

Policy:

Private Prosecutions

Policy Code:

PRI 1

Effective Date:

January 31, 2025

Cross-references:

[STA 1](#)

The law allows for a person who is not a peace officer or public officer to initiate a prosecution by laying a private Information. Crown Counsel, as agents of the Attorney General, possess exclusive constitutional responsibility for prosecutions within provincial jurisdiction. As such, Crown Counsel will generally intervene, and either proceed with a prosecution or direct a stay of proceedings.

Sections 507.1(3) and (4) of the *Criminal Code* permit the Attorney General (Crown Counsel) to receive reasonable notice of a process hearing, receive a copy of the Information, appear at a section 507.1 process hearing, cross-examine and call witnesses, and present any relevant evidence at the hearing.

Upon receiving notice of a private Information from the court registry, Crown Counsel should first consider whether there may be a real or perceived conflict of interest (*Standards of Conduct for BC Prosecution Service Employees* ([STA 1](#))). If not, Crown Counsel should review the matter and make a charge assessment decision in consultation with Regional Crown Counsel, Director, or their respective deputy, and either proceed with a prosecution or direct a stay of proceedings (*Crown Counsel Act*, section 4(3)(c)). This includes all matters within the prosecutorial jurisdiction of the BC Prosecution Service (BCPS), including offences and preventative recognizances under the *Criminal Code* and provincial offences. The BCPS will advise the informant of the decision.

Crown Counsel may direct a stay of proceedings at any time after a private Information has been sworn, including before a process hearing.¹ This should be done whenever Crown Counsel has sufficient information to complete the charge assessment and concludes that the charge assessment standard is not met.

Crown Counsel should seek an adjournment of any scheduled process hearing if additional time is required to complete the charge assessment or permit further investigation by the

¹ *R v McHale*, 2010 ONCA 361; *R v Olumide*, 2014 ONCA 712

appropriate agency. If Crown Counsel's application for an adjournment of the process hearing is dismissed, Crown Counsel should:

- attend the process hearing, observe the testimony of the informant, and re-apply for an adjournment of the process hearing in order to complete the charge assessment
- if the adjournment is refused, fully participate in the process hearing, which may include cross-examining the informant and any witnesses called by the informant, calling witnesses, presenting evidence and making submissions

When process has been issued, Crown Counsel should obtain a transcript of the process hearing. If an investigation has not already been conducted, Crown Counsel should refer the Information and other materials to the police or other investigative agency, and request that they consider conducting an investigation and preparing a Report to Crown Counsel. If an investigation is completed, Crown Counsel should determine whether the charge assessment standard is met. Crown Counsel should consult with a Regional Crown Counsel, Director, or their respective deputy about whether the charge will be prosecuted by Crown Counsel, a stay of proceedings will be directed, or other actions will be taken. The informant who swore the private Information should be advised of the charge assessment decision.