

PUBLIC PROSECUTION  
SERVICE OF CANADA

Departmental  
Performance Report

2009-10

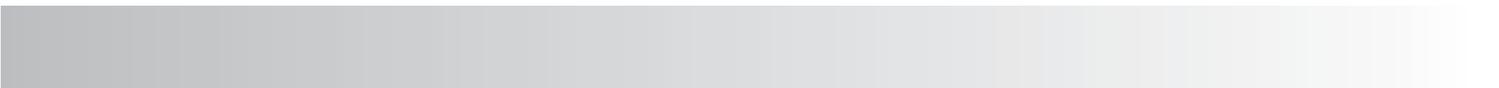
The Honourable Robert Douglas Nicholson  
*Attorney General of Canada*



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## MESSAGE FROM THE ATTORNEY GENERAL OF CANADA

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The Public Prosecution Service of Canada is an independent prosecuting authority, responsible for prosecuting offences under federal jurisdiction and for providing high-quality legal advice to investigative agencies. Since its creation in 2006, the PPSC has fulfilled this mandate to an exceptionally high standard, and has been a leader in the criminal justice field.

This *Departmental Performance Report*, covering the period ending March 31, 2010, describes the PPSC's work on behalf of the Crown and the Attorney General of Canada. The PPSC serves the public through its prosecution of criminal and regulatory offences under federal law in a manner that is fair, impartial, and independent of any improper influence.

The PPSC continues to perform its prosecutorial and advisory roles with integrity and excellence, and has demonstrated its dedication over the past year in the face of a wide range of challenges. I am gratified by the PPSC's continuing contribution to the fight against crime in Canada and to ensuring that our communities are safe places for Canadians to live, raise their families and do business.

The Honourable Robert Douglas Nicholson  
Attorney General of Canada



## MESSAGE FROM THE DIRECTOR OF PUBLIC PROSECUTIONS

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I am pleased to present the *2009-2010 Departmental Performance Report* of the Public Prosecution Service of Canada. As a national organization, the PPSC has a mandate to provide prosecutorial services and advice across Canada in a manner that is fair, impartial and objective.

This report demonstrates how the PPSC has performed this function over the past year, while looking forward to the years ahead. It provides an outline, analysis and highlights of the PPSC's activities in areas from drugs to terrorism, war crimes and regulatory offences. We have achieved positive results in the performance of each program activity and are on track to continue delivering our mandate.

Since its creation in 2006, the PPSC has played a key role in the protection of communities across Canada through its work in the criminal justice system. PPSC prosecutors and support staff work tirelessly in their pursuit of this critical role while demonstrating our values of respect, integrity, excellence and leadership.

PPSC staff across Canada perform their duties diligently, with professionalism and pride. I am pleased to note this report shows the results of these continued efforts.

Brian Saunders  
Director of Public Prosecutions



# SECTION I—OVERVIEW

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## 1.1 Summary Information

### Mandate

The mandate of the Public Prosecution Service of Canada (PPSC) is set out in the *Director of Public Prosecutions Act*<sup>1</sup>. 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 independent, impartial and fair prosecution of criminal offences under federal law.

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 determination on the merits of the evidence.

The PPSC is a national prosecution service with a network of offices across Canada. As of March 31, 2010, it had 920 employees (representing 823 Full-Time Equivalents), the overwhelming majority of whom were staff prosecutors, paralegals and support staff who assist them. The remainder included other professionals, such as senior managers, administrators and corporate services staff. The PPSC also employs the services of private sector legal agents in locations where it does not have an office or where it is impractical or otherwise not cost-effective for staff counsel to handle cases. The PPSC currently retains some 226 standing agent firms across Canada, representing approximately 590 individually-appointed counsel.

<sup>1</sup> 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.

## 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:

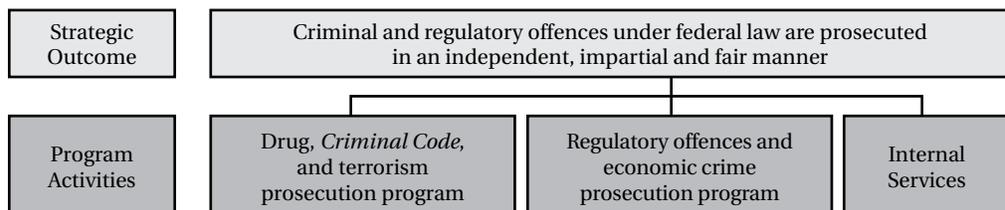
- **The duty to act independently in making decisions related to criminal prosecutions** – This constitutional principle recognizes that decisions to prosecute, stay proceedings or launch an appeal must be made solely in accordance with legal criteria. The public interest must be taken into account, 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 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 investigative agencies, law enforcement, courts and other parts of the criminal justice system. Prosecution-related advice during police and other investigations has become crucial to ensure that investigative 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 or the constitutional rights of Canadians.

