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<p>CHAPTER VI – CHAPITRE VI : <b>Particular Proceedings Procédures particulières</b></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>	

## PRIVATE PROSECUTIONS

### 1. Introduction

Subject to certain *Criminal Code* provisions requiring the consent of the Attorney General to institute proceedings, anyone who, on reasonable grounds, believes that a person has committed an offence may lay an information alleging an offence.

### 2. Role of the Attorney General in Private Prosecutions

#### 2.1 Appearance by the Attorney General

Where a private citizen lays an information alleging an offence, the provincial court judge will conduct a hearing, often referred to as a *pre-enquête*, to determine whether process should be issued. These hearings are governed by section 507.1 of the *Criminal Code*, which provides that the Attorney General

- (a) must have received a copy of the Information and reasonable notice of the hearing;
- (b) may attend the hearing, without being deemed to have intervened in the proceedings;
- (c) may cross-examine witnesses called by the informant; and
- (d) may call witnesses and present evidence.

#### 2.2 Intervention by the Attorney General

In accordance with the provisions of the *Criminal Code*, the Attorney General is also entitled to intervene in a private prosecution, at any stage, by doing any of the following:

- (a) directing a stay of proceedings, pursuant to subsection 579(1);
- (b) assuming carriage of the proceedings; or
- (c) presenting evidence or submissions, without assuming carriage of the proceedings, pursuant to section 579.01.

### 3. The *Pre-enquête*

Ordinarily, the Attorney General will refrain from formally intervening in the proceedings until after the *pre-enquête*.

A Crown Prosecutor will be assigned to act as a representative of the Attorney General at the *pre-enquête*.

At the *pre-enquête*, the Crown Prosecutor shall request that the hearing be held in camera. Where the court refuses this request, the Crown Prosecutor shall request that the court issue a publication ban regarding any information that would identify the accused.

The Crown Prosecutor should also state for the record that the Attorney General has not intervened in the proceedings.

#### **4. Intervention by the Attorney General**

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Where the judge has determined that process should be issued, the Crown Prosecutor shall provide to the Director of Public Prosecutions an opinion regarding whether the charge meets the charge approval standard and whether an investigation is warranted.

The Director of Public Prosecutions shall then determine, out of the following options, the most appropriate course of action for the Attorney General:

- (a) to stay the proceedings, either to terminate the prosecution or to allow an investigation by an appropriate investigative agency;
- (b) to assume carriage of the proceedings; or
- (c) to allow the proceedings to continue as a private prosecution.

Generally, the Attorney General will stay the proceedings where the charge approval standard is not met, and will assume carriage of the proceedings where the charge approval standard is met. However, there may be circumstances where it is appropriate to allow the matter to continue as a private prosecution. The Director of Public Prosecutions should consult with the Attorney General in any case where it may be in the interests of justice to allow a private prosecution to continue.

#### **5. Related Documents**

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Policy 11	Pre-charge Screening
Policy 15	Stay of Proceedings and Recommencement of Proceedings