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23-08

BC Prosecution Service releases preliminary bail data

Victoria – The BC Prosecution Service (BCPS) today released preliminary results of data about bail hearings collected during seven weeks in late 2022 and early 2023. The data shows:

- Crown Counsel sought restrictive conditions on the release of the accused in roughly three quarters of the bail hearings they conducted (from a low of 70% to a high of 79%)
- Crown Counsel sought pre-trial detention of the accused in roughly one quarter of the bail hearings they conducted (from a low of 21% to a high of 30%)
- Judges ordered pre-trial detention of the accused in less than half the bail hearings in which Crown Counsel sought pre-trial detention (from a low of 30% to a high of 47%)
- Judges ordered pre-trial detention of the accused in about one tenth of all bail hearings overall (from a low of 7% to a high of 14%)
- Crown Counsel sought pre-trial detention in roughly half the bail hearings they conducted for crimes of violence with an accused who was also on bail on other outstanding matters (from a low of 42% to a high of 61%)
- Judges ordered pre-trial detention in roughly a quarter of all bail hearings involving crimes of violence with an accused who was also on bail on other outstanding matters (from a low of 16% to a high of 35%)

Data was collected during the two weeks before and the three weeks after November 22, 2022, when the BCPS implemented a revised *Bail – Adults* (BAI 1) policy. Two more weeks' worth of data were collected in February and March of this year.

The revised BAI 1 policy, implemented in response to a [directive](#) issued by the Attorney General, requires Crown Counsel to seek the pre-trial detention of repeat violent offenders unless Crown Counsel are satisfied, having regard to all the circumstances, that the risk to public safety posed by the accused's release can be reduced to an acceptable level by bail conditions.

Due to the relatively small size of the current data sample and the limited periods covered, no clear conclusions can be drawn about whether the directive and the resulting policy changes had a measurable impact on the bail process or the outcomes of bail hearings. It would be unreasonable to assume that a BCPS policy change alone could produce any particular outcome at a bail hearing. This is true for several reasons:

- The law of bail is established by the federal Parliament under the *Criminal Code* and only Parliament can change that law
- Changes to the BCPS bail policy do not change the governing federal law
- In applying the BCPS bail policy to any particular case, Crown Counsel are still bound by the governing federal law under the *Criminal Code*
- Under the *Criminal Code* Crown Counsel have no legal authority to release or detain any accused person
- Under the *Criminal Code* the police do have authority to release a person they arrest, with or without conditions (the BCPS data does not reveal how frequently that occurs)
- If the police do not release them, an arrested person must be brought before a judge for a bail hearing
- Crown Counsel may make submissions to a judge at a bail hearing seeking the pre-trial detention of an accused person on specific legal grounds (i.e., where detention is necessary to ensure their attendance in court, for the protection or safety of the public, or to maintain confidence in the administration of justice) but only the judge can order the pre-trial detention of an accused person
- In making their decisions Judges must apply the governing federal law under the *Criminal Code* and are not bound by the BCPS bail policy
- Every accused person is presumed to be innocent and has a constitutional right to reasonable bail
- Every case is unique and the particular facts of the case necessarily affect the outcome in every bail hearing

Summaries of the preliminary results of the manually collected bail data are attached to this Media Statement.

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BC Prosecution Service - Preliminary Bail Data - Weeks 1 to 5 and 6 to 7
Preliminary Results for Manually Collected Data

