



## High-Risk Offenders and High-Risk Accused

A priority of the BC Prosecution Service is to protect the community from high-risk sexual and violent offenders by making dangerous offender and long-term offender applications in appropriate cases. The protection of the public is the paramount concern. The BC Prosecution Service has policies in place that guide the work of Crown Counsel concerning high-risk offenders and accused.<sup>1</sup>

### High-Risk Offenders Identification Program

British Columbia's High-Risk Offenders Identification Program (HROIP) provides Crown Counsel with pertinent information regarding high-risk offenders to assist in decisions relating to:

- judicial interim release (bail);
- sentencing, including possible dangerous offender and long-term offender applications; and,
- applications for preventative measures, such as:
  - preventative recognizances; and,
  - high-risk accused designations (for persons found not criminally responsible on account of mental disorder).

Offenders that are tracked by HROIP have been identified as having a high risk of reoffending, violently or sexually, or have an affiliation with gangs or organized crime. HROIP assists prosecutors by proactively gathering and maintaining records concerning these offenders.<sup>2</sup>

HROIP participates in a national program that facilitates information sharing between prosecution services across Canada. Correction authorities and police also share information with HROIP to assist with the identification and tracking of high-risk offenders throughout the justice system. This allows all of the relevant background information to be made available for Crown Counsel whenever an identified offender relocates to assist with:

- bail hearings for any new offences;
- sentencing hearings for any new or outstanding offences, including the possible seeking of a dangerous offender designation; and,
- seeking preventative recognizances, when appropriate.

This national initiative is aimed at preventing high-risk sexual and violent offenders from falling between jurisdictional gaps, specifically offenders:

- who are released anywhere in the country from federal custody at warrant expiry, and for whom a preventative recognizance should be considered; or,
- anywhere in the country who demonstrate the potential for a dangerous offender or long-term offender application upon the commission of a serious personal injury offence.

### Preventative Recognizances for High Risk Offenders

A court may impose conditions that restrict the movements and behaviour of persons who present a high risk for committing criminal offences while they are residing in the community. These orders are known as “preventative recognizances” and they can be imposed under the *Criminal Code* when a court is satisfied that there are reasonable grounds to fear a person will commit either:

- a sexual offence against a child under the age of sixteen (section 810.1); or,
- a serious personal injury offence against any person (section 810.2).

If there is sufficient evidence, Crown Counsel may apply to a court for the recognizance, and if the court agrees, it will impose a recognizance containing conditions that must be followed for a period of up to one year (up to two years if the person has a prior related conviction).

Further information about preventative recognizances is available here:

[BCPS Information Sheet – Preventative Recognizances: Conditions for High-Risk Persons](#)

### Dangerous Offender and Long-Term Offender Designations

When an offender is convicted of a serious personal injury or sexual offence and poses a continuing danger to the public, Crown Counsel may be able to apply to the sentencing court to have the person designated a Dangerous Offender (DO) or a Long-Term Offender (LTO). The overriding aim of the DO and LTO regime is the protection of the public and the prevention of future violence.<sup>3</sup> As a general rule, these applications cannot be made after an offender has been sentenced<sup>4</sup> or has finished serving his or her sentence.

The HROIP assists Crown Counsel by gathering all available background records from across Canada, including prior police reports, court transcripts, correctional records, and psychological and psychiatric assessments. This material is provided to the court-appointed psychiatrist or psychologist for possible inclusion in the assessment report that is prepared for a DO or LTO hearing.

Further information about DO and LTO designations is available here:

[BCPS Information Sheet – Dangerous Offenders and Long-Term Offenders](#)

## High-Risk Accused Designations

A “high-risk accused” designation can be sought under section 672.64 of the *Criminal Code* for persons who have been found Not Criminally Responsible on account of Mental Disorder. This designation results in potentially more secure and longer periods of detention in hospital.

More information about the legal test for high-risk accused applications and the implications of a high-risk accused designation can be found [here](#).

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<sup>1</sup> BC Prosecution Service policies can be found here: [www2.gov.bc.ca/gov/content/justice/criminal-justice/bc-prosecution-service/crown-counsel-policy-manual](http://www2.gov.bc.ca/gov/content/justice/criminal-justice/bc-prosecution-service/crown-counsel-policy-manual). Policies that will be relevant to high-risk offenders include *Dangerous Offender and Long Term Offender Applications* (DAN1), *Charge Assessment Guidelines* (CHA1), *NCRMD (Not Criminally Responsible on account of Mental Disorder)* (NCR1), and, in some circumstances, *Sexual Offences against Adults* (SEX1) and *Spousal Violence* (SPO1).

<sup>2</sup> There are currently over 2,000 high-risk offenders being tracked by HROIP (as of May 2016). There are currently over 10,000 high-risk offenders being tracked by the National Flagging System (the national information sharing system that is coordinated by the provincial and territorial coordinators).

<sup>3</sup> R v Lyons, (1987) 37 CCC (3d) 1 (SCC); R v Jones, (1994) 89 CCC (3d) 353 (SCC).

<sup>4</sup> However, section 753(2) provides that an application can be made up to six months after sentencing but in very narrow circumstances.