## Strategic Outcome and Program Activity Architecture (PAA)

The PPSC has one strategic outcome as illustrated in the following chart, which also presents the PPSC's framework of activities in 2009-10:



## 1.2 Performance Summary

### 2009–10 Financial Resources (\$ millions)

Planned Spending	Total Authorities	Actual Spending
162.8	181.4	147.0

### 2009–10 Human Resources (FTEs)

Planned <sup>2</sup>	Actual	Difference
998	823	175

### Performance Summary Table

Strategic Outcome: Criminal and regulatory offences under federal law are prosecuted in an independent, impartial and fair manner						
Performance Indicators			Targets	2009–10 Performance		
• Number and nature of judicial stays for abuse of process based on the conduct of a federal prosecutor.			Zero	Zero		
• Number and percentage of successful malicious prosecution lawsuits.			Zero	Zero		
• Number and nature of substantiated complaints regarding the PPSC's independence, impartiality or fairness			Zero	Zero		
Program Activity	2008-09 Actual Spending <sup>3</sup>	2009-10 (\$ millions)				Alignment to Government of Canada Outcome
		Main Estimates	Planned Spending	Total Authorities	Actual Spending	
<b>Program Activity #1:</b> Drug, <i>Criminal Code</i> , and terrorism prosecution program	89.8	117.1	118.4	127.9	108.1	Social Affairs: A Safe and Secure Canada
<b>Program Activity #2:</b> Regulatory offences and economic crime prosecution program.	15.8	10.7	16.2	19.8	17.8	
<b>Program Activity #3:</b> Internal Services <sup>4</sup>	26.6	28.2	28.2	33.7	21.1	
<b>Total</b>	<b>132.2</b>	<b>156.0</b>	<b>162.8</b>	<b>181.4</b>	<b>147.0</b>	

<sup>2</sup> The planned FTE's included 143 vacant positions, the majority of which were not staffed due to a realignment of position levels with available salary resources, employee turnover, and delays in hiring.

<sup>3</sup> Realignment to revised Program Activity Architecture.

<sup>4</sup> Commencing in the 2009-10 Estimates cycle, the resources for the Internal Services program activity are displayed separately from other program activities, as was the case in previous Main Estimates. This has affected the comparability of spending and FTE information by program activity between fiscal years.

## Contribution of Priorities to Strategic Outcome

Operational Priorities	Type	Status	<b>Linkages to Strategic Outcome:</b> <i>Criminal and regulatory offences under federal law are prosecuted in an independent, impartial and fair manner</i>
1. Prosecuting criminal offences under federal law	Ongoing	<p><i>Met All:</i></p> <p>The PPSC handled 76,292 prosecution files in 2009-10, independent of any improper influence and in the public interest.</p>	<p>The 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.</p>
2. Providing legal advice to investigative agencies	Ongoing	<p><i>Met All:</i></p> <p>The PPSC carried out an inaugural survey of investigative agencies in 2008-09 and published the results in 2009-10. Survey respondents were unanimous in confirming the usefulness of PPSC prosecutors' legal advice on matters of a general nature, as well as on particular investigation files. Respondents repeatedly commented that legal advice can help investigators determine appropriate charges, assess the admissibility of evidence to support those charges, draft judicial authorizations, prepare for and testify in court, and avoid errors that can negatively impact on case outcomes.</p> <p>The PPSC expects to once again solicit feedback on its services in 2012-13.</p>	<p>Prosecution-related advice 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>. The early and ongoing involvement of prosecutors helps ensure that the police and other investigative agencies benefit from legal advice to decide how best to enforce the law. This close collaboration is achieved while maintaining the independence of roles between prosecutors and police and investigative agencies.</p>
3. Contributing to strengthening the criminal justice system	Ongoing	<p><i>Met All:</i></p> <p>The PPSC continued to participate fully in federal / provincial / territorial forums, and contributed to law enforcement efforts at the international level, thereby addressing criminal justice issues of common interest. It also contributed to improving the efficiency of the criminal justice system by providing legal advice during police investigations (see 2. above), by providing legal training to prosecutors and law enforcement investigators and, where requested, by providing advice on amendments drafted by the Department of Justice Canada (DOJ) to federal statutes relevant to the criminal justice system.</p>	<p>The PPSC's national and international activities in this area contribute to improving the efficiency of the criminal justice system across Canada.</p>

## Contribution of Priorities to Strategic Outcome

Management Priorities	Type	Status	Linkages to Strategic Outcome:
1. Performance measurement framework	Previously committed to	<p><i>Somewhat met:</i></p> <p>The PPSC continues to pursue improvements to its performance measurement framework. Key performance indicators have been included in the integrated planning process as elements to be considered and monitored in corporate business and human resources plans for the upcoming fiscal year. As of April 2009, the PPSC implemented an improved national protocol governing timekeeping practices. It simplified and restructured various case management data sets for specific activities that relate to prosecutions. The data entry elements for file opening and closing protocols also were simplified and this process is being more closely monitored. In addition, as a result of a significant organizational restructuring, work was done to harmonize the case management system with the new structure. Consequently, work was delayed on the further development of the performance measurement framework.</p>	As a federal government organization, the PPSC is accountable to the Canadian public for how it manages its resources and results achieved.
2. Recruitment and retention	Previously committed to	<p><i>Met All:</i></p> <p>The PPSC established a working group to move forward the Law Group Project, Ensuring Excellence. The group will work on the development of a career path for prosecutors, which includes enhancing training opportunities and finalizing competency profiles. A Northern recruitment strategy was also launched.</p>	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 All:</i></p> <p>A Departmental Security Officer was appointed in April 2009 and PPSC-managed security activities such as personnel security and physical security are now in place to facilitate employee security screenings and safeguarding of PPSC offices.</p>	Ensuring the safety and security of employees is of paramount importance. Prosecutors and other employees work in an environment where they may be the subject of threats to their personal safety and security.
4. Knowledge management (KM)	Previously committed to	<p><i>Mostly Met:</i></p> <p>Progress during 2009-10 included the development of a KM framework, taxonomy and metadata for a number of key knowledge databases</p>	Effective KM tools contribute to an efficient workforce and to the successful delivery of the PPSC's mandate.

