *Criminal Code*. 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. In 2008-09, charges were laid in five IMET files. In addition to the work of legal advisors within the IMET, the PPSC is responsible for prosecuting one of these files and is part of the team prosecuting another, by the invitation of the Director of Criminal and Penal Prosecutions for Quebec.

Competition Law Section – The PPSC handles prosecutions under the *Competition Act* as well as the *Consumer Packaging and Labelling Act*, the *Textile Labelling Act*, and the *Precious Metals Marking Act*. These statutes are administered and enforced by the Commissioner of Competition, who oversees the Competition Bureau. The PPSC also provides legal advice at the investigative stage on Competition Bureau files that may lead to prosecutions. In 2008-09, the section handled a total of 59 cases.

Counterfeiting – In 2003, counterfeiting was on the rise and Canada had the highest rate of bank note counterfeiting among G7 countries. In response to this situation, federal, provincial and territorial heads of prosecution created a subcommittee on bank note counterfeiting. The subcommittee is mandated to develop tools for prosecutors and distribute information on the social and economic effects of counterfeiting as well as trends in this area. The PPSC has developed the model of a Bank of Canada declaration, which is used in court at sentencing, and provides information to the judge on the prevalence of counterfeiting and the repercussions of this activity on the Canadian economy. Since 2007, this document has been used in over 35 files.

Fine Recovery – This program recovered \$5.2 million in fines in 2008-09, an increase of 12% over the previous year. Over 1,000 files were closed. One hundred and sixty-five individuals were incarcerated for refusing to pay their fines. On July 1, 2008, the PPSC entered into an agreement with the Canada Revenue Agency (CRA) to allow the PPSC to recover offenders' outstanding fines by way of income tax and GST refund set-off. Between July 1, 2008 and March 31, 2009, close to 5,000 fines were registered with the CRA, resulting in the recovery of almost \$400,000.

Lessons Learned

In recognition of the specialized nature of regulatory prosecutions, a meeting of PPSC regulatory prosecutors was held in the context of the PPSC National Conference in November 2008. This training session allowed PPSC prosecutors from across Canada to network and share their knowledge. Similar meetings for regulatory prosecutors will be held in the future.

Senior officials from the PPSC and the CRA met on a quarterly basis to discuss issues of mutual interest, including joint planning, training and specific issues arising from revenue investigations and prosecutions. In April 2008, the CRA and the PPSC held their annual conference of investigators and prosecutors to further enhance cooperation between the two organizations.

In 2008-09, the PPSC completed its implementation of the recommendations of the Le Pan report⁶, which suggested improved cooperation between stakeholders and more involvement by senior management. In the wake of these recommendations, the Securities Fraud and Economic Crime Prosecutors Affiliation was created. This Affiliation, co-chaired by the PPSC and comprising representatives from four provincial prosecution services that have IMET units, is mandated to establish a network of prosecutors and develop best practices in this area.

⁶ In Budget 2007, the Government, while recognizing the value of the Integrated Market Enforcement Teams (IMETs) in investigating complex capital markets crime acknowledged that the results achieved to date suggested that there is room for improvement. A senior expert advisor, Mr. Nick Le Pan (former Federal Superintendent of Financial Institutions) was appointed to advise the RCMP and federal partner departments, and to help develop and guide the implementation of a plan to improve the effectiveness of IMETs. Mr. Le Pan's report was submitted to the RCMP Commissioner in October 2007 and is available at: <http://www.rcmp-grc.gc.ca/imet-eipmf/pdf/report-rapport-lepan2007-eng.pdf>.

2.3 Program Activity 3: Addressing criminal issues, in the context of prosecutions, to contribute to a safer world for Canada

2008-09 Financial Resources (\$ millions)			2008-09 Human Resources (FTEs)		
Planned Spending	Total Authorities	Actual Spending	Planned	Actual	Difference
6.2	5.2	4.8	31	24	7

Expected Results	Performance Indicators	Targets	Performance Summary		
			Decisions	# of files	% of total files
Disposition of cases initiated and prosecuted	<ul style="list-style-type: none"> Number and percentage of litigation files by outcome: guilty plea, guilty plea (other / lesser offence), conviction and conviction (other / lesser offence), acquittal, stayed by the Crown, withdrawn, charge declined, or diverted 	<ul style="list-style-type: none"> Not applicable 	Guilty plea	337	72%
			Guilty plea (other / lesser offence)	1	0%
			Conviction	56	12%
			Conviction (other / lesser offence)	1	0%
			Stayed by the Crown	26	6%
			Withdrawn	31	7%
			Declined	7	2%
			Diverted	0	0%
			Acquittal	6	1%
			Total:	465	100%

Benefits for Canadians

This program activity contributes to ensuring a safe and secure Canada through the prosecution of a broad range of criminal activities pertaining to trans-national crime, terrorism, war crimes and crimes against humanity.

