

LETTER OF UNDERSTANDING # 13

Re: Weekend Bail Assignment

This LOU is in response to the determination by the British Columbia Prosecution Service (BCPS) that it was necessary, in light of the decision of the Alberta Court of Queen's Bench in *Matter of Hearing Office Bail Hearings (Re)*, 2017 ABQB 74, to make changes to its business operations. In particular, the BCPS determined that it was necessary to develop a model for Crown Counsel to assume conduct of all weekend charge approval and bail, consistent with the bail provisions of the *Criminal Code* as laid out in the Alberta Court of Queen's Bench decision.

The BCPS recognized the impact of these changes on Crown Counsel and consulted with the British Columbia Crown Counsel Association (BCCCA). The BCPS recognizes the BCCCA as the exclusive bargaining agent for all Crown Counsel, as set out in Section 4.1(2) of the *Crown Counsel Act*. The parties confirm that Article 2 of the Agreement between the Government of the Province of British Columbia and the British Columbia Crown Counsel Association, which states that the "employer will not enter into, or continue, any employment or contractual relationship with Crown Counsel which conflicts with this agreement" applies in relation to the Weekend Bail Assignment.

Other affected justice stakeholders that were consulted include the Office of the Chief Judge, the Justice Centre, Court Services Branch, the Public Prosecution Service of Canada, the Legal Services Society, and all police agencies (RCMP and Municipal) across the province.

The model developed to address the Alberta decision requires the BCPS to operate seven days a week, initially in each of five regional hub locations as follows: Victoria; 222 Main Street; Surrey; Kelowna; and Prince George. Staffing levels for Crown Counsel at each office are determined by the BCPS consistent with the Collective Agreement.

The intention of this Letter of Understanding is to clarify the terms of the appointment and ensure that the compensation for the Weekend Bail Crown Counsel Assignment is consistent with the compensation for other Crown Counsel and with the Collective Agreement.

As a result, the following terms apply to the Weekend Bail Crown Counsel Assignment:

1. The regular working days are Saturday, Sunday, Monday, and Tuesday, including any statutory holiday which falls on those days, except Christmas and Boxing Day. The parties agree that this schedule constitutes a full time equivalent assignment when taking into account other Crown Counsel

assignments and the requirement to work statutory holidays.

2. Job sharing, part-time and mixed assignments may be considered, subject to the operational requirements of the specific Region and agreement by the parties.
3. Annual leave requests are subject to operational requirements. Given the specific requirement of working statutory holidays, annual leave requests will normally not include a statutory holiday falling on the regular work days. Each day of leave will be recorded as one work day.
4. For payroll accounting purposes only, working days will be recorded as 35 hours divided by 4.
5. The Weekend Bail Assignments will be filled by way of a Request for Expression of Interest (EOI), or via external posting if the positions cannot be filled by internal candidates, and will be for a term of up to three years, with the possibility of extension upon mutual agreement. For those Assignments filled via Requests for Expression of Interest, at the end of a term, if the Assignment is not extended or renewed, the Crown Counsel will be offered a position within the Region in which he or she worked prior to the Assignment, unless the BCPS, BCCCA, and affected Crown Counsel agree otherwise. The BCPS agrees that if it does not intend to extend a Weekend Bail Assignment or offer to extend a Weekend Bail Assignment following the conclusion of the term, it will provide the affected Crown Counsel and the BCCCA with at least three (3) months' notice that the Assignment will not be extended.
6. Regular Crown Counsel who cover the Weekend Bail Crown Counsel Assignment on days when the assigned Weekend Bail Crown Counsel is unavailable due to annual leave or otherwise, and those who cover statutory holidays that do not form part of the Weekend Bail schedule (as noted above) will be compensated at the rate of two (2) days for each Saturday or Sunday worked; and, three (3) days for each statutory holiday day worked.

August 23, 2018


Province of British Columbia


British Columbia Crown Counsel Association