## 1.3 Risk Analysis

### Operational Trends

The PPSC's total volume of litigation files for 2009-10 reached 76,292, compared to 74,674 litigation files handled in 2008-09. Of this total, 87% were within the drug, *Criminal Code* and terrorism offences prosecution program, whereas 13% involved the prosecution of federal regulatory offences and economic crime.

A small percentage of highly complex cases absorb a disproportionate share of the PPSC's total resources. By way of example, drug mega cases and drug cases of high complexity represented 1.33% of the litigation caseload in 2009-10 but approximately 22% of the recorded litigation time of PPSC counsel and paralegals. This shows how a relatively small number of cases, in response to strengthened law enforcement efforts across Canada, may have a disproportionate impact on the demand for prosecutorial resources. A single mega case can absorb more prosecutorial resources than several hundred low complexity cases.

Collaboration with key stakeholders in the criminal justice system is an ongoing and important element of the PPSC's operating context. Since federal and provincial prosecution services face common issues and challenges, they benefit from collaboration under the leadership of the Federal/Provincial/Territorial (FPT) Heads of Prosecution Committee. The Committee continued its work to promote inter-jurisdictional cooperation and assistance on operational issues such as quality assurance, organized crime prosecutions, concurrent jurisdiction, proceeds of crime, expert witnesses and prosecutor training and security.

### External and Internal Influences Facing the PPSC

The PPSC is subject to a variety of external and internal influences, described below.

***International crime networks:*** The 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, drug trafficking and terrorism. International criminal networks exploit national borders in an attempt to thwart the efforts of authorities in their battle to prevent trans-national crime. This global 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 2009-10, the PPSC worked with several international

bodies such as the International Association of Prosecutors, the Heads of Prosecuting Agencies Conference, the International Network to Promote the Rule of Law, the United Nations Office on Drugs and Crime and the *Centro de Estudios de Justicia de las Americas* (Chile, Santiago).

**The North:** Recruitment and retention continue to be a challenge in Canada's North, particularly in Nunavut and in the Northwest Territories. Crown prosecutors assigned to the North often face the stressful working conditions and pressures associated with, among other things, isolation, cultural differences, lengthy travel and elevated rates of violent crime. Northern prosecutors are required to travel on court circuits and often spend many days away from their homes and families. Prosecutors and Crown Witness Coordinators can also be subject to the effects of vicarious trauma due to the nature of the work they do.

Despite the challenges inherent to the PPSC's work in the North, this work presents many professional and personal opportunities for growth. Convinced that the opportunities that Northern prosecutions provided were not widely known, the PPSC launched a recruitment strategy in February 2010. This included public notices aimed at attracting candidates to the unique environment that the North represents and the experiences that can be gained from working and living there.

**Workload:** The PPSC has no control over the number of cases referred to it for prosecution by the police and other investigative agencies that lay charges under federal statutes. Its workload, therefore, is largely based on the decisions of these entities regarding investigative priorities, tactics and allocation of resources. For example, increases in drug enforcement or investigative resources can significantly affect the nature and volume of the PPSC caseload. Similarly, changes in 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.

**Resourcing issues:** The PPSC is working to ensure that its long-term funding needs are addressed, particularly in the areas of IM/IT and accommodations. In 2009-10, the PPSC assessed the resource gaps related to its capacity to deliver these strategic corporate services. The PPSC may face additional financial pressures resulting from the newly imposed requirements in the arbitral award relating to the Law Group, to compensate for overtime and travel time for some of its lawyers. While facing these issues, the PPSC, like all other government organizations, is subject to the government-wide budget restraint measures announced in Budget 2010 and will be subject to strategic review.

**Workforce issues:** The entry into force of the first collective agreement and arbitral award for lawyers in the federal public service in 2009-10 presents challenges to managers and employees alike. It has an impact on the way in which managers and employees carry out their day-to-day activities, and the way unionized prosecutors are managed within a collective agreement.

**Competition for scarce resources:** Some regional offices continued to face recruitment and retention challenges in 2009-10. In certain regions of Canada, the salaries paid to provincial prosecutors exceed those paid to PPSC lawyers. The PPSC will continue to undertake focused recruitment efforts, as well as post-secondary recruitment activities. To ensure that the PPSC remains an employer of choice, it is also introducing a People Management Strategy that delineates the various corporate approaches to be used in support of workforce development.

