



Policy: <b>Ad Hoc Counsel</b>		
Policy Code: <b>ADH 1</b>	Effective Date: March 1, 2018	Cross-references: <b>POL 1 SPE 1 STA 1</b>

Legal counsel in private practice (*ad hoc* counsel) are retained under various circumstances, most notably:

- to provide Crown Counsel services when no employee Crown Counsel is available
- to make, or advise upon, charge assessment decisions and to prosecute cases in which there is an actual, perceived, or potential conflict of interest, which falls short of the need to appoint a Special Prosecutor (*Standards of Conduct, Conflict of Interest and Protection of Confidential Information* ([STA 1](#)); *Police – Allegations Against Police Officers* ([POL 1](#)); *Special Prosecutors* ([SPE 1](#)))
- to allow the BC Prosecution Service, in exceptional circumstances, to benefit from the particular expertise, skill, or knowledge of members of the defence bar in specialized areas or sensitive matters

The provisions concerning the need to avoid conflict of interest in exercising a prosecutorial function, in [STA 1](#), apply to *ad hoc* counsel in their role as Crown Counsel.

### Eligibility

- *Ad hoc* counsel must have the authority to practice law in British Columbia under the *Legal Profession Act*
- In determining whether to retain an *ad hoc* counsel, Administrative Crown Counsel must have confidence in the skills, abilities, and judgment of *ad hoc* counsel and be satisfied that *ad hoc* counsel has appropriate knowledge of the criminal law, procedure, and the Crown Counsel Policy Manual
- *Ad hoc* counsel should have experience in criminal cases which corresponds to the duties for which they are retained

## Criteria for Selecting *Ad Hoc* Counsel

- Demonstrated competence in the practice of criminal law, which includes a good working knowledge of substantive law and procedures as well as demonstrated ability in the conduct of trials, examination and cross-examination of witnesses, making of legal arguments and submissions, and speaking to sentence
- Demonstrated sound judgment in the conduct of criminal cases (e.g., making tactical decisions in the course of a trial, recognizing the strengths and weaknesses in any particular case)
- Recognized as a lawyer who maintains high ethical standards
- Enjoys the respect of colleagues and the judiciary
- Recognized as a lawyer with a good work ethic
- Willingness to review and follow BC Prosecution Service policies relevant to the retainer
- Has performed previous *ad hoc* duties, if any, in an efficient and competent manner
- Has completed the requirements of the *Criminal Records Review Act*

## Procedure

The procedure for retaining *ad hoc* counsel and precedents for standard retainer letters and billing guidelines are available from Business Managers, Regional Operations.