

2012/2013

Annual Report on Children and Youth Victims

B.C.'s Prosecution Service
Criminal Justice Branch
Ministry of Justice

Courageous, Fair and Efficient – a Prosecution Service that has the confidence of the public.

INDEX

Introduction 3

B.C.'s Prosecution Service – An Overview 4

 Role of Crown Counsel 4

The Criminal Justice Process 5

 Investigation 5

 Charge Assessment 5

 Bail 6

 Prosecution and Sentencing 6

Applicable Criminal Justice Branch Policies 7

Testimonial Accommodations for Children and Vulnerable Witnesses 8

Training for Crown Counsel 9

Nature of offences against Children and Youth 10

Results 12

Reasons for Stays of Proceedings 14

Executive Summary 15

Definitions 17

INTRODUCTION

The Representative for Children and Youth (RCY) issued a special report entitled “*The Impact of Criminal Justice Funding Decisions on Children in BC*” in March of 2012. This report was presented to the Legislative Assembly of British Columbia under Section 20 of the *Representative for Children and Youth Act*.

The report concerned the judicial stay of proceedings (JSOP) of a serious case where there were allegations of child sexual abuse by a parent in a family of recent immigrants to Canada, for whom English was not their first language. The case had been terminated in January 2010 by the judge because the accused’s rights to a trial within a reasonable time as guaranteed by the *Canadian Charter of Rights and Freedoms* had been violated. The delay had resulted from failed attempts to obtain an accredited translation and transcription of witness statements into English and provide them to the defence.

The B.C. Prosecution Service – the Criminal Justice Branch of the Ministry of Justice (the Branch) recognizes that this was an unacceptable outcome and has taken specific action. The Branch and police have cooperated to address the issues of translation requirements by developing mutually-accepted guidelines to assist police in identifying when an accredited translator may be reasonably necessary. Capacity was enhanced within the JUSTIN electronic case management system (used by the Ministry of Justice, which interfaces with PRIME, the police records management system) to flag files involving child victims and witnesses in order to facilitate special assignment and proactive case management. Enhanced flagging and current and amended Branch policies ensure that child victims and witness are identified as vulnerable participants in prosecution files for the purpose of notification, charge assessment and file preparation.

Additionally, the Branch amended its policy on prosecuting cases involving child/youth victims to require that prosecutors bring to the attention of their supervisors, for the purpose of review and consultation on next steps, any problematic circumstances that threaten the ability to carry on effectively with the prosecution. This policy amendment was distributed to Crown Counsel effective June 29, 2012 and included a direct link to the RCY’s special report as a learning document. The substantive change to the Branch’s Child and Vulnerable Youth Policy (CHI 1) consists of the following addition:

In any case in which a procedural or investigative barrier arises (such as locating a witness, arranging for translation of file materials, etc.) which may adversely affect the prosecution, Crown Counsel should ensure that the file is reviewed by the Administrative Crown, or another senior Crown Counsel, to address the issue in a timely manner.

In response to the RCY’s special report, the Branch also undertook to produce an annual report on the outcomes of criminal prosecutions involving child victims. This is the first report for the fiscal year 2012/2013.

B.C.'S PROSECUTION SERVICE – AN OVERVIEW

B.C.'s Prosecution Service conducts and supervises prosecutions and appeals that fall within its statutory mandate, in all levels of courts.

Responsibility for the administration of justice in Canada falls to the provinces and territories. The Branch has the legal obligation for the prosecution function in British Columbia, including assessing all information forwarded by police and other investigative agencies to determine whether charges should be laid. (Police and investigative agency reports are referred to as Reports to Crown Counsel or RCCs.) The Prosecution Service is headed by the Assistant Deputy Attorney General, supported by a number of Directors and, in each region, by a Regional Crown Counsel. Prosecutors in B.C. are lawyers, known as Crown Counsel. Crown Counsel are officers of the court and perform their duties according to legislation and Branch policy, including Canada's Criminal Code, British Columbia's *Crown Counsel Act*, and the Crown Counsel Policy Manual.