**Security:** Due to the nature of their work, PPSC employees may be exposed to incidents of threats and intimidation. Ensuring the safety and security of its employees is a PPSC priority, which includes the use of appropriate security measures, policies and procedures to protect them. In addition, the PPSC is developing a business continuity plan to ensure the continued delivery of its services.

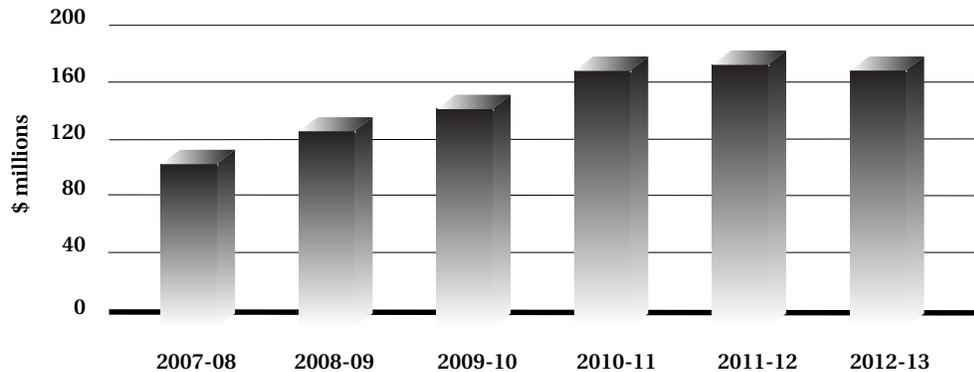
## 1.4 Expenditure Profile

### Voted and Statutory Items

The following table shows the actual spending since the creation of the PPSC:

(\$ millions)				
Vote # or Statutory Item (S)	Truncated Vote or Statutory Wording	2007-08 Actual Spending	2008-09 Actual Spending	2009-10 Actual Spending
35	Program expenditures	99.8	120.7	132.6
(S)	Contributions to employee benefit plans	10.1	11.5	14.4
	<b>Total</b>	<b>109.9</b>	<b>132.2</b>	<b>147.0</b>

## Spending Trend



The major variances by fiscal year are as follows:

- The increase of \$22 million in spending from 2007-08 to 2008-09 is mainly due to spending related to the PPSC's transition to an independent federal organization and to the increase in Crown agent fee rates (which had remained unchanged since 1990).
- The increase of \$15 million in spending from 2008-09 to 2009-10 is mainly due to the Law Group Arbitral Award and increased spending to more effectively prosecute drug cases as well as for the Restoring the Effectiveness of Federal Policing initiative.
- The increase of \$26 million from 2009-10 actual spending to 2010-11 planned spending is mainly due to additional funding for four initiatives: the proposed Mandatory Minimum Penalties for Serious Drug Offences under the National Anti-Drug Strategy; the Restoring the Effectiveness of Federal Policing initiative; the Integrated Proceeds of Crime initiative; and the Convention on Cybercrime.
- The increase of \$4 million from 2010-11 to 2011-12 is mainly due to additional funds related to the PPSC's transition, specifically for accommodations and IM/IT, and funding for the National Initiative to Combat Money Laundering.
- The decrease of \$4 million between 2011-12 and 2012-13 is mainly due to the sunsetting of the transition funding.

## SECTION II: ANALYSIS OF PROGRAM ACTIVITIES BY STRATEGIC OUTCOME

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The Public Prosecution Service of Canada supports the Attorney General of Canada in the discharge of his criminal law mandate – in particular its work supports the priorities of prosecuting criminal offences under federal law, and contributing to strengthening the criminal justice system. In total, over 250 federal statutes contain offences that fall under the PPSC's jurisdiction to prosecute. However, the PPSC regularly provides prosecution services and legal advice under approximately 60 of those statutes.

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 *Elections Act*, the *Competition Act* and the *Canada Shipping Act*.

Pursuant to agreements with the provinces, the PPSC also prosecutes *Criminal Code* offences where drug charges are involved and are the major focus of the case. In the three Territories, the PPSC is responsible for prosecuting all *Criminal Code* offences.

Hence, the PPSC performs a number of key national roles in fulfilling the criminal litigation responsibilities of the Attorney General of Canada, 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 three Program Activities and the results achieved during 2009-10.

## 2.1 Program Activity #1: Drug, Criminal Code and terrorism prosecution program

2009-10 Financial Resources (\$ millions)			2009-10 Human Resources (FTEs)		
Planned Spending	Total Authorities	Actual Spending	Planned	Actual	Difference
118.4	127.9	108.1	684	564	120

Expected Results	Performance Indicators	Targets	Performance Summary		
			Decisions	# of files	% of total files
Litigation files that are prosecuted are decided on merit <sup>5</sup>	% of all litigation files that are decided on merit (i.e., by most serious outcome)	Not applicable	Guilty plea	17,814	56.19%
			Guilty plea (other/ lesser offence)	1,108	3.49%
			Conviction	2,441	7.70%
			Conviction (other/ lesser offence)	89	0.28%
			Withdrawal	5,631	17.76%
			Stay of proceedings (Crown)	3,679	11.60%
			Discharge	295	0.93%
			Acquittal	647	2.04%
			<b>Total</b>	<b>31,704</b>	<b>100%</b>
			Disposition of cases that are not decided on merit <sup>6</sup>	% of litigation files not decided on merit	Not applicable
Quashed	24	5.54%			
<b>Total</b>	<b>433</b>	<b>100%</b>			

<sup>5</sup> A case is decided on its merits when a judge or jury determines the guilt or innocence of an accused person after a trial. A case is also considered to be decided on its merits where a judge determines after a guilty plea that a conviction is appropriate, or where a Crown prosecutor stays or withdraws a charge as a result of an assessment that the case does not meet the test for prosecution or as result of a plea of guilty being entered to a serious charge rendering proceedings on a less serious charge redundant.

