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

Victoria – Today the BC Prosecution Service (BCPS) announced policy changes that specifically target the overrepresentation of Indigenous persons in the BC criminal justice system and other changes undertaken as part of the ordinary process of policy review.

For decades government commissions and reports and judgments of the Supreme Court of Canada have recognized that Indigenous persons experience discrimination in all parts of the criminal justice system. This discrimination, and the continuing consequences of colonialism in Canada, have resulted in the unacceptable overrepresentation of Indigenous persons in the criminal justice system. Against this backdrop, in March of 2017, the BCPS started developing a new approach to handling cases involving Indigenous persons.

In April of 2019, the BCPS publicly announced its [Indigenous Justice Framework](#) along with an initial series of [policy changes](#). The additional policy changes announced today continue with this new approach. The specific changes include:

- [Charge Assessment Guidelines](#) (CHA 1) – The charge assessment policy now includes additional advice about tracking when the accused or victim identifies as an Indigenous person to aid in data collection and in monitoring results, which have been hampered somewhat by concerns about the reliability and completeness of existing data.
- [Alternatives to Prosecution – Adults](#) (ALT 1) – This policy has been significantly revised and expanded. It requires Crown Counsel to consider all reasonable alternatives to prosecution. The revised policy increases the number and types of offences that can be considered for an alternative to prosecution and confirms that a person’s previous involvement in the criminal justice system is not a bar to being dealt with by alternative measures. It also provides more specific guidance to Crown Counsel for handling files involving an Indigenous accused or Indigenous victim.
- [Resolution Discussions](#) (RES 1) – The revisions to this policy include additional advice on handling files involving an Indigenous accused or Indigenous victim.
- [Sentencing – Adults](#) (SEN 1) – This new policy emphasizes the need for principled restraint in all sentencing matters. It recognizes that custodial sentences, particularly those under two years in duration, should be seen as a last resort. The policy also speaks directly to the situation of Indigenous offenders and Indigenous victims, seeking to give full force and effect to the principles laid down in the *Criminal Code* and the Supreme Court of Canada’s judgment in *R. v Gladue* and subsequent cases.

- [Vulnerable Victims and Witnesses](#) (VUL 1) – This policy now includes an expanded set of factors to be addressed in order to support an individual’s effective participation in the criminal justice system, including additional advice specific to files involving Indigenous victims.
- [Youth Criminal Justice Act – Extrajudicial Measures](#) (YOU 1.4) – This policy has been extensively revised to mirror changes in the ALT 1 policy (above), giving youth the benefit of the same considerations for alternatives to prosecution as those that apply to adults.
- [Introduction](#) – A definition of the term “Indigenous persons” has been added to the *Introduction* to the Crown Counsel Policy Manual.
- [Bail – Adults](#) (BAI 1) – This policy has been updated to reflect recent amendments to the *Criminal Code* and the Supreme Court of Canada’s decision in *R. v Zora*. It provides Crown Counsel with additional guidance for the exercise of prosecutorial discretion, emphasizing the need for principled restraint in all bail matters, with particular attention to the circumstances of Indigenous accused.
- Additional policies have been revised or updated as part of the ordinary process of policy review, to align with revisions to the *Alternatives to Prosecutions – Adults* (ALT 1) policy, above, or to reflect developments in the law. The other affected policies are linked here: [Hate Crimes](#) (HAT 1); [Intimate Partner Violence](#) (IPV 1); [Sexual Offences Against Adults](#) (SEX 1); and [Trial Without Jury – Section 469 Offences – Consent of Attorney General](#) (TRI 1).

Since the initial release of the Indigenous Justice Framework in 2019, the BCPS has continued to focus on three areas: changes to policy and practice; education and training of BCPS Crown Counsel and staff; and, enhancing partnership and engagement with Indigenous communities. “These additional policy changes mark one more step along the path to changing the status quo for Indigenous persons involved in the criminal justice system” said Peter Juk QC, Assistant Deputy Attorney General and head of the BCPS.

“Acting alone, Crown Counsel cannot eliminate systemic discrimination or the unacceptable overrepresentation of Indigenous persons in the criminal justice system. But Crown Counsel play a critical role and must be part of the solution. Working with Indigenous people and our justice system partners, we are confident we can keep our communities safe, while making the criminal justice system better and fairer for all British Columbians,” said Juk.

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