While the Criminal Justice Branch is part of the Ministry of Justice, the prosecutorial function is itself protected from inappropriate influence. The Crown Counsel Act makes this protection transparent. For example, the Attorney General, an elected official, may direct the Assistant Deputy Attorney General on individual prosecutions, but must do so in writing and the direction must be published in the B.C. Gazette.

ROLE OF CROWN COUNSEL

Crown Counsel exercise a quasi-judicial function under our system of law and have a paramount duty of seeing that justice is done in each case. When a crime is committed against a victim, it is also a crime against our society as a whole. Therefore, prosecutors do not represent individual victims; they perform their function on behalf of the community. In practice, this means that, while Crown Counsel conduct prosecutions vigorously, their first duty is to ensure the trial process is fair to all, the evidence is presented thoroughly and accurately and the integrity of the justice process is maintained. In other words, their duty is not to obtain a conviction at any cost, but to ensure justice is done and perceived to be done – fairly, impartially, efficiently and respectfully.

Crown Counsel are entrusted with the prosecution of all Criminal Code and provincial regulatory offences and appeals in British Columbia. The federal Public Prosecution Service prosecutes matters under the *Controlled Drugs and Substances Act* and other federal statutes.

THE CRIMINAL JUSTICE PROCESS

INVESTIGATION

When a possible crime is reported to an investigative agency like the police, or the agency itself identifies a possible crime, the agency will investigate and decide whether the incident warrants forwarding a RCC to the Criminal Justice Branch. If the matter involves a drug or other federal offence, the RCC will go to the Public Prosecution Service of Canada. Crown Counsel do not investigate offences. It is the responsibility of the investigative agency, which functions independently from the Branch, to do so and to exercise its own discretion on whether to forward a RCC for charge assessment and prosecution.

CHARGE ASSESSMENT

When Crown Counsel receive a RCC from police or another investigative agency, they assess whether charges should be laid against the person or persons named in the RCC. British Columbia is one of three provinces in Canada where prosecutors decide whether criminal charges should be laid.

The expertise of Crown Counsel in conducting charge assessments adds significant value to B.C.'s criminal justice system by ensuring only viable cases proceed. Oversight of the charging process by Crown Counsel acts as a further safeguard against miscarriages of justice.

Prosecutors independently assess every RCC in accordance with the Criminal Justice Branch's charge assessment guidelines. These guidelines form part of the Crown Counsel policy manual (ag.gov.bc.ca/prosecution-service/policy-man), a public document that guides prosecutors in using their discretion.

A two-fold test is applied:

- Crown Counsel decides whether there is a substantial likelihood of conviction based on the evidence presented in the RCC. In other words, whether there is a strong, solid case of substance to present to the court.
- Once Crown Counsel is satisfied there is a substantial likelihood of conviction, the second part of the test is whether a prosecution is required in the public interest.

Prosecutors can decide that no charges should be laid, charges should be laid or the accused person should be referred to an alternative measures program rather than go to court. The proportion of accused persons approved to court by Crown Counsel annually is approximately 82.7% per year +/- 0.4%¹.

To guard against delay in the criminal justice process, prosecutors conduct their charge assessments in as timely a manner as is possible consistent with a thorough analysis and principled decision-making (93% are assessed within 30 working days of receipt).²

For a few complex cases, the charge assessment process may take a considerable period of time.

¹ CJB Annual Report 2011/2012

² CJB Annual Report 2011/2012

BAIL

If an accused has been arrested and is in custody at court, Crown Counsel will consider whether it is necessary to protect a member of the public by seeking a detention order pending trial or conditions of release including prohibiting contact and communication with victims and witnesses, reporting to a bail supervisor, weapons, drugs/alcohol prohibitions. This seeks to prevent the accused from interfering with the integrity of the prosecution or committing further offences against the victim, witnesses or the public.