Measure	2022 Nov7-Dec11					2023 Feb27-Mar12	
	Week 1 Nov7-13	Week 2 Nov14-20	Week 3 ¹⁵ Nov21-27	Week 4 Nov28-Dec4	Week 5 Dec5-11	Week 6 Feb27-Mar5	Week 7 Mar6-12
# BAIL HEARINGS ¹²	375	404	410	428	344	383	381
# Accused files dealt with ³	660	715	766	742	572	683	720
Avg # Accused files per hearing	1.8	1.8	1.9	1.7	1.7	1.8	1.9
# Hearings - accused identified as Indigenous ⁵	82	84	77	64	65	72	76
# Hearings - at least one of the accused files dealt with a breach ⁶	128	123	128	131	109	111	96
# Hearings - at least one of the accused files dealt with an outstanding warrant ⁷	213	245	280	256	223	235	235
# Hearings - at least one of the accused files dealt with a violent offence ⁸	192	210	210	224	180	179	180
# Hearings - at least one of the accused files dealt with an intimate partner violence matter ⁹	116	106	91	114	83	98	105
# Hearings - Crown sought restrictive bail conditions but not a detention order ¹⁰	286	297	287	317	273	300	298
# Hearings - Crown sought a detention order ¹¹	89	107	123	111	71	83	83
# Hearings - detention order was granted ¹³	42	45	58	45	29	32	25
% Hearings - accused identified as Indigenous	22%	21%	19%	15%	19%	19%	20%
% Hearings - at least one of the accused files dealt with a breach	34%	30%	31%	31%	32%	29%	25%
% Hearings - at least one of the accused files dealt with an outstanding warrant	57%	61%	68%	60%	65%	61%	62%
% Hearings - at least one of the accused files dealt with a violent offence	51%	52%	51%	52%	52%	47%	47%
% Hearings - at least one of the accused files dealt with an intimate partner violence (IPV) matter	31%	26%	22%	27%	24%	26%	28%
% Hearings - Crown sought restrictive bail conditions but not a detention order	76%	74%	70%	74%	79%	78%	78%
% Hearings - Crown sought a detention order	24%	26%	30%	26%	21%	22%	22%
% Hearings - detention order was granted - as proportion of all bail hearings	11%	11%	14%	11%	8%	8%	7%
% Hearings - detention order was granted - as proportion of bail hearings where Crown sought detention	47%	42%	47%	41%	41%	39%	30%

Data Source: Manual data collection by staff of BC Prosecution Service (BCPS) to capture data not readily available in the province's criminal case tracking system (JUSTIN).

Notes:

1. Data is for in-custody accused bail hearings on BC Prosecution Files only - Federal Prosecution files excluded.
2. Number of in-custody accused bail hearings. A bail hearing was recorded once for each substantive bail appearance per accused per day. It was recorded only for a completed bail process, once the judicial interim release decision was rendered. Out-of-custody applications relating to bail (including the vacating of warrants) and routine consent remands were excluded.
3. Number of accused files dealt with since an in-custody accused bail hearing could deal with one or more accused files.
4. For each in-custody accused bail hearing, data captured key information for all accused files dealt with at the hearing. If an accused had multiple files, criteria such as accused Indigenous status, presence of a violent offence, etc., was recorded if any of their files met that particular criteria. For example, if an accused had 3 files dealt with at a bail hearing and at least one of their files was for a violent matter, and at least one of their files included a breach (even if they are different files), then staff would record "yes" against each of those criteria.
5. Accused bail hearing where the accused self identifies as Indigenous.
6. Accused bail hearing where at least one of the accused's files relates to a file(s) being added to a bail hearing where the accused is on bail on an (other) outstanding matter(s) which is back before the court pursuant to section 524.
7. Accused bail hearing where at least one of the accused's files had an outstanding warrant(s) at the time of arrest.
8. Accused bail hearing where at least one of the accused's files includes an offence involving violence or a weapon (in the broad s. 2 definition). This includes any offence where violence is used, threatened, or attempted.
9. Accused bail hearing where at least one of the accused's files involves an intimate partner violence matter.
10. Number of in-custody accused bail hearings where the Crown sought strict conditions. This could include conditions to protect public safety by restricting an accused's contact or movement, but excludes outright detention.
11. Number of in-custody accused bail hearings where the Crown sought detention.
12. The total number of hearings in #10 and #11 above equals the total number of bail hearings reported in this table.
13. The number of detention orders granted reflects judicial decisions at a bail hearing to order an accused to be detained in custody.
14. November 4, 2023 - BCPS Crown Counsel directed to manually tracking data on in-custody accused bail hearings for a five week period starting November 7, 2023.
15. November 22, 2023 - BCPS implemented a revised Bail – Adults (BAI 1) policy.