<sup>6</sup> Cases not decided on merit are those that are stayed or quashed by the Court, and for which, as a result, there is no outcome decided by a judge or jury based on the evidence of guilt or innocence. A judicially imposed stay will generally mean discontinuance or permanent suspension of the proceedings.

## 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 with drug-related offences, complex organized crime cases, terrorism offences as well as war crimes and crimes against humanity.

## Performance Analysis

Under this program activity, the PPSC provides prosecution-related advice<sup>7</sup> 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. Finally, the PPSC also provides prosecution-related advice and litigation support during police investigations and prosecutes charges relating to war crimes and crimes against humanity and charges pursuant to Part II.1 of the *Criminal Code (Terrorism)* to combat terrorism.

This program activity also includes the PPSC's Agent Affairs Program, established to enhance the quality of legal services provided by agents and to ensure cost-effective service delivery. It includes a centralized support unit at PPSC headquarters, namely the Agent Affairs Unit, and Agent Supervision Units located in each regional office, which are responsible for the day-to-day management of agents.

### *Highlights of performance during 2009-10 include the following:*

**Drug prosecutions** – The PPSC handled 55,996 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 preparation and court proceedings.

<sup>7</sup> The operational priority for prosecution-related advice provided during investigations is primarily focused on highly complex and mega cases and cases involving a high degree of legal risk.

**Organized crime** – In relation to drug investigations, the RCMP and other Canadian police forces are increasingly focusing resources on organized crime. The investigations are usually complex, requiring management of the disclosure of evidence throughout the investigative process. The PPSC is often called upon to work closely with the police during the investigative stage. The emphasis on organized crime investigations 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 2009-10, the PPSC prosecuted 489 cases related to organized criminal activity. While this represented approximately only 2.36 % of the number of files prosecuted during the year, the time spent on them amounted to almost 12 % 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 the offences that produced proceeds of crime and property used to commit crime (“offence-related property”). In 2009-10, the PPSC handled 2,316 cases involving either proceeds of crime or offence-related property. The proceeds or property at issue ranged from money used to buy drugs from an undercover officer to real estate bought with the proceeds of crime or used to produce drugs. A total of \$37.2 million worth of proceeds of crime and offence-related property was forfeited during the year.

**Anti-terrorism** – The Attorney General of Canada has concurrent jurisdiction with provincial Attorneys General to prosecute terrorism offences. As of March 31, 2010, the PPSC had concluded trial proceedings for two prosecutions under the anti-terrorism provisions of the *Criminal Code*. Two additional prosecutions that were ongoing in 2009-10 were Project Osage in Toronto and *R. v. Thambithurai*, a terrorist financing prosecution in British Columbia.

**War crimes and crimes against humanity** – The PPSC has the responsibility of prosecuting offences under the *Crimes Against Humanity and War Crimes Act*. The PPSC’s first prosecution under the *Act* resulted in the conviction of Désiré Munyaneza for genocide, crimes against humanity and war crimes. Mr. Munyaneza received a life sentence on October 29, 2009. An appeal is pending. On November 6, 2009, Jacques Mungwarere was arrested and charged with the crime of genocide, resulting in a second prosecution under the *Act*.

**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 2009-10, the PPSC prosecuted 9,909 files in the territories, of which 8,990 involved *Criminal Code* offences. Northern prosecutions also involved 508 drug offences, 474 regulatory offences

and 417 territorial offences. As in the past, a large number of charges involved family violence and sexual assault. During 2009-10, the Northern regional offices handled a total of 25 homicide files.

**Agent Affairs** – Of the total PPSC caseload of 76,292 files in 2009-10, some 39,700 files (52%) were handled by private sector legal agents. In 2008-09, the PPSC introduced fixed-term agreements for agents, replacing indeterminate appointments. Under the new regime, any law firm or lawyer interested in becoming an agent can apply for a five-year term when an opening occurs. The PPSC's transition to fixed-term agreements is being implemented over five years. Some 40 fixed-term agreements were entered into with agents during 2009-10. As of March 31, 2010, the PPSC retained the services of 590 agents from 226 law firms.

### **Lessons Learned**

For the prosecution of complex cases, the PPSC follows a mega-case policy, included in the *Federal Prosecution Service Deskbook*, which allows the organization to identify and implement the lessons learned in the management of these cases. These include 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 Major Case Advisory Committee (formerly known as the National Prosecution Advisory Committee).