PROSECUTION AND SENTENCING

If, after they have reviewed the RCC, Crown Counsel decide a charge or charges should be laid, the matter will go to court. Although one of their responsibilities is to keep victims informed about the justice process, prosecutors do not act for victims of a crime. Rather, Crown Counsel conduct the prosecution on behalf of the whole community.

Crown Counsel conducts prosecutions and appeals in every level of court: the Provincial Court of B.C., B.C. Supreme Court, B.C. Court of Appeal and Supreme Court of Canada. If an accused pleads guilty or is found guilty after a trial, Crown Counsel are responsible for making a recommendation on sentence. These recommendations are based on the particular circumstances of the offender, the offence, the penalties as prescribed in the Criminal Code, and case law. Crown Counsel can also provide Victim Impact Statements to the court for consideration. The judge makes the final sentencing decision.

APPLICABLE CRIMINAL JUSTICE BRANCH POLICIES

The Criminal Justice Branch has several policies that guide Crown Counsel with respect to the type of files that may involve children and youth victims and witnesses, recognizing the paramount need to protect children.

These include:

- **CHI 1 – Children and Vulnerable Youth – Crimes Against**, which states (in part):
Prosecution of physical, sexual and exploitative crimes against children and vulnerable youth should be pursued wherever the evidentiary test under CHA 1 is met.
 - *Preparation for Hearing*
 - *Administrative Crown Counsel should ensure that the procedures in their offices provide for:*
 1. *Early identification and assignment of the case;*
 2. *Wherever possible, assignment of the case to Crown Counsel who has received specialized training;*
 3. *Early identification and notice to the victim of accommodations available under section 486;*
 4. *Vertical prosecution - every effort should be made to have these cases handled by the same Crown Counsel from beginning to end. As long as a positive rapport has developed with the child or youth, that Crown Counsel should remain with the case until final disposition;*
 5. *Priority in scheduling to ensure that the case moves expeditiously through the criminal justice system.*
 - *In any case in which a procedural or investigative barrier arises (such as locating a witness, arranging for translation of file materials, etc.) which may adversely affect the prosecution, Crown Counsel should ensure that the file is reviewed by the Administrative Crown, or another senior Crown Counsel, to address the issue in a timely manner.*
- **CHA 1 – Charge Assessment**
- **SPO 1 – Spousal Violence**
 - *Section 14 of the Child, Family and Community Services Act requires every person who has reason to believe that a child has been or is likely to be physically, or emotionally harmed or sexually abused or exploited, by the child's parent (as defined), to promptly report the matter to a designated agent (child care worker) of the Ministry of Children and Family Development. It is anticipated that the police will make a report where required. Notwithstanding that the police have, or may have, made a report, where Crown Counsel have reason to believe that a child needs protection as defined by the Act, they are required by law to make a report.*
- **ALT 1 – Alternative Measures**
- **RES 1 – Resolution Discussions**
- **ABD1 – Abduction of Children**

As referenced earlier, the Branch has recently revised its CHI 1 policy to address the concerns of the RCY in the March 2012 report with respect to resolving issues that may be impeding the prosecution of a file involving children or vulnerable youth.

TESTIMONIAL ACCOMMODATIONS FOR CHILDREN AND VULNERABLE WITNESSES

Crown Counsel, the police and victim services work together to assist victims and witnesses in preparation for court, during the trial process and in victim/witness safety planning, which includes assisting with referrals to community resources.

Accommodations to assist children and other vulnerable victims and witnesses through the trial process are available under s. 486 to s.486.3 and s.715.1 of the *Criminal Code*. Crown Counsel are able to make applications for a court order to permit these accommodations, whenever appropriate.

