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<p>CHAPTER I – CHAPITRE I : Public Prosecution Services Service des poursuites publiques</p>	<p>Readers are referred to the list of Related Documents at the end of this Policy for additional information. Les lecteurs peuvent se référer à la liste des documents connexes notés à la fin de cette politique pour information supplémentaire.</p>	

CONFLICT OF INTEREST

1. Introduction

In certain circumstances there may be the potential for an actual or perceived conflict of interest in the conduct of a prosecution. It may be necessary to refer a matter to an out-of-region Crown Prosecutor or an outside prosecutor in order to avoid an actual or perceived conflict of interest and to maintain public confidence in Public Prosecution Services and the administration of justice.

2. Statement of the Policy

Where a Crown Prosecutor becomes aware of the potential for an actual or perceived conflict of interest, he or she shall, if working in a regional office, notify the Regional Director, or, if working in Specialized Prosecutions, notify the Director of Specialized Prosecutions. Depending on the nature of the conflict of interest (see section 4 below), a Regional Director shall assign the matter to another Crown Prosecutor within the region or forward the matter to the Director of Specialized Prosecutions.

Where a matter is brought to the attention of the Director of Specialized Prosecutions, he or she shall, depending on the nature of the conflict of interest (see section 4 below), assign the matter to another Crown Prosecutor in Specialized Prosecutions or forward the matter to the Director of Public Prosecutions.

Where a matter is forwarded to the Director of Public Prosecutions, he or she shall determine whether to refer the matter to an out-of-region Crown Prosecutor, a Crown Prosecutor in Specialized Prosecutions, or an outside prosecutor. An “outside prosecutor” means an *ad hoc* prosecutor or an out-of-province prosecutor. Where appropriate, the Director of Public Prosecutions shall consult with the Deputy Attorney General before making this determination. The Attorney General has the authority to direct the Director of Public Prosecutions to refer, or to refrain from referring, a matter to an outside prosecutor.

3. Authority for Matters Referred to Outside Prosecutors

The Attorney General retains authority for all matters referred to an outside prosecutor. Ordinarily the Director of Public Prosecutions will retain the superintendency of any matter referred to an outside prosecutor, but there may be circumstances where the Attorney General assumes superintendency of the matter. Where the Attorney General assumes the superintendency of a matter, he or she shall provide to the Director of Public Prosecutions written reasons for this decision.

Where a matter has been referred to an outside prosecutor, the Director of Public Prosecutions or the Attorney General should maintain a file on the matter. The file should include the letter of engagement

and copies of all correspondence with the outside prosecutor, including any directions that have been given to the outside prosecutor.

Where a matter has been referred to an outside prosecutor, the outside prosecutor shall act in accordance with this Manual. Where an outside prosecutor is to provide an opinion to a police agency on a matter that has been referred to him or her by Public Prosecution Services, the Director of Public Prosecution Services or the Attorney General shall ensure that the opinion is consistent with this Manual.

4. Proceeding Where There is an Actual or Perceived Conflict of Interest

In general matters involving actual or perceived conflicts of interest, cases should be referred as follows:

- (a) where the accused is a sitting member, or a candidate in an election, of the Parliament of Canada whose constituency is in New Brunswick, or an agent of such a person, the matter shall be referred to an out-of-province prosecutor;
- (b) where the accused is a sitting member, or a candidate in an election, of the Legislative Assembly of New Brunswick, or an agent of such a person, the matter shall be referred to an out-of-province prosecutor;
- (c) where the accused is a member of the judiciary, the matter shall be referred to an outside prosecutor;
- (d) where the accused is a deputy head, as defined in the *Civil Service Act*, the matter shall be referred to an outside prosecutor;
- (e) where the accused is a Crown Prosecutor or administrator with Public Prosecution Services, the matter shall be referred to an out-of-province prosecutor;
- (f) where the accused is an employee of Public Prosecution Services other than a Crown Prosecutor or administrator, the matter shall be referred to an outside prosecutor;
- (g) where the accused is an immediate family member of an employee of Public Prosecution Services in the region where the offence is alleged to have been committed or where the trial is to be held, the matter shall be referred to an out-of-region Crown Prosecutor or an outside prosecutor;
- (h) where the accused is a close friend of an employee of Public Prosecution Services in the region where the offence is alleged to have been committed or where the trial is to be held, the matter shall be referred to an out-of-region Crown Prosecutor;
- (i) where the accused is a police officer in the region where the offence is alleged to have been committed or where the trial is to be held, the matter shall be referred to an out-of-region Crown Prosecutor. In all cases where the accused is a police officer, the Executive Director shall be advised.
- (j) where the accused is a lawyer who regularly practises criminal law in the region where the offence is alleged to have been committed or where the trial is to be held, the matter shall be referred to an out-of-region Crown Prosecutor;
- (k) where the accused is a lawyer who rarely or never practises criminal law, but who practises in association with one or more lawyers who regularly practise criminal law in the region where the offence is alleged to have been committed or where the trial is to be held, the matter shall be referred to a Crown Prosecutor in the region who does not know the accused or to an out-of-region Crown Prosecutor;

- (l) where a complainant or a victim is an employee of Public Prosecution Services, or an immediate family member of any such person, in the region where the offence is alleged to have been committed or where the trial is to be held, the matter shall be referred to an out-of-region Crown Prosecutor or an outside prosecutor; and
- (m) where a complainant or a victim is a close friend of a Crown Prosecutor in the region where the offence is alleged to have been committed or where the trial is to be held, the matter shall be referred to a Crown Prosecutor in the region who does not know the complainant or victim or to an out-of-region Crown Prosecutor.

This is not an exhaustive list. The Attorney General and the Director of Public Prosecutions will also refer a matter to an outside prosecutor where, in either the Attorney General's or the Director of Public Prosecutions' opinion, not referring the matter to an outside prosecutor could bring the administration of justice into disrepute.

5. Related Documents

Policy 6 *Ad Hoc Prosecutors*