



NOVASCOTIA
PUBLIC PROSECUTION SERVICE

DOCUMENT TITLE:

**PRIVATE PROSECUTIONS
- INTERVENTION BY ATTORNEY GENERAL**

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NOTE:

THIS POLICY DOCUMENT IS TO BE READ IN THE CONTEXT PROVIDED BY THE **PREFACE** TO THIS PART OF THE MANUAL.

CERTAIN WORDS AND PHRASES HAVE THE MEANINGS ESTABLISHED IN THE "**WORDS & PHRASES**" SECTION OF THIS PART OF THE MANUAL.

PRIVATE PROSECUTIONS* INTERVENTION BY THE ATTORNEY GENERAL

General

The Attorney General of Nova Scotia has common law and statutory authority to intervene in a private prosecution. Historically, the power to intervene in a private prosecution has been exercised with restraint. The following policy is intended to reflect that practice and establish procedures for cases where an intervention is being considered.

Responsibility for the Decision to Intervene

The Director of Public Prosecutions, as lawful Deputy of the Attorney General, will decide whether the power to intervene and stop a private prosecution should be exercised.

The local Crown Attorney, as agent of the Attorney General, will decide whether the power to intervene and assume carriage of a private prosecution should be exercised.

Standard to be met for Intervention

The Director of Public Prosecutions may intervene and stop a private prosecution where she/he is satisfied, based upon a review conducted in accordance with the procedures set out herein, that the proceedings are frivolous, vexacious, an abuse of the criminal process or not in the public interest.

The local Crown Attorney will intervene and assume carriage of a private prosecution where, based upon a review conducted in accordance with the procedures set out herein, she/he is satisfied that it is necessary, in the public interest, that she/he do so and that there is a realistic prospect of conviction.

The authority to intervene and stop a private prosecution and the authority to intervene and assume carriage of a private prosecution will be exercised with restraint and only in the clearest of cases.

Interim Intervention

The Director of Public Prosecutions may, where appropriate, intervene to stay a private prosecution to allow time for a review to be conducted in accordance with the procedures set out herein.

*Note: This policy is under review (2002).

Initiation of a Review

Where the person who is the subject of the complaint requests the intervention of the Attorney General, or where in the opinion of the Director of Public Prosecutions, it is appropriate to do so, a review will be initiated to determine whether the prosecution should be stopped.

Where the complainant in a private prosecution requests that the Public Prosecution Service intervene and assume carriage of the prosecution, a review will be initiated.

Conduct of a Review

The Director of Public Prosecutions or his delegate will conduct the review to determine whether to stop a prosecution.

The local Crown Attorney will conduct the review to determine whether to assume carriage of a prosecution.

The person conducting the review, where necessary, will:

- (1) obtain copies of all relevant, available documentation;
- (2) attempt to obtain the views, in writing, of the complainant and the person who is the subject of the complaint;
- (3) where a police investigation of the matter giving rise to the private prosecution has been conducted, obtain a copy of the police report;
- (4) where no police investigation of the matter giving rise to the private prosecution has been conducted, request the police to investigate the matter and file a report;
- (5) attempt to obtain such other statements or information as deemed relevant to the review.

Decision whether to Intervene

In cases where a review is conducted to determine whether to stop a private prosecution, the person conducting the review will make a recommendation, in writing, to the Director of Public Prosecutions whether to intervene. The Director will make the decision whether to intervene and stop the prosecution.

In cases where a review is conducted to determine whether to intervene and assume carriage of a private prosecution, the decision will be made by the local Crown Attorney.

Notice of Decision

A decision to intervene in a private prosecution will be reduced to writing and sent to the Attorney General, the complainant, the person who is the subject of the complaint and, where

applicable, the investigating police agency.

Where the decision to intervene is made by the local Crown Attorney, notice to the Attorney General of the decision should be sent to the appropriate Chief Crown Attorney, who will forward the notice to Head Office.