



MEDIA STATEMENT

CRIMINAL JUSTICE BRANCH

August 1, 2007

07-08

Special Prosecutor Recommends Reference Question on Constitutionality of Polygamy Law

Victoria - The Criminal Justice Branch of the Ministry of Attorney General today announced the decision of independent Special Prosecutor Richard Peck Q.C. in relation to allegations of potential misconduct by individuals associated with the community of Bountiful, British Columbia.

Mr. Peck has concluded that there should be no criminal charges laid in connection with the investigation.

In the course of his assessment Mr. Peck reviewed section 293 of the Criminal Code, which creates offences related to polygamy. Mr. Peck has concluded that the constitutionality of this section should be determined by way of a reference question to the British Columbia Court of Appeal. A reference question may be referred to the Court of Appeal by the Lieutenant Governor in Council, pursuant to section 1 of the Constitutional Question Act.

The Special Prosecutor has approved the release of the [attached summary](#) of his charge assessment report.

Mr. Peck, a senior Vancouver lawyer, was appointed by Robert W.G. Gillen, Q.C., the Assistant Deputy Attorney General for the Criminal Justice Branch. The appointment was made in accordance with written directions provided by the Attorney General to the Criminal Justice Branch on May 31, 2007.

Mr. Peck's mandate as the Special Prosecutor included the following duties:

- Conducting an independent comprehensive legal analysis of all of the available evidence that had been assembled by the Royal Canadian Mounted Police as well as any other information the Criminal Justice Branch had concerning the allegations and was to involve the consideration of any and all potential criminal or quasi-criminal charges, including but not limited to, polygamy and any offence of a sexual nature;

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- Offering such legal advice as was necessary to the police in the event that further investigation by them was required;
- Providing the Assistant Deputy Attorney General with a written report setting out his charge assessment review decision; and
- If in his view a charge was warranted, conducting the prosecution and any subsequent appeal.
- At the request of Mr. Peck, on July 23, 2007 his mandate was expanded to include consideration of a recommendation for a constitutional reference, and carriage of such a reference should one proceed.

Mr. Peck has agreed to assume conduct of any proceeding which results from his recommendation.

The Assistant Deputy Attorney General for the Criminal Justice Branch appoints Special Prosecutors pursuant to the *Crown Counsel Act* when there is a significant potential for real or perceived improper influence in the administration of criminal justice.

The decisions of Special Prosecutors are final subject only to receiving written directions from the Attorney General, Deputy Attorney General or Assistant Deputy Attorney General for the Criminal Justice Branch. In such an event, those directions must be made public by publishing them in the Gazette.

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