Such accommodations include:

- an order for the exclusion of the public during witness testimony;
- for a support person for the witness;
- for the child or youth to give testimony from a different room or behind a screen or other device;
- for cross examination by appointed counsel where the accused is unrepresented; and
- presentation of evidence by videotape, may also be an option, provided by s.715.1 of the *Criminal Code*, if appropriate. Utilization of such a procedure does not preclude the child or youth witness from having to testify.

Crown Counsel will also apply for applicable Bans on Publication of the identity of a victim or witness under s.486.4 and s.486.5 of the *Criminal Code*.

TRAINING FOR CROWN COUNSEL

The Criminal Justice Branch continues to strengthen its prosecutorial capacity with respect to cases involving children and vulnerable youth. The Branch is committed to the ongoing training of Crown Counsel and administrative staff on cases involving child witnesses and offences against children. Prosecutors have access to an intranet-based resource counsel site designed to provide assistance to Crown Counsel prosecuting these cases. On September 19, 2012, a Branch-wide webinar was held in order to familiarize Crown Counsel with the web resources available to them and reminding them of the availability of designated resource counsel who can be called for advice.

Crown Counsel have access through the vulnerable witness resource counsel intranet site to manuals, case law summaries, links to relevant intranet/internet sites, and other educational materials specific to prosecutions involving child/youth victims. These web pages, available only to the Prosecution Service, are updated regularly to include BC Court of Appeal cases dealing with child/youth witness issues or cases involving offences against children.

At the November 2012 Crown Counsel Conference there were sessions on child pornography and luring investigations conducted by the RCMP Integrated Child Exploitation (ICE) unit; and a session on victim safety planning conducted by our colleagues in the Victim Services and Crime Prevention division of the Ministry of Justice.

There was also training provided on November 16, 2012 as part of an Administrative Staff Virtual Conference, which addressed the role of Branch legal assistants in assisting child and vulnerable witnesses.

Senior Crown Counsel resources have been expanded to assist their colleagues around the province when issues arise in child/youth victim cases or cases involving child witnesses.

Many Crown Counsel were able to participate in a two-day conference on February 4 and 5, 2013 in Vancouver called “Working Together to Address Child Abuse.” Family Services of Greater Vancouver hosted this conference with funding from the Ministry of Justice. The Branch’s professional development office helped plan the conference along with advisors from the Ministry of Children and Families and the Victim Services and Crime Prevention division of the Ministry of Justice. This multi-disciplinary conference allowed Crown Counsel to meet and discuss best practices with other criminal justice and child welfare partners. The sessions included:

- understanding children subjected to trauma;
- internet luring and child sex tourism;
- understanding aboriginal youth and children;
- understanding fetal alcohol spectrum disorder and best practices for communicating with children living with FASD; and
- benefits of multi-disciplinary approach to child abuse cases.

The sessions from this conference were recorded, and are being made available to all Branch staff.

The Branch is planning ongoing training throughout 2013/2014 via webinars in order to keep Crown Counsel up to date on evidentiary issues and case law about offences against children. With regular

programming, the Branch aims to increase awareness of best practices for handling cases involving children and establish lines of communication for Crown Counsel facing difficult issues in future cases.

NATURE OF OFFENCES AGAINST CHILDREN AND YOUTH

As previously noted, police agencies investigate reported alleged crimes. If warranted, police or other investigative agencies submit a RCC for charge assessment. This report can include multiple charges, accused, witnesses or victims. This is what is referred to as a "file." A single file may include multiple accused persons charged with one or more offences each, and potentially multiple victims and witnesses. For the purpose of this report, the Branch is reporting on only those files that fall under its mandate. Federal Prosecution Service and other agencies' files are excluded.

Once a final decision by Crown Counsel or a Judge has been made in regards to the file, it is considered to be "concluded." The conclusion is recorded per accused person on the date and at the court registry where the matter concluded. In the fiscal year 2012/2013, 3.5% of concluded prosecution files that were conducted by the Branch involved one or more child/youth identified as a victim of crime (Table 1). Comparatively, this number is significantly higher in files where a young person is the accused (11.7%) versus files where the accused is an adult (2.9%).

