
NEWS RELEASE

For Immediate Release
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July 15, 2010

Ministry of Attorney General

TIMELY REVIEWS AND MORE DISCLOSURE FOR SPECIAL PROSECUTORS

VICTORIA – In a report on the special prosecutors system, provided to B.C. Attorney General Michael de Jong, QC; Stephen Owen, vice-president of external, legal and community relations for the University of British Columbia, calls for regular six-month updates to improve timeliness of charge assessments, more frequent review and renewal of the special prosecutors' list and more stringency in identifying potential conflicts of interest.

Owen also concludes that the system remains a fundamentally sound mechanism for ensuring fair and unbiased prosecutorial deliberation in the most sensitive cases.

The review was requested by the attorney general following an incident in which a special prosecutor unexpectedly revealed a conflict of interest in a case he had been charged to investigate involving a senior member of government.

“Mr. Owen has done a thorough job of reviewing the current process for appointing special prosecutors in B.C., and in identifying explicit improvements that need to be made to improve the timeliness and impartiality of this important practice,” said de Jong. “I fully concur with his conclusions and recommendations and believe that by implementing all these changes, British Columbians can continue to have confidence in this important prosecutorial process. I thank Mr. Owen for his valuable contribution to the justice system.”

Owen was charged with assessing whether the special prosecutor system met the overriding public interests of fairness, accountability and public confidence. His 18-page report, provided to the attorney general July 8, states the overall prosecution system works well and that special prosecutors should be limited to a very few, highly sensitive cases. Specific recommendations call for an annual review of the special prosecutors list; a review of each appointee on the list every five years; requiring special prosecutors to provide time assessments for their investigations; and the requirement that prosecutors, or their firms, who made a political donation to a member of the legislature's campaign not take on cases involving that member.

“The prosecution system in B.C. is highly respected, unique in Canada and insulated by law from political or other improper interference,” said Owen. “The periodic appointment of senior criminal lawyers in private practice as special prosecutors in highly sensitive cases simply gives further confidence to the public that the system is above reproach.

“This review confirms this high standard and recommends procedural changes in the appointment process of special prosecutors to further emphasize their independence from

improper influence and accountability to the attorney general for the highest standards of service to justice.”

“I have shared the report with Robert Gillen, assistant deputy attorney general for the criminal justice branch and have asked that that he implement all of the recommendations contained in the report,” said de Jong.

Owen’s report is at:

<http://www.ag.gov.bc.ca/prosecution-service/media-statements/pdf/SpecialProsecutorReview.pdf>.

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A backgrounder follows.

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BACKGROUND

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OWEN RECOMMENDATIONS ON SPECIAL PROSECUTION SYSTEM

Changes arising from the July 8, 2010 report on B.C.'s special prosecution system include:

- To keep cases moving in a timely way, needed resources and time estimates will be identified when special prosecutors are appointed. The assistant deputy attorney general will request regular updates from the special prosecutor and senior investigating police officers.
- The special prosecutors list will be reviewed annually and include appointees from around the province.
- An appointee's inclusion will be reviewed once every five years by the assistant deputy attorney general, deputy attorney general and Law Society of B.C. president.
- To protect against improper influence or lowering of prosecutorial standards, the use of special prosecutors will not be expanded. Caution will be taken to ensure against conflicts of interest and delays in proceedings.
- Prior to finalizing the appointment of a particular lawyer as a special prosecutor, the assistant deputy attorney general will meet with them to probe possible conflicts of interest (real, perceived or potential).
- When an MLA is investigated, no special prosecutor will be appointed who either personally donated or whose firm has donated to the MLA's campaign.

Owen headed a 1990 public inquiry that led to adoption of the provincial Crown Counsel Act (http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96087_01) under which special prosecutors are appointed.

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