Performance Analysis

Under this program activity, the PPSC provides prosecution-related advice and litigation support during the police investigation, and prosecutes charges under the Part II.1 of the *Criminal Code (Terrorism)*, the *Proceeds of Crime (Money Laundering) Terrorist Financing Act*, the *Customs Act*, the *Excise Act*, and the *Excise Tax Act* to combat trans-national crime and terrorism. As well, the PPSC may provide counsel to assist in the execution of extradition and mutual legal assistance requests before Canadian courts under the *Extradition Act*, and the *Mutual Legal Assistance in Criminal Matters Act*.

Highlights of performance during 2008-09 are as follows:

Anti-terrorism – The Attorney General of Canada has concurrent jurisdiction with provincial attorneys general to prosecute terrorism offences. In 2008-09, the PPSC was responsible for prosecuting four cases involving terrorism-related offences in Montreal, Ottawa, Toronto and Vancouver. In the case of *R. v. Khawaja*, the case was decided on its merits and Mr. Khawaja was found guilty on five counts as charged and one included offence. The case is the subject of an appeal.

War crimes and crimes against humanity – The PPSC has the responsibility of prosecuting offences under the *Crimes Against Humanity and War Crimes Act*. To date, the PPSC has conducted one prosecution under the Act, related to events that occurred in Rwanda in 1994. Désiré Munyaneza, a Rwandan citizen living in Canada, stood accused of genocide, crimes against humanity and war crimes. The offences were committed in Rwanda in 1994, and included the killing and causing serious bodily harm to Tutsi, the raping of Tutsi women and pillaging. On May 22, 2009, Mr. Munyaneza was found guilty on all charges.

Lessons Learned

The recent prosecutions under the terrorism provisions of the *Criminal Code* and the *Crimes Against Humanity and War Crimes Act* underscored that prosecutions under both pieces of legislation can be complex and lengthy. In both the Khawaja and the Munyaneza cases, significant amounts of evidence from beyond Canada's borders were required. Best practices relating to each particular context will continue to be identified and shared to make certain that lessons learned are applied to future prosecutions and that the PPSC maximizes the potential for the cases to be decided on their merit.

2.4 Program Activity 4: Promoting a fair and effective justice system that reflects Canadian values within a prosecutorial context

2008-09 Financial Resources (\$ millions)			2008-09 Human Resources (FTEs)		
Planned Spending	Total Authorities	Actual Spending	Planned	Actual	Difference
2.8	3.7	.9	13	17	4

Expected Results	Performance Indicators	Targets	Performance Summary
Promoting a fair and effective justice system that reflects Canadian values within a prosecutorial context	<ul style="list-style-type: none"> Staff prosecutors, agents and law enforcement investigators receive practical knowledge and training on criminal law topics 	<ul style="list-style-type: none"> Not applicable 	<ul style="list-style-type: none"> The PPSC School for Prosecutors conducted two intensive one-week training courses to a total of 107 staff prosecutors and agents on criminal law practice as well as operational policies and guidelines. The PPSC prosecutors provided training to police officers across Canada on several criminal law matters. The PPSC also participated in the delivery of training offered by the Canadian Police College.
	<ul style="list-style-type: none"> Promotion of FPT and international cooperation on prosecution issues 	<ul style="list-style-type: none"> Not applicable 	<ul style="list-style-type: none"> Chaired meetings of, and provided expertise, advice and secretariat support to, and participated in FPT committee and sub-groups. Received delegations from several countries in order to discuss Canadian drug and terrorism legislation and the role played by Canadian prosecutors. The PPSC represented the International Association of Prosecutors (IAP) at the first meeting of the International Network to Promote the Rule of Law (INPROL), held in Washington, DC.

Benefits for Canadians

This program activity contributes to the government priority of strengthening the criminal justice system across Canada and improving its efficiency by providing legal training to police, and by promoting federal/provincial/territorial cooperation within the prosecution community on shared issues. The PPSC also actively participates in various international groups and committees in order to promote speed and efficiency in international cooperation between prosecution services on both operational and management issues.

Performance Analysis

This work is carried out through the PPSC's participation in the Federal / Provincial / Territorial (FPT) Heads of Prosecution Committee which supports and promotes effective horizontal linkages between various communities of interest and stakeholders involved in the administration of criminal justice in Canada. The Committee is also a convenient venue where stakeholders such as the Canadian Association of Chiefs of Police, the RCMP and the Federation of Law Societies of Canada can seek the views of the Canadian prosecution community. The Director of Public Prosecutions is permanent co-chair of the Committee and the PPSC acts as its secretariat.