Crown Witness Coordinators (CWC) are employed by the PPSC in its Northern offices. The coordinators help explain to victims and witnesses how the court process works and support them during their involvement with the criminal justice system. CWCs assist the truth seeking function of the courts by encouraging victims and witnesses to come forward with their evidence in what are often extremely stressful circumstances. In 2009-10, the PPSC partnered with the Policy Centre for Victim Issues of the DOJ to hire a Northern Victim Services Coordinator (NVSC) to support and enhance Crown Witness Coordination Services in the three Northern territories. The NVSC is based in Ottawa at PPSC Headquarters and provides liaison, coordination, program development and advisory services to the regional offices in the North.

The PPSC is part of a community of prosecution services in Canada. It is an active participant in the Federal-Provincial-Territorial Heads of Prosecution Committee, and with the assistance of provincial prosecution officials, shares information, precedents, best practices and the outcome of discussions among prosecutors and police, relating to organized crime prosecutions. Such cooperation is essential to ensuring that all prosecutions are undertaken to the highest standard.

In the Agent Affairs Program, a comprehensive review of the Prosecution Code Set (PSC) used by agents to record their time in their accounts was carried out in consultation with counsel both internally and with the agent community. As a result, the PSC was simplified, thereby reducing the administrative burden and increasing transparency.

## 2.2 Program Activity 2: Regulatory offences and economic crime prosecution program

2009-10 Financial Resources (\$ millions)			2009-10 Human Resources (FTEs)		
Planned Spending	Total Authorities	Actual Spending	Planned	Actual	Difference
16.2	19.8	17.8	160	148	12

Expected Results	Performance Indicators	Targets	Performance Summary		
			Decisions	# of files	% of total files
Litigation files that are prosecuted are decided on merit	% of all litigation files that are decided on merit (i.e., by most serious outcome)	Not applicable	Guilty plea	1,324	58.48%
			Guilty plea (other/ lesser offence)	7	0.31%
			Conviction	377	16.65%
			Conviction (other/ lesser offence)	1	0.04%
			Withdrawal	155	6.85%
			Stay of proceedings (Crown)	140	6.18%
			Discharge	223	9.85%
			Acquittal	37	1.63%
			<b>Total</b>	<b>2,264</b>	<b>100%</b>
			Disposition of cases that are not decided on merit	% of litigation files not decided on merit	Not applicable
Quashed	3	14.29%			
<b>Total</b>	<b>21</b>	<b>100%</b>			

### Benefits for Canadians

This program activity contributes to protecting the health, safety and general welfare of Canadians through the prosecution of offences that regulate individual and corporate conduct. It also contributes to maintaining a secure, fair marketplace by enhancing compliance with and enforcement of marketplace rules and regulations.

## Performance Analysis

Under this program activity, the PPSC provides prosecution-related advice and litigation support to federal investigative agencies, and prosecutes all non-drug cases under approximately 60 federal statutes, including regulatory offences and economic crimes. Examples include offences under the *Canadian Environmental Protection Act*, the *Income Tax Act*, the *Competition Act*, the *Fisheries Act* and the *Canada Elections Act*, as well as offences under the *Customs Act*, the *Excise Act* and the *Excise Tax Act*.

Specialized teams are dedicated to prosecutions where a specialized knowledge of legislation is required. By way of example, several PPSC offices have teams of prosecutors dedicated to economic crimes prosecutions, and the Atlantic Regional Office has a team of counsel devoted full time to regulatory prosecutions, with fisheries offences accounting for up to 75% of the workload.

PPSC legal advisors also provide advice on and prosecute complex capital market fraud cases as part of the RCMP's Integrated Market Enforcement Teams (IMETs) that investigate suspected capital market fraud offences. Where provincial Attorneys General decline to prosecute, the PPSC may prosecute cases referred by the IMETs.

As well, a group of PPSC prosecutors provides services in highly specialized areas under statutes that are the responsibility of the Commissioner of Competition.

The Supreme Court of Canada Coordinator is responsible for the coordination of the PPSC's litigation in the Supreme Court. This involves reviewing all documents to be filed by PPSC prosecutors as well as coordinating their internal review; providing logistical support for the preparation, service and filing of the documents; and acting as the PPSC's Ottawa agent.

The PPSC is also responsible for recovering outstanding fines related to various federal offences.

### ***Highlights of performance during 2009-10 are as follows:***

**Regulatory prosecutions** – Regulatory prosecutions comprise the second-largest category of offences prosecuted by the PPSC, after drug prosecutions. In 2009-10, the PPSC handled 9,620 files involving regulatory offences. Outcomes in these cases may generate large fines and penalties, and can result in remedial and preventative measures that enhance public and environmental health, safety and security. For example, the prosecution of the Canadian National Railway (CNR) for spills caused by derailments into the Cheakamus River in British Columbia and Lake Wabamun in Alberta resulted in court-ordered fines and penalties of \$1.4 million against the CNR in 2009-10. The penalties were ordered to be used to promote the conservation and protection of fish, fish habitat and migratory waterfowl.

In addition, the Provincial Court of Alberta ordered the CNR to contribute information to Environment Canada's Environmental Emergencies Management System related to bodies of water near CNR rail tracks in both provinces. The information for this environmental sensitivity mapping system aims to help prevent, contain, mitigate and clean up spills in the environment.

**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. In 2009-10, 212 prosecutions were concluded in this area. A total of \$11.6 million in fines was imposed by the courts.

