



# MEDIA STATEMENT

## CRIMINAL JUSTICE BRANCH

July 29, 2016

16-15

### **Mandatory Minimum Sentence for Firearms Offence Upheld**

**Victoria** – In October 2015, the Criminal Justice Branch, Ministry of Justice (the Branch), filed an appeal from sentence in a criminal case out of Nanaimo, asking that the Court of Appeal for British Columbia set aside a ruling that the 4 year mandatory minimum sentence for a firearms offence was unconstitutional. The Branch released a Media Statement advising of the appeal.

On July 27, 2016, the Court of Appeal released its decision in the case and unanimously overturned the constitutional ruling. The Crown's appeal was allowed and the 4 year mandatory minimum sentence was upheld. The decision can be found on the Court of Appeal's website: [R. v. Oud, 2016 BCCA 332](#).

The firearms offence at issue is found under s. 244.2(1)(a) of the *Criminal Code*. Mr. Oud was convicted of intentionally discharging a firearm into a place, knowing or being reckless as to whether another person was present. If a restricted or prohibited firearm is used by the offender, it carries a mandatory minimum 5 year prison sentence for a first offence (s. 244.2(3)(a)). If the firearm is not restricted or prohibited, the offence carries a mandatory minimum sentence of 4 years imprisonment (s. 244.2(3)(b)). This is the sentence that applied to Mr. Oud. Ultimately the Court of Appeal increased his sentence to 5 years – one year above the minimum.

In upholding the constitutionality of the minimum sentence, the Court of Appeal noted that this firearms offence involves “highly dangerous behaviour that will attract a stern response” (para. 38).

The Branch filed an appeal from sentence in this case because it was satisfied, in accordance with its established policy, that: (1) the judgment revealed errors of law; (2) a reasonable argument could be made that the constitutional ruling would not necessarily have been the same if the errors were not made; and (3) the public interest required an appeal.

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### ***Branch Vision***

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

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