

Public Prosecutions New Brunswick	Organizational and Supervisory Responsibilities	DPP Guideline 26 March 10, 2003
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General

All criminal prosecutions are carried out in the name of the Crown. The Crown is represented before the Courts by a public officer, the Attorney General. The Attorney General, as the law officer of the Crown, is answerable publicly for the manner in which public prosecutions are conducted. It is because the Attorney General is held publicly accountable for the decisions which are his/her responsibility that Crown Prosecutors must also be held accountable for decisions made in the criminal justice process.

The primary role of the Crown Prosecutor is to give advice to police as to whether a criminal charge is disclosed by the facts, whether a prosecution is justified, and when a charge proceeds, to assume responsibility for the conduct of the prosecution.

The primary role of the Regional Crown Prosecutor is to exercise a supervisory role over individual Crown Prosecutors. This includes the power to overrule the Crown Prosecutor and to make decisions in areas involving an exercise of discretion. Those areas concern the powers that are delegated to the Crown Prosecutor by the Attorney General and they include the following: the power to proceed with a case or to withdraw a case in court, the power to enter a stay of proceedings, the power to assume the conduct of a privately instituted prosecution, the power to prefer an indictment and the power to institute an appeal.

The primary role of the Director of Public Prosecutions in this context is to supervise the Regional Crown Prosecutors, and through them, the Crown Prosecutors.

The Director of Public Prosecutions and the Regional Crown Prosecutors must perform their supervisory roles in such manner so as not to interfere with the Crown Prosecutor's professional legal opinion on any matter. It would be improper, for example, for the Director or the Regional

Crown Prosecutor to request or demand that a Crown Prosecutor change his/her legal opinion. In cases where, after appropriate discussion, there remain conflicting opinions between the Regional Crown Prosecutor and the Crown Prosecutor, the Regional Crown Prosecutor's view should prevail.

Overview of Authority and Responsibilities

An overview of authority and responsibilities of the Director of Public Prosecutions, Assistant Director of Public Prosecutions, Regional Crown Prosecutors, and Crown Prosecutors are included in The Attorney General's Prosecutions Policy.

AG Introductory Material -Authority and Responsibilities

Detailed Responsibilities: Director of Public Prosecutions

The Director of Public Prosecutions carries out the Attorney General's day to day responsibility for the conduct of all criminal and quasi-criminal prosecutions within the Province. The Director is the Attorney General's chief counsel in deciding whether or not to initiate prosecutions and in the conduct of all such prosecutions. The Director is also responsible for providing advice through the Deputy Attorney General to the Attorney General on all criminal and quasi-criminal matters. The Director in carrying out his responsibilities shall:

1. directly supervise all Regional Crown Prosecutors in the Province and through them ensure that all policies of the Attorney General are followed;
2. keep the Attorney General's office informed on the ongoing activities of the Public Prosecutions Branch and matters of public concern related thereto;
3. liaise with the Deputy Attorney General in order to exchange information and advice concerning prosecutions, policy and ongoing investigations;
4. alert the Deputy Attorney General to potential problems relating to the general administration of justice, including the courts, the police and enforcement of legislative provisions;
5. advocate or give advice to the Deputy Attorney General on new programs, objectives and legislative proposals;
6. deal with disagreements between the Crown and members of the law enforcement community referred by a Regional Crown Prosecutor;
7. review and coordinate all Crown appeals;
8. meet regularly with heads of police departments and law enforcement agencies with respect to the administration of the criminal and quasi-criminal law;

9. meet with Regional Crown Prosecutors on a regular basis to coordinate the operations of the Branch;
10. ensure the dissemination of important legal cases and other information to all Crown Prosecutors;
11. supervise the overall administrative operation of the Branch;
12. perform such other functions as assigned from time to time by the Attorney General or Deputy Attorney General.

Detailed Responsibilities: Regional Crown Prosecutors

The Regional Crown Prosecutor is responsible for all prosecutions in his/her region to the Director of Public Prosecutions who in turn is responsible to the Deputy Attorney General, and ultimately to the Attorney General.

The Regional Crown Prosecutor reports directly to the Director of Public Prosecutions. The relationship between the Regional Crown Prosecutor and the Director has two major aspects – administrative and prosecutorial.

With respect to the administrative aspect, the Regional Crown Prosecutor is responsible for local office management. This role also involves supervision of Crown Prosecutors and office staff and supervision of their attendance and service to the various courts.

With respect to the prosecutorial aspect, the Regional Crown Prosecutor prosecutes cases and is responsible for the supervision of all prosecutions within the region and is responsible to the Director.

In carrying out these responsibilities, the Regional Crown Prosecutor shall:

1. supervise all Crown Prosecutors within the region to ensure all policies of the Attorney General are followed;
2. deal with issues arising between Crown Prosecutors and members of local law enforcement agencies;
3. meet on a regular basis with the Director to discuss and receive instruction on the overall coordination of the Public Prosecutions Branch responsibilities;
4. review and make recommendations to the Director on appeals;
5. forward to the Director those appeals which can be more expeditiously handled from head office;

6. ensure that all courts within the region are provided with prosecutorial service and monitor that service to ensure that it remains at an acceptable level;
7. submit a monthly report on superior court trials and appeals to the Director ;
8. ensure that no stays of proceedings are entered without obtaining the prior approval of the Director;
9. advise the Director of any serious or unresolved citizen complaints on matters such as the handling of cases or the conduct of prosecutors;
10. liaise with the Director to exchange information and offer advice concerning prosecutions policy, and ongoing major investigations;
11. meet with the Director on special projects, new programs and legislation;
12. alert the Director to all issues which might be of interest to the Attorney General, including, but not limited to, potential problems involving the police, law enforcement, the backlog of cases, and the impact of changes in legislation;
13. advise the Director of cases where there is a possibility of an accused spending more than 90 days in custody pending trial in the case of an indictable offence or more than 30 days in custody pending trial in the case of a summary conviction offence;
14. ensure that reasons are recorded by the Crown Prosecutor whenever a charge is withdrawn;
15. refer cases of a particularly unusual complex or time-consuming nature to the Director for assignment in order to avoid disruption of prosecutorial services;
16. perform such other functions as from time to time are assigned by the Director.

Detailed Responsibilities: Crown Prosecutors

Crown Prosecutors must at all times remember that they act as agents for the Attorney General and as such are public officers engaged in the administration of justice. They must follow the Attorney General's public prosecutions policy and be guided by prosecutorial guidelines issued by the Director of Public Prosecutions.

By virtue of our adversary system of justice Crown Prosecutors must discharge their duties with industry, skill and vigor tempered with fairness to see that justice is done through a fair trial on the merits of the case.

With respect to the conduct of any case in court the Crown Prosecutor assigned to the case has the full responsibility to present that case to the best of his/her ability without interference, bearing in mind the prosecutor's role as an agent of the Attorney General and an officer of the court.

Crown Prosecutors must bring to the attention of the Regional Crown Prosecutor all matters which are necessary to enable Regional Crown Prosecutors to fulfill the responsibilities delineated for that office.