Table 1 – Accused Persons Concluded with a Child/Youth Victim Identified

Fiscal 2012/2013
Data Source: JUSTIN

	Accused Adults	Accused Young Persons	Total Accused
Accused Persons with one or more Child/Youth Victim(s) – Identified	1,696	528	2,224
Total Accused Persons Concluded	58,664	4,497	63,161
% of total Accused with one or more Child/Youth Victim(s) – Identified	2.9%	11.7%	3.5%

An individual may be a victim of crime, a witness to a crime or both. The Branch delineates an individual's participation in a prosecution as either 'identified' or 'required.' 'Identified' individuals are known victims and/or witnesses of the alleged crime. If an individual's testimony is deemed necessary for trial, then their classification changes to 'required.' Required individuals may not necessarily have to testify at trial. The case may be resolved, or their evidence may be admitted.

Table 2 – Accused Persons Concluded with a Child/Youth Victim Required

Fiscal 2012/2013
Data Source: JUSTIN

	Accused Adults	Accused Young Persons	Total Accused
Accused Persons with one or more Child/Youth Victim(s) – Required	1,484	482	1,966
Total Accused Persons Concluded	58,664	4,497	63,161
% of total Accused with one or more Child/Youth Victim(s) – Required	2.5%	10.7%	3.1%

The Criminal Code of Canada encompasses a large number of offence categories. The Canadian Centre for Justice Statistics (CCJS), in co-operation with the policing community, collects police-reported crime statistics through the Uniform Crime Reporting Survey (UCR). The UCR Survey was designed to measure the incidence of crime in Canadian society and its characteristics since 1962. In

1988, a new version of the survey was created, UCR2, and is since referred to as the "incident-based" survey, in which data on characteristics of incidents, victims and accused are captured.

The UCR Survey (now known as UCR2) classifies incidents according to the most serious offence (MSO) occurring in the incident (generally the offence which carries the longest maximum sentence under the Criminal Code). In categorizing incidents, violent offences always take precedence over non-violent offences. For example, an incident involving both a breaking and entering offence and an assault is counted as an incident of assault. The tables below compare accused persons with non-violent offences and those with offences that the UCR2 classifies as 'violent'. 2.3% of the total accused persons offences involved violence against one or more child/youth victim(s) (Table 5), and the majority of these are sexual assaults, uttering threats, serious assaults, or common assaults (Table 6).

Table 3 – Total Victims Required – Non-Violent vs. UCR2 Violent Offences

Fiscal 2012/2013
Data Source: JUSTIN

	Required Victims – Total	Required Child/Youth Victims	% Required Child/Youth Victims
Total Victims	32,542	3,018	9.3%
Victims of Non-Violent Offences	14,892	841	5.6%
Victims of Violent Offences (UCR2)	17,650	2,177	12.3%

**Table 4 – Total Accused Concluded
Non-Violent and UCR2-defined Violent Offences**

Fiscal 2012/2013
Data Source: JUSTIN

	Total Accused Persons	% of Total Accused
Total Accused Persons Concluded (Adults + Young Persons)	63,161	100.0%
Non-Violent Offences - Total	48,497	76.8%
Violent Offences - Total	14,664	23.2%

**Table 5 – Total Accused Concluded
Non-Violent and UCR2-defined Violent Offences
with One or More Child/Youth Victims**

Fiscal 2012/2013
Data Source: JUSTIN

	Total Accused Persons	Total Accused Persons Concluded with one or more Child/Youth Victim(s)	% of Total Accused Persons Concluded with one or more Child/Youth Victim(s), per offence type
Total Accused Persons Concluded (Adults + Young Persons)	63,161	1,966	3.1%
Non-Violent Offences - Total	48,497	489	1.0%
Violent Offences - Total	14,664	1,477	2.3%

