

Policy:

**Direct Indictment**

Policy Code:

**DIR 1**

Effective Date:

January 31, 2025

Cross-references:

[CON 1](#)

Under section 577 of the *Criminal Code*, the Attorney General or a Deputy Attorney General may prefer an indictment when:

- a preliminary inquiry has not been held
- a preliminary inquiry has been commenced but not concluded
- an accused has been discharged after preliminary inquiry, whether the discharge applies to the whole of the Information or only particular counts

A direct indictment may also be preferred against an accused youth when they are entitled to an election.<sup>1</sup>

Crown Counsel seeking consent to proceed by direct indictment must prepare a formal request and obtain the approval of a Regional Crown Counsel, Director, or their respective deputy. If a Regional Crown Counsel, Director, or their respective deputy approves, they should forward the request to the Assistant Deputy Attorney General (*Consent of the Attorney General* ([CON 1](#))).

Crown Counsel should consider seeking consent for a direct indictment:

- when there is significant danger of harm, either psychological or physical, to victims or witnesses and it is reasonable to believe that they would be adversely affected if required to participate in multiple judicial proceedings
- to protect the identity of a confidential informant
- when the direct indictment will help resolve a serious logistical problem or procedural complication (e.g., absconding co-accused, complexities involving numerous witnesses and lengthy testimony)

- when a preliminary inquiry is likely to cause significant delay such that the trial process would become unmanageable, or result in a successful application for a judicial stay of proceedings under the *Charter of Rights and Freedoms*
- when an expedited trial is advisable due to concerns regarding the availability of a witness to testify (e.g., serious health problems, immigration status, likelihood that a hostile Crown witness may change their evidence)
- to protect ongoing police investigations or security
- to ensure courtroom security
- to avoid multiple proceedings
- when Crown Counsel has been unable to obtain reasonable admissions for the purposes of the preliminary inquiry

Continuing the prosecution by direct indictment after a preliminary inquiry should be considered when:

- the accused was not committed to stand trial on one or more counts due to an error in law or reasoning not supported by the evidence, and the public interest requires a prosecution
- the committal order may be invalid due to procedural error
- there has been a good faith error by the Crown in tendering evidence at the preliminary inquiry
- material new evidence has become available
- material evidence from an additional complainant becomes available and it is in the public interest that a trial be conducted on all charges together