



CRIMINAL JUSTICE BRANCH, MINISTRY OF ATTORNEY GENERAL CROWN COUNSEL POLICY MANUAL

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SUBJECT: Justice of the Peace Court – Crown Counsel Responsibilities		CROSS-REFERENCE: APP 1.1

POLICY

While Crown Counsel do not generally prosecute in Justice of the Peace Court, Crown Counsel should be prepared to give advice and carry out appeals or petitions as necessary when police officers report concerns with rulings of Justices of the Peace.

DISCUSSION

The Criminal Justice Branch is responsible for the general supervision of the violation ticket process and charges prosecuted in Justice of the Peace Court, even though, in most cases, Crown Counsel do not appear in that court and do not exercise a direct charge assessment function on matters before that court. Generally, police officers act as prosecutors in that court.

Crown Counsel occasionally appear in Justice of the Peace Court to assist on complex legal issues or where the accused is represented by defence counsel.

Matters on which Crown Counsel give advice and consider whether to appeal (subject to the policy on Appeals by Crown of Summary Conviction Matters - APP 1.1) or whether to file a petition under the *Judicial Review Procedure Act*, include sentences and errors of law involving authorized wordings, jurisdictional issues and other matters in respect of violation tickets.

The *Provincial Court Act* limits matters which can be heard in Justice of the Peace court and provides that some matters may be transferred to a judge for hearing, on the order of a judge, as follows:

Exclusive Jurisdiction of Judge

2.1 In the Provincial Court of British Columbia, only a judge may

- (a) commit for contempt of court,
- (b) hear a matter for which notice under section 8 of the *Constitutional Question Act* is required,

- (c) hear a matter that involves a determination of aboriginal or treaty rights or claims,
- (d) hear a matter arising under the *Canadian Charter of Rights and Freedoms* for which notice under section 8 of the *Constitutional Question Act* is not required, and
- (e) preside over the trial of a person charged with an offence for which, on conviction, the person is liable to be sentenced to a term of imprisonment.

Jurisdiction of Justice

31 (1) Subject to section 2.1, if a justice is hearing

- (a) a case or matter, or
- (b) a case or matter within a class of cases or matters

for which the justice is designated to act by the chief judge under section 11 (1), the justice may exercise all the powers and jurisdiction of the court under an enactment respecting the case or matter.

(2) A justice may under the Young Offenders Act (Canada), Young Offenders (British Columbia) Act, Youth Criminal Justice Act (Canada), Youth Justice Act, Child, Family and Community Service Act, Family Relations Act and Small Claims Act do all necessary acts and deal with all matters preliminary to a hearing and grant adjournments.

(3) If, in the course of a hearing before a justice, the justice cites a person for contempt of court, the justice must issue a summons referred to in section 27 of the *Offence Act* in respect of the citation as if it were a charge in respect of an offence and refer the citation to a judge for determination.

(4) If, in the course of a hearing before a justice on an information or claim, a matter arises that is, under section 2.1 (b) to (d), within the exclusive jurisdiction of a judge, the justice must terminate the hearing and refer the information, claim or application to be heard as a new trial by a judge.

(5) If a matter is assigned to be heard by a justice, before the commencement of the hearing, a party to the matter may apply to a judge for an order that the matter be heard by a judge.

(6) In making an order under subsection (5), the judge must consider the factors the judge considers relevant including, without limitation, the following factors:

- (a) the complexity of the factual and legal issues involved in the matter;
- (b) the proposed length of the trial of the matter;
- (c) the severity of the potential outcomes or consequences of the matter;
- (d) the public interest in the outcome of the matter.