2012/2013

**Table 6 – Total Accused Concluded by UCR2-defined Violent Offence Type
with One or More Child/Youth Victims**

Fiscal 2012/2013

Data Source: JUSTIN

		Total Accused Persons Concluded	Total Accused Persons Concluded with one or more Child/Youth Victim(s)	% of Total Accused Persons Concluded with one or more Child/Youth Victim(s), per offence type
Total Accused Persons Concluded (Adults + Young Persons)		63,161	1,966	100.00%
Non-Violent Offences - Total		48,497	489	24.9%
Violent Offences - Total		14,664	1,477	75.1%
Violent Offences (UCR2) – by sub- category	Sex Assault	1,055	489	24.9%
	Robbery	920	94	4.8%
	Serious Assault	2,599	196	10.0%
	Arson - Disregard for human life	20	0	0.0%
	Criminal Negligence (causing death or bodily harm)	6	2	0.1%
	Extortion - Without Firearm	28	3	0.2%
	Homicide	105	3	0.2%
	Criminal Harassment	296	17	0.9%
	Kidnapping	104	10	0.5%
	Firearms - Discharging with intent	2	0	0.0%
	Uttering Threats	1,918	112	5.7%
	Assault - Common	7,601	550	28.0%
	Intimidation - Threatens violence	6	1	0.1%
Abduction	4	0	0.0%	

RESULTS

Tables 7 and 8 show the results from concluded matters from both the total accused concluded and those that have a child/youth victim. The result rates for both adult and young person accused are generally stable and consistent over time. Table 7 shows that with respect to CJB files overall for the total accused concluded during the fiscal year 2012/2013:

- 67.3% of files resulted in a guilty finding
- 1.8% resulted in Peace Bonds
- 2.2% were found not guilty
- 28.3% were stayed
- 0.4% were 'other'

2012/2013

Table 7 – Results by Non-Violent and Violent Offences

Fiscal 2012/2013
Data Source: JUSTIN

	Total Accused (Adults + Young Persons) Concluded	Guilty	Peace Bonds	Not Guilty	Stayed	Other
Total Accused Persons Concluded	63,161	42,538	1,107	1,397	17,884	235
Non-Violent Offences - Total	48,497	34,995	230	652	12,451	169
Violent Offences - Total	14,664	7,543	877	745	5,433	66

**Table 8 – Results for the Total Accused Concluded with One or More Child/Youth Victims
by UCR2-defined Violent Offence Type**

Fiscal 2012/2013
Data Source: JUSTIN

	Total Accused Concluded with one or more Child/Youth Victim(s)	Guilty	Peace Bonds	Not Guilty	Stayed	Other	
Total Accused Persons Concluded - with one or more Child/Youth Victims	1,966	1,224	83	109	544	6	
Non-Violent Offences – Total Accused Concluded with one or more Child/Youth Victims	489	375	7	12	95	0	
Violent Offences - Total Accused Concluded with one or more Child/Youth Victims	1,477	849	76	97	449	6	
Violent Offences (UCR2) – by sub-category	Sex Assault	489	278	14	57	135	5
	Robbery	94	54	0	8	31	1
	Serious Assault	196	134	14	8	4	0
	Arson - Disregard for human life	0	0	0	0	0	0
	Criminal Negligence (causing death or bodily harm)	2	2	0	0	0	0
	Extortion - Without Firearm	3	2	0	0	1	0
	Homicide	3	1	0	0	2	0
	Criminal Harassment	17	10	5	0	2	0
	Kidnapping	10	3	1	3	3	0
	Firearms - Discharging with intent	0	0	0	0	0	0
	Uttering Threats	112	75	8	3	26	0
	Assault - Common	550	289	34	18	209	0
	Intimidation - Threatens violence	1	1	0	0	0	0
Abduction	0	0	0	0	0	0	

