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BC Prosecution Service announces policy changes aimed at reducing overrepresentation of Indigenous persons in the criminal justice system

Victoria – Today the BC Prosecution Service (BCPS) introduced a series of new and revised policies directed at the unacceptable overrepresentation of Indigenous persons in the criminal justice system.

By revising several key policies and implementing new ones, the BCPS aims to change the way it deals with cases that involve Indigenous persons: as victims, as witnesses, and as accused. The affected policies include:

- *Charge Assessment Guidelines* ([CHA 1](#)) – Our foundational charge assessment policy has been revised to include specific provisions to address the unique cultural and historical circumstances of Indigenous persons, as accused and as victims, and the need to reduce the overrepresentation of Indigenous persons in the criminal justice system.
- *Bail - Adult* ([BAI 1](#)) – This new policy directs prosecutors to exercise principled restraint in all bail matters, paying particular attention to the circumstances of Indigenous accused.
- *Probation - Adult* ([PRO 1](#)) – Another new policy, PRO 1 guides Crown Counsel in the appropriate restraint to be employed in seeking and enforcing probation conditions for all offenders. In the case of Indigenous offenders, Crown Counsel must consider the unique systemic or background factors that may have played a part in bringing the offender before the court.
- The changes also include a revised [Introduction](#) to the Crown Counsel Policy Manual, as well as a new Indigenous Justice [Framework](#), outlining the ongoing commitment of BCPS to work for positive change to the status quo and identifying some key initiatives and activities it will pursue.

“As we explain in our Indigenous Justice Framework, the criminal justice system is failing Indigenous people. Colonialism, displacement, and forced assimilation have contributed to their overrepresentation in all parts of the system. Ongoing bias, racism, and systemic discrimination only make the problem worse. These facts must inform every consideration, decision, or action we take in

relation to Indigenous persons”, said Peter Juk QC, the Assistant Deputy Attorney General and head of the BCPS.

“Within our mandate as a constitutionally independent prosecution service, we will work for positive change. Introducing our Indigenous Justice Framework and policy changes is the first step along this path. In the months ahead we will be considering more changes to our policies and practices to advance the Indigenous Justice Framework”, Juk said.

Background

For almost 20 years, the Supreme Court of Canada has been calling on participants in the criminal justice system to recognize the continuing consequences of colonialism and urging them to take action to remedy the troubled relationship between Canada’s criminal justice system and Indigenous peoples (*R v Gladue*, [1999] 1 S.C.R. 688). The history of colonialism, displacement, and residential schools in Canada has translated into lower educational attainment, lower incomes, higher unemployment, higher rates of substance abuse and suicide, and higher levels of incarceration for Indigenous persons (*R v Ipeelee*, 2012 SCC 13, at para 60). The rates of victimization of Indigenous persons, especially for Indigenous women and girls, are significantly higher than those for non-Indigenous persons (*Victimization of Aboriginal People in Canada*, 2014, Statistics Canada, 2016).

As the Supreme Court of Canada recently confirmed, the continuing consequences of colonialism for Indigenous persons (First Nations, Métis, and Inuit) in Canada:

“must be remedied by accounting for the unique systemic and background factors affecting Indigenous peoples, as well as their fundamentally different cultural values and world views (Ewert v Canada, 2018 SCC 30, at paras 57 and 58).

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