BC Prosecution Service - Preliminary Bail Data - Weeks 1 to 5 and 6 to 7
Preliminary Results for Manually Collected Data - Violent Offence, Breach and Outstanding Warrant Files

Measure	Measure	2022 Nov7-Dec11					2023 Feb27-Mar12	
		Week 1 Nov7-13	Week 2 Nov14-20	Week 3 ³ Nov21-27	Week 4 Nov28-Dec4	Week 5 Dec5-11	Week 6 Feb27-Mar5	Week 7 Mar6-12
At least one of the accused files dealt with a violent offence ⁴	# Bail Hearings ^{1,2,3}	192	210	210	224	180	179	180
	# Hearings - Crown sought a detention order	56	66	74	72	49	52	50
	# Hearings - detention order was granted	25	27	35	30	17	21	15
	% Hearings - Crown sought a detention order ⁷	29%	31%	35%	32%	27%	29%	28%
	% Hearings - detention order was granted ⁷	13%	13%	17%	13%	9%	12%	8%
At least one of the accused files dealt with a breach ⁵	# Bail Hearings	128	123	128	131	109	111	96
	# Hearings - Crown sought a detention order	48	54	63	57	41	46	34
	# Hearings - detention order was granted	22	24	34	23	19	21	15
	% Hearings - Crown sought a detention order	38%	44%	49%	44%	38%	41%	35%
	% Hearings - detention order was granted	17%	20%	27%	18%	17%	19%	16%
At least one of the accused files dealt with an outstanding warrant ⁶	# Bail Hearings	213	245	280	256	223	235	235
	# Hearings - Crown sought a detention order	41	56	63	53	32	42	43
	# Hearings - detention order was granted	13	27	31	19	10	15	18
	% Hearings - Crown sought a detention order	19%	23%	23%	21%	14%	18%	18%
	% Hearings - detention order was granted	6%	11%	11%	7%	4%	6%	8%
At least one file dealt with a violent offence AND at least one file dealt with a breach	# Bail Hearings	69	68	62	69	56	55	46
	# Hearings - Crown sought a detention order	29	34	38	39	30	30	22
	# Hearings - detention order was granted	11	12	22	17	12	15	9
	% Hearings - Crown sought a detention order	42%	50%	61%	57%	54%	55%	48%
	% Hearings - detention order was granted	16%	18%	35%	25%	21%	27%	20%
At least one file dealt with a violent offence AND at least one file dealt with an outstanding warrant	# Bail Hearings	81	107	115	113	102	93	86
	# Hearings - Crown sought a detention order	21	37	32	34	23	22	23
	# Hearings - detention order was granted	6	17	16	12	7	10	9
	% Hearings - Crown sought a detention order	26%	35%	28%	30%	23%	24%	27%
	% Hearings - detention order was granted	7%	16%	14%	11%	7%	11%	10%
At least one file dealt with a violent offence AND at least one file dealt with a breach AND at least one file dealt with an outstanding warrant	# Bail Hearings	24	37	34	38	29	24	17
	# Hearings - Crown sought a detention order	9	19	19	21	17	11	6
	# Hearings - detention order was granted	1	8	12	8	6	7	4
	% Hearings - Crown sought a detention order	38%	51%	56%	55%	59%	46%	35%
	% Hearings - detention order was granted	4%	22%	35%	21%	21%	29%	24%

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Notes:

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4. Accused bail hearing where at least one of the accused's files includes an offence involving violence or a weapon (in the broad s. 2 definition). This includes any offence where violence is used, threatened, or attempted.
5. Accused bail hearing where at least one of the accused's files relates to a file(s) being added to a bail hearing where the accused is on bail on an (other) outstanding matter(s)
6. Accused bail hearing where at least one of the accused's files had an outstanding warrant(s) at the time of arrest.
7. Number of in-custody accused bail hearings where the Crown sought detention.
8. The number of detention orders granted reflects judicial decisions at a bail hearing to order an accused to be detained in custody.
9. November 22, 2023 - BCPS implemented a revised Bail – Adults (BAI 1) policy.