To address prosecution issues of common interest, the PPSC also actively participates in various international groups and committees such as the International Association of Prosecutors (IAP) whose mandate is to promote speed and efficiency in international cooperation between prosecution services and prosecutors on operational and management issues. The PPSC also works closely with the Heads of Prosecuting Agencies Conference (HOPAC), which brings together the heads of prosecution services from all over the world who operate in a criminal justice system based on the common law.

Highlights of performance during 2008-09 are as follows:

Training – In 2008-09, the PPSC provided training to police officers across Canada on several criminal law matters. The PPSC also participated in the delivery of training offered at the Canadian Police College, where a PPSC staff prosecutor was assigned to ensure prosecution concerns were addressed. The School for Prosecutors is an in-house training program, established in 1997. Its mandate is to promote professional development for prosecutors relevant to the prosecution function, through the delivery of practical and academic training. In 2008, the School conducted two intensive one-week courses – one fundamental, the other advanced – each covering various key topics, for a total of 107 students. In addition to PPSC prosecutors, the School was also attended by private practitioners who act as agents for the PPSC, lawyers from the Department of Justice Canada, federal law enforcement officials, and two lawyers from the *Centro de Estudios de Justicia de las Americas (CEJA)* of Santiago, Chile.

Outreach – The PPSC chaired two meetings of the FPT Heads of Prosecution Committee in 2008-09: one in April 2008, organized jointly with the Canadian Military Prosecution Service in Ottawa and the other in October 2008, with the Crown Attorney’s Office of Prince Edward Island, in Charlottetown. The PPSC also organized several meetings and teleconferences of subcommittees and working groups of the Committee. During the past year, the PPSC received delegations from New Zealand, Russia and Serbia. A variety of topics were discussed including Canadian drug legislation and approaches to drug control, anti-corruption mechanisms in the Canadian Federal Public Service, and the role played by Canadian prosecutors. In March 2009, PPSC officials attended a bilateral work meeting with senior management for criminal matters and pardons from France’s Department of Justice. This meeting focused on the exchange of information on matters of mutual interest, such as the prosecution of terrorism, organized crime, environmental crime, fraud and financial interests and principles related to prosecutorial independence. In May 2008, the PPSC represented the IAP at the 1st Meeting of the International Network to Promote the Rule of Law (INPROL), held in Washington DC. INPROL aims to create a network of specialists who can provide assistance in justice reconstruction and capacity-building projects in regions that have experienced civil unrest or civil war. The PPSC discussed how the resources of the IAP and of prosecution services such as the PPSC can help INPROL achieve its goals.

Lessons Learned

The IAP’s *Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors* is a statement intended to serve as an international benchmark for the conduct of individual prosecutors and of prosecution services. In 2008-09, the PPSC signed the statement, signalling its commitment to the highest standards expected of prosecutors and prosecution services.

The PPSC continued its work in developing a set of best practices for prosecuting fraud involving governments, which was the subject of an assignment from the Attorney General of Canada in February 2007. This will be completed in 2009-10.

SECTION III: SUPPLEMENTARY INFORMATION

3.1 Financial Highlights

The financial highlights presented within this DPR are intended to serve as a general overview of the PPSC's financial position and operations. The PPSC's financial statements can be found on its website at : <http://www.ppsc-sppc.gc.ca/eng/pub/index.html>

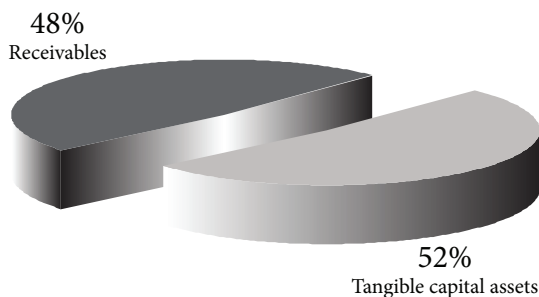
(\$ thousands)

Condensed Statement of Financial Position At End of Year (March 31, 2009)	% Change	2009	2008
Total Assests	15%	11,420	9,908
Total Liabilities	31%	38,552	29,427
Total Equity	-39%	-27,132	-19,519
Total	15	11,420	9,908

(\$ thousands)

