



# MEDIA STATEMENT

## CRIMINAL JUSTICE BRANCH

June 2, 2008

08-11

### SPECIAL PROSECUTOR APPOINTED IN BOUNTIFUL

**Victoria** – The Criminal Justice Branch of the Ministry of Attorney General today announced that the Attorney General has directed the Branch to retain Terrence Robertson, Q.C. to conduct a charge assessment regarding allegations of misconduct involving individuals associated with the community of Bountiful, British Columbia.

On May 28, 2008, Robert W.G. Gillen, Q.C., the Assistant Deputy Attorney General responsible for the Criminal Justice Branch, received the following written directions from the Attorney General:

*“As I disagreed with Mr. Peck’s decision not to prosecute allegations of polygamy, I directed that Mr. Leonard T. Doust be appointed as Crown Counsel to review Mr. Peck’s analysis with a view to determining the viability of a prosecution.*

*Mr. Doust also concluded that a reference was the preferable means by which to proceed. As he also concluded that a prosecution would be unfair, he declined to prosecute the polygamy allegations during our discussions on May 2, 2008.*

*I disagree with Mr. Doust’s conclusion that a prosecution would be unfair.*

*It is my opinion that the Criminal Justice Branch is mistaken in its belief that s. 293 of the Criminal Code of Canada is unconstitutional. Both Mr. Doust and Mr. Peck believe s. 293 to be constitutionally valid legislation. A valid criminal law is and should be enforced. To do so is appropriate and is not unfair.*

*Therefore, pursuant to Section 5 of the Crown Counsel Act, this letter is my directive to you to retain the legal services of Mr. Terrence Robertson to conduct a charge assessment of the most recent police investigation into polygamy in the Community of Bountiful. He is to apply the Criminal Justice Branch charge approval policy as it relates to Section 293 of the Criminal Code of Canada and any other Code provisions. The policy requires first, a determination of whether there is a substantial likelihood of conviction based on the available evidence, and if so, whether it is in the public interest to proceed with a prosecution. If he concludes that charges should be approved, he is to conduct the prosecution and any appeals which may arise from those proceedings.*

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*As you may designate him to be either Crown Counsel pursuant to Section 4(1) of the Crown Counsel Act or as Special Prosecutor pursuant to Section 7 of the Crown Counsel Act, I leave that designation selection for your determination.*

Due to the Attorney General's disagreement with Mr. Doust on the fundamental issue of fairness, and in light of the climate of concern expressed in the media and public opinion regarding the community of Bountiful, Mr. Gillen concluded that to avoid any risk of real or perceived improper influence in the exercise of prosecutorial responsibilities regarding this matter, it was necessary to appoint Mr. Robertson as an independent Special Prosecutor. The paramount consideration in this matter was public confidence in the administration of criminal justice and the need to assure the public generally and the community of Bountiful specifically that an independent assessment will be free of any perception of improper influence.

Mr. Gillen appointed Mr. Robertson on June 2, 2008, his mandate as Special Prosecutor includes:

- Conducting an independent charge assessment review based on the results of the RCMP investigation, the materials assembled by the Criminal Justice Branch and any other information that the investigating officers may provide to him;
- Offering such legal advice as is necessary to the police in the event that further investigation by them is required;
- Providing the Assistant Deputy Attorney General with a written report setting out his charge assessment decision; and
- If in his view a charge is warranted, conducting the prosecution and any subsequent appeal.

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 BC Gazette.

As required by the *Crown Counsel Act*, the Attorney General's written directions will be published in the June 5, 2008 edition of the BC Gazette.

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