**Integrated Market Enforcement Teams** – PPSC advisors 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. They provide legal advice to investigators during investigations. In 2009-10, these advisors were consulted on 26 investigations.

In 2009-10, PPSC prosecutors participated in two significant IMET-related prosecutions. One PPSC prosecutor was a member of the team prosecuting Vincent Lacroix and his associates in relation to a major financial scandal at the Norbourg Financial Group based in Montreal. The first trial began in the fall of 2009. Mr. Lacroix entered a guilty plea and received a 13-year sentence. The jury was unable to reach a verdict on Mr. Lacroix's co accused; a retrial is scheduled for the fall of 2010.

PPSC prosecutors also have carriage of the trial of six corporate officers and executives of Royal Group Technologies. The Superior Court of Ontario entertained pre-trial motions in the winter of 2010. The trial began on April 20, 2010 before the Ontario Court of Justice.

In addition, the PPSC worked closely with the Securities Fraud and Economic Crime Prosecutors Affiliation, an inter-jurisdictional network of prosecutors that form a sub-committee of the FPT Heads of Prosecution Committee. This affiliation is co-chaired by the PPSC, and is comprised of representatives from the four provincial jurisdictions in which IMET units are located. It is mandated to develop best practices in this area of prosecutions.

**Competition Law** – 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 2009-10, the on-site team of prosecutors at the Bureau advised on 66 investigations and assisted with 20 prosecutions, appeals and related proceedings, primarily related to alleged violations of the *Competition Act*, including price- and market-fixing conspiracies, bid rigging, deceptive telemarketing and aggravated situations of false or misleading advertising.

Since 2008, PPSC prosecutors in the Québec Regional Office have prosecuted 13 individuals and 11 companies accused of fixing the price of gas at pumps in Victoriaville, Thetford Mines, Magog and Sherbrooke, Quebec. As of March 2010, ten individuals and six companies had pleaded guilty in the case, with fines totalling over \$2.7 million. Of the ten individuals who pleaded guilty, six have been sentenced to terms of imprisonment ranging from 4 to 12 months.

**Fine Recovery** – The National Fine Recovery Program recovers outstanding court-ordered fines under federal statutes through the efforts of eight regional fine recovery units. The Program recovered over \$6 million in fines in 2009-10, an increase of 20% over the previous year. Over 1,700 files were closed. Some 265 individuals were incarcerated for refusing to pay their fines despite their ability to pay. Since the national program was first introduced in 2002, more than \$51 million in fines has been recovered as of March 31, 2010.

## Lessons Learned

In September 2009, the PPSC completed its response to an assignment issued by the Attorney General to the Director of Public Prosecutions in 2007 to develop best practices for prosecuting fraud involving governments, based on an examination of the strategies used in other jurisdictions within Canada and abroad. The proposed best practices deal with detection, intervention and education in the area of frauds against governments, prosecutorial involvement in investigations and in the conduct of prosecutions, and performance measures. They are available on the PPSC's website at <http://www.ppsc-sppc.gc.ca/eng/pub/pbp-mep/index.html>.

In 2008, the PPSC and CRA, acknowledging the importance of ongoing communication and liaison, renewed a memorandum of understanding regarding investigations and prosecutions in fiscal matters. Representatives of the two organizations met several times during 2009-10 to discuss issues of mutual interest, including joint planning, training and specific issues arising from revenue investigations and prosecutions. In April 2009, the CRA and the PPSC held their annual conference of investigators and prosecutors to further enhance cooperation between the two organizations.

In 2009-10, the PPSC continued to implement the recommendations of the Le Pan report <sup>8</sup> on improving the IMET program. For example, PPSC advisors participated in a timeliness and benchmarking study to develop timelines for investigations and prosecutions. The PPSC was also involved in an evaluation of the IMET program led by Public Safety and Emergency Preparedness Canada, which was completed in March 2010.

<sup>8</sup> In Budget 2007, the Government, while recognizing the value of the Integrated Market Enforcement Teams (IMETs) in investigating complex capital markets fraud, 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: Internal Services

2009-10 Financial Resources (\$ millions)			2009-10 Human Resources (FTEs)		
Planned Spending	Total Authorities	Actual Spending	Planned	Actual	Difference
28.2	33.7	21.1	154	111	43

### Performance Analysis

Internal Services comprise groups of related activities that are administered to support the needs of the above two program activities and other corporate obligations. For the first time, the PPSC participated in the Treasury Board Secretariat's Management Accountability Framework assessment process in 2009-10 (MAF Round VII). The assessment pointed to several areas of management that presented some opportunities for improvement. The required improvements generally reflected the fact that the PPSC, as a new organization, is still building capacity in management processes and structures.

#### *Highlights of performance during 2009-10 are as follows:*

**Finance and Acquisition** – The PPSC took over responsibility for contracting, which had previously been handled by the DOJ. It also updated delegation instruments and related records; and ensured closer monitoring of compliance with financial policies.

