

Crown agent costs on the rise

By Cristin Schmitz

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Ottawa paid private law firms nearly \$41 million to prosecute drug and other cases in 2011 — a record tab expected to jump this year as new mandatory minimum sentences come into force.

Of the total price tag for tax, customs, fisheries and other federal prosecutions done by the private bar last year, \$35.3-million was spent on drug offences — up more than 3 per cent from 2010, according to records obtained by *The Lawyers Weekly* from the Public Prosecution Service of Canada (PPSC) under the *Access to Information Act*.

Several leading Crown agents said they expect their already busy caseload to rise once the omnibus *Safe Streets and Communities Act* (Bill C-10) kicks in.

"Anytime you get a mandatory minimum, obviously the ability to try to resolve the case [without a trial] becomes much more difficult," said Clarke Burnett of Pushor Mitchell of Kelowna, B.C., which billed \$903,185 for federal prosecutions last year.

With more trials on the horizon, the PPSC is bracing for higher Crown agent and staff costs in 2012, even as it grapples with operational budget cuts and escalating salary demands from its staff prosecutors.

"We are seeing a government that is ramming through tough-on-crime after tough-on-crime legislation, and now they're cutting to the bone," Lisa Blais, the new president of the Association of Justice Counsel, told *The Lawyers Weekly*.

Although Department of Justice and PPSC lawyers are complaining loudly about their pay, Crown agents are not particularly outspoken about their much-below-market hourly rates, which range from \$90 for lawyers with up to five years at the bar to \$126 for lawyers with 10 years' or more experience.

Last year, the three top-billing Crown agents were all B.C.-based firms, doing mostly drug prosecutions: Jones & Co. of Nanaimo (\$2.8 million); Murchison Thomson & Clarke of Surrey (\$2.8 million); and J.M. Ledressay and Associates of Langley (\$2.3 million).

For the most part, Crown agents work on low- to moderate-complexity files, often involving marijuana grow operations or "dial a dope" operations (drugs ordered by telephone). That enables PPSC staff prosecutors to focus on multi-kilo heroin, cocaine or methamphetamine cases, as well as complex cases involving wiretaps, conspiracies, gangs, foreign jurisdictions, organized crime, or terrorism.

The prosecution service says it awards agents' five-year fixed-term contracts in places where it does not have a regional office, or where it is not practical or cost-effective for staff counsel to handle cases.

Agents told *The Lawyers Weekly* that PPSC officials scrutinize files closely to ensure that the public is getting appropriate and cost-effective service.

"We strive to deliver a high-quality product, and that really is the watchword here," said J. Michael Ledressay. "Every bill is taxed," he said. "And, in particular, I know that our charge review — which is essentially the practice of determining whether or not a file should, or should not, be prosecuted — is also monitored very closely, and our files are audited to ensure that we are not prosecuting files that should not be in court."

Another Crown agent, who did not want to be named, added that "the government would spend far in excess of what they pay my firm" if it were to pull all its prosecutions in-house. "Many law firms bill out articling students at a rate equivalent to what we can charge for a 10-year-plus lawyer."

However, the work remains attractive because it offers a steady and reliable cash flow, and valuable court experience to young litigators.

PPSC spokesperson Dan Brien said the PPSC has been allotted an additional \$6.5 million within its \$149-million prosecutions budget this year to deal with new mandatory minimum penalties.

Headoffice Name	Province	2011
JONES & COMPANY	BRITISH COLUMBIA	\$ 2,842,217.66
MURCHISON, THOMSON & CLARKE LLP	BRITISH COLUMBIA	\$ 2,780,569.04
J.M. LEDRESSAY & ASSOCIATES	BRITISH COLUMBIA	\$ 2,258,407.00
MOUSSEAU, DELUCA, MCPHERSON, PRINCE	ONTARIO	\$ 1,035,769.97
PETER WENGLOWSKI PROFESSIONAL	ONTARIO	\$ 930,607.41
PUSHOR MITCHELL LLP	BRITISH COLUMBIA	\$ 903,185.48
KAREN E. JOKINEN	ONTARIO	\$ 875,622.14
LAKES WHYTE LLP	BRITISH COLUMBIA	\$ 810,347.90
KELLY, GREENWAY, BRUCE	ONTARIO	\$ 701,340.48
RONALD J. POIRIER PROFESSIONAL	ONTARIO	\$ 687,782.20
LEE INGLIS ALBRECHT	ALBERTA	\$ 687,029.59
RIOPELLE GROUP PROFESSIONAL	ONTARIO	\$ 633,654.39
DAIGLE AND ASSOCIEES	NEW BRUNSWICK	\$ 563,924.93
ALLAN FRANCIS PRINGLE LLP	BRITISH COLUMBIA	\$ 473,933.89
WYRZYKOWSKI & ROBB	ONTARIO	\$ 465,164.45
BRADLEY LAW OFFICE	ONTARIO	\$ 460,692.33
BROTHERS & BURDEN	NFDL. & LABRADOR	\$ 444,386.15
COLGUR & YOUNG	BRITISH COLUMBIA	\$ 430,458.91
TALSTRA LAW CORPORATION	BRITISH COLUMBIA	\$ 416,462.70
THOMPSON, LEROSE & BROWN	BRITISH COLUMBIA	\$ 405,822.17
		\$ 18,807,378.79
ALL OTHER AGENTS		\$ 21,653,870.23
		\$ 40,461,249.02