

Authority and Responsibilities

Attorney General

The Attorney General is the chief law officer of the Crown. The authority of the office flows from powers conferred by the common law and by statute. Amongst other duties, the Attorney General is responsible for the prosecution of offences under the *Criminal Code*, the *Youth Criminal Justice Act*, some other federal statutes, and under all provincial statutes containing enforcement provisions.

The Attorney General, through the Public Prosecutions Branch, provides advice to independent police and other enforcement agencies on legal aspects of investigations and prosecutions. Not every alleged breach of the law will necessarily result in prosecution. The articulation of criteria governing the laying of charges by the police, and the decision to continue or terminate prosecutions are important attributes of the Attorney General's discretion. In advising which cases to prosecute, the Attorney General, through Crown Prosecutors as agents, exercises a broad discretion in the public interest.

The Attorney General discharges prosecution responsibility through the Public Prosecutions Branch and as a general rule is not actively involved in day-to-day prosecution decisions. Personal involvement of the Attorney General is usually reserved for cases involving exceptional public interest or significant issues of public policy. Notwithstanding, it is clearly appropriate for the Attorney General to become involved in any case, given the mandate of the office.

The principle of the independence of the Attorney General in matters of public prosecutions is strongly entrenched as a constitutional convention. This means that the Attorney General will not allow partisan political considerations to affect prosecution decisions. While convention allows the Attorney General, in respect of non-partisan considerations, to obtain information and seek advice from any appropriate source including colleagues in Cabinet, the course of action adopted in particular cases is in the final analysis the sole decision of the Attorney General. The Attorney General does not act on direction from cabinet colleagues, other members of the Legislature, or anyone else in the personal discharge of public prosecutions responsibility.

The Attorney General also designates Crown Prosecutors to appear throughout the province as legal counsel on behalf of the Minister of Family and Community Services in child protection cases under the *Family Services Act* and in cases involving interprovincial and international custody orders enforcement.

The Attorney General is prepared to answer in the Legislative Assembly, at an appropriate time, for personal prosecution decisions as well as for the general operation of the Public Prosecutions Branch

Deputy Attorney General

The Deputy Attorney General, as Chief Executive Officer of the Department of Justice and the Office of the Attorney General, has responsibility for the superintendence of the prosecutions system, including involvement in matters of significance not warranting the personal involvement of the Attorney General. Under the *Criminal Code*, the Deputy possesses the same powers as the Attorney General.

Director of Public Prosecutions

The Director of Public Prosecutions is responsible for the day-to-day conduct of all prosecutions within the mandate of the Attorney General. The Director acts as chief counsel for the Attorney General in providing advice on the conduct of prosecutions and in the administration of the system. The Director acts through the Regional Crown Prosecutors in discharging both administrative and operational responsibility for all prosecution activity within the province.

Regional Crown Prosecutors

Regional Crown Prosecutors are responsible for local office management and are responsible for supervision of all prosecutions within a defined region. This includes supervision of Crown Prosecutors as well as attendance in and service to the courts. Regional Crown Prosecutors report directly to the Director of Public Prosecutions.

Crown Prosecutors

Crown Prosecutors have a unique and important role within the criminal justice system. They act as agents of the Attorney General in the prosecution of cases before the courts and as such are public officers engaged in the administration of justice.

The role of the Crown Prosecutor is to provide legal advice on request to the police and other law enforcement agencies during the course of an investigation, to determine on pre-charge review whether a prosecution is justified, and when a charge proceeds, to assume responsibility for the conduct of the prosecution.

Crown Prosecutors are responsible for the prosecution of all offences under the *Criminal Code*, the *Youth Criminal Justice Act*, and under public provincial statutes, as well as charges brought to them by municipal police forces under the *Controlled Drugs and Substances Act*, the *Fisheries Act*, and the *Small Vessels Regulations* under the *Canada Shipping Act*.

A Crown Prosecutor's duty is to provide full disclosure of a case to the accused or defence counsel, as required by law, and to present at trial evidence that is relevant to the alleged offence in order that justice may be done through a fair trial upon the merits.

The law, as stated by the Supreme Court of Canada in the leading case of *R v. Boucher*, [1955] S.C.R. 16 at pages 23-24 requires that the prosecution should "...be done firmly and pressed to its limit but also done fairly." The role of a Crown Prosecutor is characterized by the court as excluding any notion of winning or losing and is "...a matter of public duty which in civil life there can be none charged with greater personal responsibility. It is to be performed with an ingrained sense of the dignity, the seriousness and the justness of our judicial proceedings."

The Supreme Court recently affirmed the function of the Crown Prosecutor in *R v Cook*, [1997] 1.S.C.R. 1113 at paragraph 21 as follows:

"Nevertheless, while it is without question that the Crown performs a special function in ensuring that justice is served and cannot adopt a purely adversarial role towards the defence... it is well recognized that the adversarial process is an important part of our judicial system and an accepted tool in our search for the truth.... Nor should it be assumed that the Crown cannot act as a strong advocate within this adversarial process. In that regard, it is both permissible and desirable that it vigorously pursue a legitimate result to the best of its ability. Indeed, this is a critical element of this country's criminal law mechanism. In this sense, within the boundaries outlined above, the Crown must be allowed to perform the function with which it has been entrusted; discretion in pursuing justice remains an important part of that function."