**Human Resources Management** – The Human Resources Directorate (HRD) introduced a five-year People Management Strategy to improve human resources practices at the PPSC. The strategy supports the federal government's public service renewal agenda, with a focus on planning, recruitment and employee engagement. HRD continues to review work profiles and assess the PPSC's workforce composition and task evaluation. HRD also took over responsibility for certain transactional services that had previously been provided by the DOJ, including organizational design and classification, official languages and diversity. The Delegation of Authorities Instrument – a document that defines and explains delegated authorities for finance and human resources to managers, supervisors and functional heads – was fully implemented and affected employees were advised of their accountabilities.

**Internal Audit** – In 2009–10, the PPSC appointed a Chief Audit Executive, and created a Departmental Audit Committee with three members appointed from outside the federal Public Service. As its first internal audit, the PPSC audited the Account Verification Framework in 2009–10. It will be finalized and published on the PPSC website in 2010-11.

**Information Management and Technology** – The PPSC refreshed its technology and systems in accordance with its technology renewal plan. Investments were also made in new video-conference systems to reduce travel costs. Work continued on the national Knowledge Management system. Work also began on ensuring that the PPSC's records management program complies with the new Treasury Board Secretariat directive on recordkeeping.

**Administration Services** – The Administration Services Division is responsible for the delivery of programs and services in the areas of security, accommodations, conflict management as well as occupational health and safety. Key activities undertaken during the year included the ongoing planning and implementation of several regional office fit-ups and relocations and the preliminary work for the establishment of a Headquarters facility in the National Capital Region. The Division also strengthened in-house delivery of security services, including personnel and physical security. The position of Departmental Security Officer was created and staffed and the Security Services Section was established. A pandemic plan was prepared in support of business continuity objectives.

**Access to Information and Privacy** – In early 2010, the PPSC's Access to Information and Privacy Office launched an examination of the PPSC's privacy practices. The aim of the project was to assess and enhance the PPSC's compliance with the *Privacy Act* and Treasury Board Secretariat policies, directives and guidelines relating to the treatment of personal information. One of the main goals of the project is the preparation of a Privacy Management Framework for the PPSC.

**School for Prosecutors** – In 2009, the PPSC's School for Prosecutors once again provided valuable in-house instruction tailored to the highly specialized work of federal prosecutors. Two intensive one-week courses—one at the fundamental level, the other advanced—were offered to 85 participants. Topics ranged from trial advocacy to wiretaps, search and seizure, criminal gangs, and national security prosecutions. The School's faculty members are experts in criminal law drawn mainly from the PPSC's senior ranks, with guest speakers including members of the judiciary, professors of law, and senior provincial prosecutors.

## 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 are available on its website at: <http://www.ppsc-sppc.gc.ca/eng/pub/index.html>

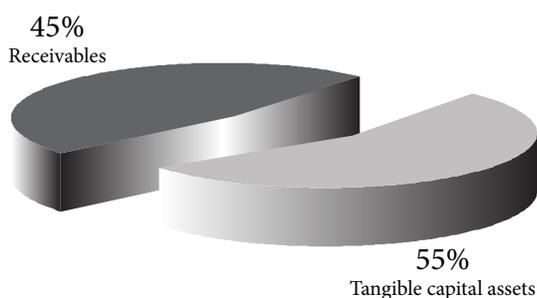
(\$ thousands)

Condensed Statement of Financial Position as at March 31, 2010	% Change	2008-09	2009-10
<b>Total Assets</b>	-11%	<b>11,420</b>	<b>10,205</b>
<b>Total Liabilities</b>	6%	38,552	40,993
<b>Total Equity</b>	13%	-27,132	-30,788
<b>Total</b>	<b>-11%</b>	<b>11,420</b>	<b>10,205</b>

(\$ thousands)

Condensed Statement of Operations for the year ended March 31, 2010	% Change	2008-09	2009-10
<b>Total Expenses</b>	12%	155,771	174,024
<b>Total Revenues</b>	5%	12,529	13,157
<b>NET COST OF OPERATIONS</b>	<b>12%</b>	<b>143,242</b>	<b>160,867</b>

Assets by Type



Total assets were \$10.2 million at the end of 2009-10, a decrease of \$1.2 million over the previous year's assets of \$11.4 million. Receivables and tangible capital assets represented the bulk of the PPSC's assets.



## 3.2 List of Tables

All electronic supplementary information tables listed in the 2009–10 DPR can be found on the Treasury Board of Canada Secretariat's website at <http://www.tbs-sct.gc.ca/dpr-rmr/2009-2010/index-eng.asp>.

Horizontal Initiatives, including the following:

- National Anti-Drug Strategy, led by the Department of Justice Canada
- Integrated Market Enforcement Teams Initiative, led by the Department of Public Safety
- Federal Tobacco Control Strategy, led by Health Canada
- Integrated Proceeds of Crime, led by the Department of Public Safety

Sources of Respendable and Non-Respendable Revenue

## 3.3 Other Items of Interest

The following PPSC publications can be found at: <http://www.ppsc-sppc.gc.ca/eng/pub/index.html>

- The Federal Prosecution Service Deskbook
- Public Prosecution Service of Canada Annual Report 2009-2010
- Public Prosecution Service of Canada Annual Report on the *Privacy Act* 2009-2010
- Public Prosecution Service of Canada Annual Report on the *Access to Information Act* 2009-2010