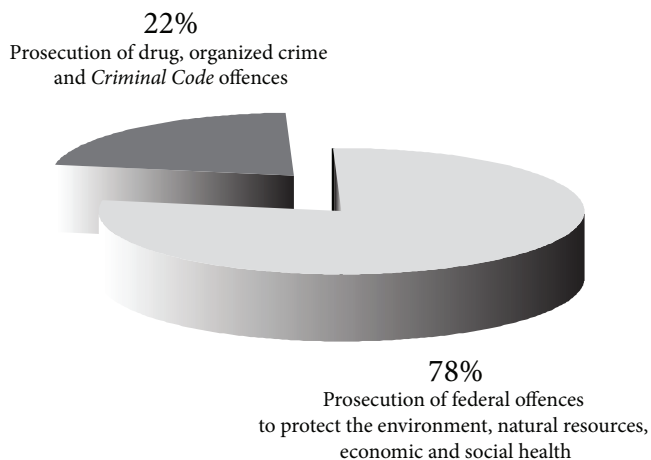
Condensed Statement of Financial Position At End of Year (March 31, 2009)	% Change	2009	2008
Total Expenses	19%	155,771	130,745
Total Revenues	4%	12,529	12,010
NET COST OF OPERATIONS	21%	143,242	118,735

Assets by Type



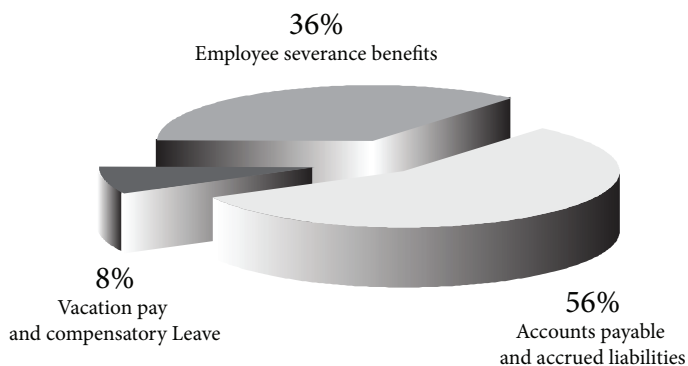
Total assets were \$11.4 million at the end of 2008-09, an increase of \$1.5 million over the previous year's assets of \$9.9 million. Receivables and tangible capital assets represented the bulk of the PPSC's assets.

Revenus



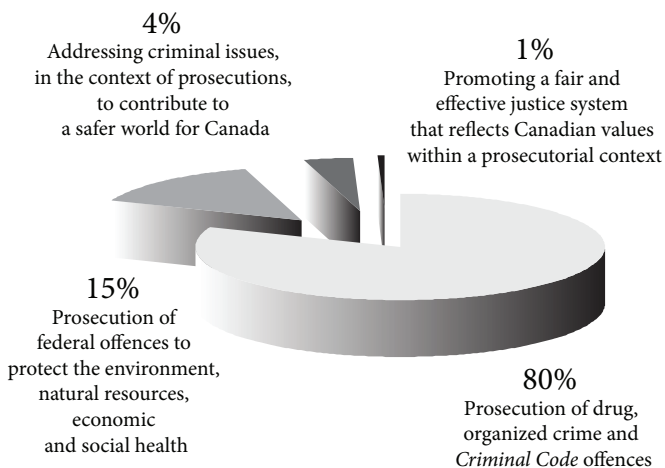
Total revenues did not increase significantly from 2007-08. The majority of revenues (78%) stemmed from the recovery of costs from federal investigative agencies for the prosecution of federal offences to protect the environment, natural resources, as well as economic and social health. The remaining 22% consisted of costs recovered in relation to drug, organized crime and *Criminal Code* prosecutions as well as the recovery of outstanding federal fines.

Liabilities by Type



Total liabilities were \$38.6 million at the end of 2008-09, an increase of \$9.1 million over the previous year's liabilities of \$29.4 million. Accounts payable, accrued liabilities and employee severance benefits represented most of the PPSC's liabilities. Although all three types of liabilities increased from the previous year, the greatest increase was related to larger accounts payable and accrued liabilities which increased by \$7.3 million or 51%.

Expenses



Total expenses for the PPSC were \$155.8 million in 2008-09, which increased by 19% over the previous year. The majority of funds, \$126.4 million or 81%, were spent in the prosecution of drug, organized crime and *Criminal Code* offences due to increased agent fee rates. The expenses in this area increased by 24% over 2007-08.

3.2 List of Tables

The following tables are located on the Treasury Board Secretariat website at <http://www.tbs-sct.gc.ca/dpr-rmr/2008-2009/index-eng.asp>

Horizontal Initiatives

(National Anti-Drug Strategy, lead by the Department of Justice Canada)

Sources of Respendable and Non-Respendable Revenue

3.3 Other Items of Interest

Public Prosecution Service of Canada Annual Report 2008-2009

<http://www.ppsc-sppc.gc.ca/eng/pub/index.html>

The Federal Prosecution Service Deskbook

<http://www.ppsc-sppc.gc.ca/eng/pub/fpsd-sfpg.html>

PPSC Survey of Investigative Agencies

<http://www.ppsc-sppc.gc.ca/eng/pub/index.html>