



MEDIA STATEMENT

CRIMINAL JUSTICE BRANCH

May 17, 2016

16-11

Special Prosecutor Approves Charge for Breach of Trust

Victoria - The Criminal Justice Branch, Ministry of Justice (CJB) announced today that Special Prosecutor David Butcher, QC, has approved a charge of Breach of Trust against Brian Ashly Bonney.

The charge falls under s. 122 of the *Criminal Code of Canada*. Section 122 makes it an offence for an "official" to commit a breach of trust "in connection with the duties of his office". At the time of the alleged offence, Mr. Bonney was the Communications Director for Multiculturalism Communications, Government Communications and Public Engagement, Vancouver.

Background

In August 2013, the RCMP received a complaint arising out of the *Review of the Draft Multicultural Strategic Outreach Plan*, a report that was completed in March 2013 by the then Deputy Minister to the Premier. The complaint also alleged *Election Act* irregularities. The RCMP began an investigation.

On August 29, 2013, the Assistant Deputy Attorney General for CJB appointed a Special Prosecutor under the *Crown Counsel Act*. The Special Prosecutor was appointed to assist the RCMP with its investigation. Given the nature of the investigation, and the potential involvement of government officials as suspects, it was considered in the public interest to have legal advice provided to the RCMP by someone who is at arm's length from the CJB and the Ministry of Justice.

David Butcher, QC, a senior counsel with the private bar in Vancouver, was appointed as the Special Prosecutor. His mandate included the following:

- Provide legal advice to police as may be required;
- Independently review any Report to Crown Counsel brought to him by the RCMP for charge assessment and possible prosecution;

Branch Vision

Courageous, Fair and Efficient – A Prosecution Service that has the Confidence of the Public.

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- Provide a written report to the Assistant Deputy Attorney General with the results of any decisions made by the Special Prosecutor; and,
- If charges were approved, conduct the prosecution(s) and any related appeal.

On September 8, 2014, the CJB announced that the Special Prosecutor approved charges against two persons: Brian Ashley Bonney and Mark Robertson, and a numbered company: 0750837 BC Ltd. dba Mainland Communications. These charges arose under the *Election Act* and related to conduct that occurred during the provincial 2012, Port Moody by-election campaign.

Three counts were approved: one each under s. 186(1)(b), 186(1)(d) and 193 of the *Election Act*. The charges allege that the company and its directors provided services of an employee, whose wages were indirectly paid by the B.C. Liberal Party, to the Liberal Party candidate without the reporting required under the *Act*.

This latter case remains before the court. The prosecution was scheduled to be before the British Columbia Provincial Court in Vancouver yesterday, May 16, for the purpose of legal argument. **The Special Prosecutor has advised that the appearance was adjourned by consent to the afternoon of May 17.** Members of the media with an interest in the prosecution may wish to attend court for 2:00 p.m. (Vancouver Provincial Court file number 235780).

New Charge

After the above-noted charges were approved, the RCMP investigation continued in relation to other matters, including potential offences under the *Election Act* and offences arising out of the *Draft Multicultural Strategic Outreach Plan*.

Over the course of the investigation, the Special Prosecutor received three separate Reports to Crown Counsel from the RCMP. He was providing legal advice to police throughout.

After reviewing the entirety of the material contained in the Reports, the Special Prosecutor has approved a further charge of Breach of Trust against Brian Ashly Bonney, contrary to s. 122 of the *Criminal Code*. As noted, at the time of this alleged offence Mr. Bonney was the Communications Director for Multiculturalism Communications, Government Communications and Public Engagement, Vancouver.

The Special Prosecutor appreciates it has taken considerable time to complete his review of the matter for the purpose of charge assessment. There are a number of reasons for this, including the breadth of the police investigation; the complexity of the related legal and evidence-gathering issues; and *Criminal Code* process requirements that apply to police while completing their work.

When exercising discretion on a prosecution file, including the decision to approve charges, Special Prosecutors apply the policies of the CJB. This includes the CJB's *Charge Assessment Guidelines*. However, they apply these policies independent of CJB and a Special Prosecutor's decision on charges is "final" under the *Crown Counsel Act*, subject to written direction provided by the Assistant Deputy Attorney General, the Deputy Attorney General or the Attorney General. If a written direction is provided to a

Special Prosecutor, it must be published in the *Gazette*. No such directions have been provided in this matter.

David Butcher, QC, will have carriage of this further prosecution against Mr. Bonney. The charge was sworn today in British Columbia Provincial Court under file number 241884 (Vancouver). Mr. Bonney has made an appearance on the charge and was released on a recognizance with terms and conditions. His next appearance date is scheduled for June 23, 2016 at 9:00 a.m. in Vancouver.

This Media Statement was prepared in consultation with the Special Prosecutor and he has approved both its content and its timing. As all charges arising out of this matter are currently before the Court, CJB and the Special Prosecutor will not be making further comment on the details of the files. It is important that the integrity of the court process be respected and the matters be allowed to unfold in the ordinary course.

If, at the end of all related court proceedings, the Special Prosecutor determines it to be in the public interest that further information about this matter should be provided to the public, including information about other charges that may have been considered during the course of the RCMP investigation and not approved, the Special Prosecutor will issue a Clear Statement in consultation with the CJB.

Greater information about the role of Special Prosecutors under the *Crown Counsel Act* can be accessed here:

<http://www2.gov.bc.ca/gov/content/justice/criminal-justice/bc-prosecution-service/information-sheets#rolesp>

Greater information about B.C.'s Prosecution Service is also accessible:

www2.gov.bc.ca/gov/content/justice/criminal-justice/bc-prosecution-service

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