



Policy: <b>Appeals</b>		
Policy Code: <b>APP 1</b>	Effective Date: February 25, 2026	Cross-references: <a href="#">ENV 1</a>

This policy provides guidance regarding the requirements and procedure for a Crown appeal to the Supreme Court of British Columbia (BCSC), Court of Appeal for British Columbia (BCCA), or Supreme Court of Canada (SCC).

Not every unfavourable result can nor should be appealed. The appeal process is onerous, with specific threshold tests that must be met before the appeal court will intervene. An appeal court will usually defer to the trial court’s findings of fact and exercise of judicial discretion.

The BC Prosecution Service (BCPS) criminal appeals office will have conduct of appeals to the BCCA and SCC, and regional offices will have conduct of summary conviction appeals to the BCSC.

### Approval

Crown appeals to the BCCA and SCC require the approval of the deputy director, criminal appeals.

Crown appeals to the BCSC require the approval of a Regional Crown Counsel, Director, or their respective deputy, following a recommendation by Administrative Crown Counsel.

The *Environmental Prosecutions* ([ENV 1](#)) policy provides guidance with respect to approval of Crown appeals of environmental prosecutions.

### Appeal against acquittal

An appeal against acquittal should only be approved when the following conditions are met:

- for an indictable matter, the appeal involves an error on a question of law alone (section 676(1)(a))<sup>1</sup>

1 R v J.M.H., 2011 SCC 45; R v Chung, 2020 SCC 8

- for a summary conviction matter, an error on a question of law or of mixed law and fact<sup>2</sup>
- the error might reasonably have had a material bearing on the acquittal<sup>3</sup>
- an appeal is likely to be successful
- the public interest requires an appeal

Factors in deciding whether the public interest requires an appeal include:

- the case involves a serious offence
- the offender constitutes a serious threat to the community
- the proposed appeal raises an important question of general application to the criminal law and no similar case is under appeal
- there are conflicting judgments on an issue to be appealed
- there is a proper record upon which to litigate the issues, including that they were raised by the Crown at trial

### Appeal against sentence

An appeal against sentence should only be approved when the following conditions are met:

- the proposed appeal involves a sentence that is illegal or demonstrably unfit, or an error in principle that had an impact on the sentence imposed<sup>4</sup>
- an appeal is likely to be successful
- the public interest requires an appeal

Factors in deciding whether the public interest requires an appeal include:

- the case involves a serious offence
- the offender constitutes a serious threat to the community
- the proposed appeal raises an important question of general application concerning the principles of sentencing and no similar case is under appeal

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<sup>2</sup> *R v Helm*, 2011 SKQB 32

<sup>3</sup> *R v Graveline*, 2006 SCC 16; *R v Cowan*, 2021 SCC 45

<sup>4</sup> *R v Parranto*, 2021 SCC 46; *R v Friesen*, 2020 SCC 9; *R v Lacasse*, 2015 SCC 64

- there are conflicting judgments on an issue to be appealed
- a successful appeal will lead to a significant increase in the length of the sentence or a significant change to the type of sentence imposed
- there is a proper record upon which to litigate the issues, including whether they were raised by Crown Counsel at sentencing

### Other appeals

The guidance for initiating a Crown appeal against acquittal will generally apply to other types of Crown appeals, including:

- verdict of not criminally responsible on account of mental disorder
- finding that accused is unfit to stand trial
- judicial stay of proceeding
- decision granting or refusing the relief sought in proceedings by way of *mandamus*, *certiorari*, or prohibition

### Extraordinary remedies

Crown Counsel may initiate an application for an extraordinary remedy (in the nature of *mandamus*, *certiorari*, or prohibition) to correct a jurisdictional error by a provincial court judge. This application may be brought if there is no available statutory appeal, and requires the approval of a Regional Crown Counsel, Director, or their respective deputy.

### Interventions

Decisions about whether the Attorney General of British Columbia will seek to intervene in the BCCA or SCC are made by the ADAG on the recommendation of the Director of Criminal Appeals and Special Prosecutions.