Table 8 shows that with respect to results for the total accused persons concluded involving offences with one or more child/youth as victim(s) during the fiscal year 2012/2013:

- 62.3% of files resulted in a guilty finding
- 4.2% resulted in Peace Bonds
- 5.5% were found not guilty
- 27.7% were stayed
- 0.3% were 'other'

REASONS FOR STAYS OF PROCEEDINGS

A matter may be stayed at any point along the prosecution, and for a variety of reasons. As an example, a Crown Counsel may determine that the matter no longer meets the charge assessment standard. Plea negotiations may result in an accused pleading guilty to some counts on a file, or another file, with a stay of proceedings directed on other matters. There may be evidentiary issues (changes in evidence, deterioration, new or unexpected information) which provide a defence or lessen the likelihood of conviction such that Crown Counsel determines they can no longer proceed with the prosecution. In rare cases, there may be a judicial stay of proceedings for cases where an accused's rights under the Charter of Rights and Freedoms may have been breached. The Criminal Justice Branch's historical stay rate (cases stayed by Crown Counsel) is approximately 28 % per annum.

In the fiscal year 2012/2013, a total of 36 accused person's matters were judicially stayed (Table 9), usually because the accused's Charter rights to a trial within a reasonable time were violated. Only one case was judicially stayed that involved charges of violence against a child/youth victim. This matter involved allegations of sexual touching. In May 2012, a Judicial Stay of Proceeding was granted on the third trial date, following two previous adjournments due to the lack of an available judge to hear the trial.

Table 9 – Decisions by Stay Type – Total Accused Persons Concluded, Non-Violent and Violent Offences

Fiscal 2012/2013
Data Source: JUSTIN

	Total Accused Persons Concluded (Adults + Young Persons)	Type of Stay	# of Stays	% of Total Accused Persons Concluded Stayed, per offence type
Total Accused Persons Concluded (Adults + Young Persons)	63,161	Crown Stays	17,848	28.3%
		Judicial Stay	36	0.1%
Accused with Non-Violent Offences	48,497	Crown Stays	12,464	25.7%
		Judicial Stay	25	0.1%
Accused with Violent Offences	14,664	Crown Stays	5,422	37.0%
		Judicial Stay	11	0.1%

Table 10 – Decisions by Stay Type Total Accused Persons Concluded With One or More Child/Youth Victims

Fiscal 2012/2013
Data Source: JUSTIN

	Total Accused Persons with one or more Child/Youth Victims Required	Type of Stay	# of Stays	% of Total Accused with one or more Child/Youth Victims Required Stayed, per offence type
Total Accused Persons Concluded (Adults + Young Persons)	1,966	Crown Stays	543	27.6%
		Judicial Stay	1	0.1%
Accused with Non-Violent Offences	489	Crown Stays	95	19.4%
		Judicial Stay	0	0.0%
Accused with Violent Offences	1,477	Crown Stays	448	30.3%
		Judicial Stay	1	0.1%

EXECUTIVE SUMMARY

In response to the recommendations contained in the special report by the Representative for Children and Youth entitled “*The Impact of Criminal Justice Funding Decisions on Children in BC*” (March 2012), the Criminal Justice Branch has taken several steps.

The Branch's Child and Vulnerable Youth policy (CHI1) has been amended to include a process to ensure that Administrative Crown Counsel or other senior Crown Counsel are to review any file where a procedural or investigative barrier has arisen which may adversely affect a prosecution, and address the issue in a timely manner.

The Branch and police have cooperated to develop mutually-accepted guidelines to address the issues of translation requirements.

Capacity has been enhanced within the Ministry of Justice electronic case management system (JUSTIN) to flag files involving child victims and witnesses in order to facilitate special assignment and proactive case management.

The Branch has also committed to producing an annual report on the prosecution of criminal cases involving children as victims, beginning the fiscal year 2012/2013.

