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<p>CHAPTER III – CHAPITRE III : Professionalism Professionnalisme</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>	

CONDUCT OF CROWN PROSECUTORS

1. Introduction

The Crown Prosecutor must uphold the highest standard of conduct to maintain public confidence in, and ensure the proper administration of, criminal justice.

The honesty and integrity of the Crown Prosecutor demands that he or she remain impartial in the conduct of his or her duties and beyond reproach. The Crown Prosecutor's conduct should inspire confidence and trust, and must not bring Public Prosecution Services into disrepute.

The Crown Prosecutor's conduct shall comply with this Policy, which adopts the Government of New Brunswick's *Policy on Conflict of Interest, AD-2915*; the Law Society of New Brunswick's *Code of Professional Conduct*; the Federation of Law Societies of Canada's *Model Code of Professional Conduct*; and the Canadian Bar Association's *Code of Professional Conduct*.

2. Conduct of Crown Prosecutors

In the leading case, *R. v. Boucher*, the Supreme Court of Canada described the conduct required of the Crown Prosecutor:

Counsel have a duty to see that all available legal proof of the facts is presented: it should be done firmly and pressed to its legitimate strength but it must also be done fairly. The role of prosecutor excludes any notion of winning or losing; his function is a matter of public duty than which in civil life there can be none charged with greater personal responsibility. It is to be efficiently performed with an ingrained sense of the dignity, the seriousness and the justness of our judicial proceedings.¹

The Court further articulated the function of the Crown Prosecutor in *R v Cook*:

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

¹ [1955] S.C.R. 16 at pp. 23-24.

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.²

To ensure that justice is done through a fair trial upon the merits of the case, the Crown Prosecutor must discharge his or her responsibility with industry, skill, and vigor tempered by fairness, on an independent and neutral basis to the exclusion of partisan political influence, and absent any notion of winning or losing.

2.1 Conduct at Court

The Crown Prosecutor shall, at all times while in court, employ proper decorum as expected of an Officer of the Court. In particular, the Crown Prosecutor shall not participate in the following practices:

- (a) discussing ongoing case matters unilaterally with the Judge or allowing ongoing case matters that should properly be handled in open court to be handled in Chambers;
- (b) agreeing to deal with a matter to avoid media attention;
- (c) expressing personal opinions as to the guilt or innocence of the accused; and
- (d) engaging in inflammatory, hostile, or outrageous behavior.

2.2 Confidentiality

The Crown Prosecutor shall not disclose any confidential information except as necessary in the course of his or her duties and in accordance with the law. The Crown Prosecutor shall exercise caution and discretion in handling all personal and confidential information, whether within or outside Public Prosecution Services. This obligation continues to apply after the employment relationship ceases.

Where the Crown Prosecutor is not sure whether information is confidential, he or she shall consult with the Regional Director or the Director of Specialized Prosecutions before disclosing it.

2.3 Independence and Impartiality

2.3.1 Personal Advantage

The Crown Prosecutor shall not base professional decisions upon, or be influenced by, personal advantage, such as a promised or anticipated benefit that he or she hopes to gain.

The Crown Prosecutor shall not use confidential information to advance any personal or private interest or gain.

2.3.2 Non-discrimination

The Crown Prosecutor shall execute his or her duties without discrimination, and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, gender, sexual orientation, age, mental or physical disability, or political association.

2.3.3 Conflict of Interest

The Crown Prosecutor shall refrain from providing advice in relation to the investigation or handling of any case where there may be the potential for an actual or perceived conflict of interest.

² [1997] 1.S.C.R. 1113 at para. 21.

Where the Crown Prosecutor becomes aware of the potential for an actual or perceived conflict of interest, he or she shall notify the Regional Director or the Director of Specialized Prosecutions, who will handle the matter in accordance with Policy 5, Conflict of Interest.

2.3.4 Investigations

The Crown Prosecutor shall be mindful that personal contact with possible suspects and potential exhibits may inadvertently result in the Crown Prosecutor becoming a witness.

2.3.5 Intimidation

The Crown Prosecutor shall notify the Regional Director or the Director of Specialized Prosecutions if any threat or promise is made relating to the exercise of prosecutorial responsibilities no matter how indirect, veiled, or jocular.

2.4 Political Activity

The Crown Prosecutor's participation in partisan political activity is governed by the *Civil Service Act* and is limited to activity that does not influence or otherwise interfere with his or her professional duties.

As with any government employee, the Crown Prosecutor is free to comment on public issues but must exercise caution to ensure that his or her comments do not do any of the following:

- (a) compromise his or her ability to do his or her job;
- (b) risk bringing the administration of justice into disrepute or weaken the public's confidence in legal institutions; or
- (c) contravene professional codes of conduct.

Care should be taken in making comments or entering into public debate regarding the Attorney General's policies or decisions.

The Crown Prosecutor, like other public service employees, must not use his or her position to lend weight to the public expression of a personal opinion.

2.5 Professional Development and Community Involvement

The Crown Prosecutor is encouraged to participate in local and provincial law societies' activities and Canadian Bar Association activities, such as serving on committees or executives, becoming involved in professional lectures, seminars, or forums of a similar professional nature, and otherwise participating in continuing legal educational programs.

In order to avoid any potential conflict of interest and in order to maintain proper operational requirements, the Crown Prosecutor shall advise the Regional Director or the Director of Specialized Prosecutions of such participation before committing to any such activity.

The Crown Prosecutor may also participate in community organizations, such as serving on committees or boards of directors, being involved with school programs, and coaching or officiating sports activities.

2.6 Outside Employment

The Crown Prosecutor shall devote full-time attention to the performance of duties as a Crown Prosecutor and will not practice, carry on, or conduct any business related to the profession or practice of law involving remuneration or engage in any other business, profession, or occupation without prior written approval of the Director of Public Prosecutions.

3. Related Documents

Policy 3 Organization and Mandate
Policy 5 Conflict of Interest
Policy 7 Legal Advice to the Police
Policy 19 Requests for Information
Policy 20 Media Communications
Government of New Brunswick's *Conflict of Interest*, AD-2915
Law Society of New Brunswick's *Code of Professional Conduct*
Federation of Law Societies of Canada's *Model Code of Professional Conduct*
Canadian Bar Association's *Code of Professional Conduct*