The Branch concluded 63,161 criminal files in the fiscal year 2012/2013, and of these, 58,664 were against accused adults and 4,497 against accused young persons. A victim or witness will be 'identified' as such in JUSTIN and if thought to be required for court, their status will be changed to 'required.' This does not mean the victim or witness will necessarily have to testify. Files may be resolved short of trial, or defence counsel may admit the evidence of some witnesses.

There were 32,542 victims required in Branch prosecutions in 2012/2013, of which 3,018 (9.3%) were children/youths.

Of all concluded prosecutions, 3.1% had one or more child/youth as a victim to a crime as a required witness. For accused young person prosecutions, 10.7% of those files involved one or more child/youth victims, whereas for accused adult prosecutions, 2.5% of files involved child/youth victims.

With respect to CJB files overall for the fiscal year 2012/2013:

- 67.3% of files resulted in a guilty finding
- 1.8% resulted in Peace Bonds
- 2.2% were found not guilty
- 28.3% were stayed
- 0.4% were 'other'

With respect to results for files involving offences with a child/youth as victim for the fiscal year 2012/2013:

- 62.3% of files resulted in a guilty finding
- 4.2% resulted in Peace Bonds
- 5.5% were found not guilty

- 27.7% were stayed
- 0.3% were 'other'

Stays of proceedings are used by Crown Counsel (and in rare cases, judges) to end a prosecution. This may occur for a number of reasons. The case may no longer meet the Crown's charge assessment standard in that there may no longer be a substantial likelihood of conviction (problems with the evidence have arisen), or it may no longer be in the public interest to proceed with a prosecution. Stays of Proceedings may also result as part of guilty plea resolutions with respect to other files. The stay rate has remained constant over time at approximately 28%.

At this time, the Ministry of Justice does not have the ability to produce data that can explain the aggregate reasons for stays of proceedings. However, as part of an ongoing process to ensure the Branch has the most useful management information available to effectively plan and allocate resources, in March 2013, the Criminal Justice Branch completed its provincial implementation of the File Closing Survey. Crown Counsel is using this tool at the conclusion of each file, to record case outcomes and reasons. It is anticipated that in fiscal 2013/14, the Branch will have the ability to produce information regarding the aggregate reasons for file outcomes, including those where a child / youth has been identified as a victim of violence.

DEFINITIONS

Accused – An individual charged with one or more offences under the *Criminal Code*, Federal or Provincial Statute.

Adult – A person 18 years of age or older.

Child/Youth – a person under 18 years of age.

Child/Youth Victim – a person under 18 identified as having a primary role as a victim in a prosecution. They may or may not have a secondary role as a witness.

Concluded – a final decision has been made with respect to the accused person's file. The conclusion is recorded per accused person in relation to the court registry where the matter was concluded and in relation to the date that the matter concluded.

File – a matter before the court. It may have:

- one or more accused;
- charged with one or more offences;
- any number of identified victims, including none; and
- any number of identified witnesses, including none.

Identified – a person identified as a known victim or witness of an alleged crime.

Other – (as part of a court finding) Accused person either has passed away or has been found not criminally responsible by reason of a mental disorder.

Peace Bond – A recognizance under the *Criminal Code* which involves the accused being placed on a court order with specific conditions for a period of time. This does not involve a criminal conviction.

Required – a person identified as a known victim or a witness of an alleged crime, and whose testimony is deemed necessary for trial.

Serious Assault – An amalgamation of offences under the *Criminal Code* that includes Aggravated Assault, Assault Causing Bodily Harm, Assault with a Weapon, amongst others, as classified by the UCR2 Survey.

Stay – a process suspending court proceedings without resolution of guilt or innocence. A stay may be directed by either Crown or by a Judge. In BC, Crown Counsel use a stay of proceedings to terminate a prosecution. In rare and particular cases, Crown Counsel stays may be re-commenced within a year of a stay of proceedings.

Young Person – a person less than 18 years of age, as defined by the *Youth Criminal Justice Act*.