

PROVINCIAL OFFENCES PROSECUTOR POLICY



SECTION	DATE	Approved by By-law Number:-	PAGE	OF
CORPORATE SERVICES	March 15/11	24-2011	1	5
SUBSECTION	SUPERCEDES RESOLUTION NO.		POLICY NO.	
Provincial Offences			AD-5-1	

Purpose

1. This Policy applies to all prosecutions conducted by the City of Kenora pursuant to a Memorandum of Understanding between the Corporation of the City of Kenora and her Majesty the Queen in Right of Ontario dated September 11, 2000.
2. The "Standards for Prosecutions by Municipalities", being Schedule 1 to the said Memorandum of Understanding shall form the basis of this municipal policy.

Reporting

- 3.1 The municipal prosecutor shall report at least once monthly to the municipal solicitor. The municipal solicitor may request additional reports from the municipal prosecutor as may be deemed appropriate to ensure compliance with this policy.
- 3.2 The monthly reports to the municipal solicitor shall include:
 1. The name of each accused who appeared on the court docket.
 2. The name of the charging official and the agency.
 3. The action taken.
 4. If special requests are made by the defendant, any comments regarding same.
 5. If a plea agreement is proposed and accepted, the reasons for same.

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6. If a charge proceeds to trial and defendant is acquitted, the reasons for same.
- 3.3 The municipal prosecutor shall be available to discuss prosecutions with the municipal solicitor as may reasonably be requested.
- 3.4 The municipal prosecutor may at all reasonable times seek direction and counsel from the municipal solicitor.
- 3.5 The provincial prosecutor shall forthwith advise the municipal solicitor of the following circumstances:
- a) An application for judicial review or prerogative writ.
 - b) Anything that may affect the administration, constitutional validity or enforceability of a statute or regulation.
 - c) Where a Notice of Appeal is filed by a defendant.
 - d) Any matter where there could be a substantial public interest in the outcome.

Appeals

- 4.1 The municipal solicitor shall be responsible for all appeals.
- 4.2 The municipal solicitor may, if it is deemed appropriate, assign an appeal to the municipal prosecutor.
- 4.3 The municipal prosecutor shall not file a Notice of Appeal without authorization from the municipal solicitor.

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Discretion

- 5.1 The municipal prosecutor shall exercise reasonable discretion in the prosecution of all charges and may take into consideration the following factors:
- a) Does the evidence support the charge and is there a reasonable likelihood of conviction;
 - b) The seriousness of the offence;
 - c) The defendant's record if any;
 - d) The availability of witnesses; and
 - e) The cost of proceeding to trial.

Conflicts

- 6.1 Where the municipal prosecutor is in a conflict of interest position due to his or her relationship with the defendant or any witness, the municipal prosecutor shall forthwith advise the municipal solicitor in writing and seek directions. The municipal prosecutor shall not have any further involvement in the prosecution of such a charge in which he or she has a conflict except with written authorization from the municipal solicitor.

Influence

- 7.1 In all cases where a third party seeks to exert inappropriate influence on the municipal prosecutor, the municipal prosecutor shall report the matter to the municipal solicitor.

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- 7.2 Inappropriate influence includes, but is not limited to:
- a) Attempts by municipal staff or elected officials to influence the prosecution of specific charges;
 - b) Attempts by charging authorities to influence the prosecution of specific charges; and
 - c) Attempts by any third party to exert influence on the municipal prosecutor to influence a particular prosecution.

Training

- 8.1 The City shall provide the municipal prosecutor with such training and continuing education as may be appropriate and deemed useful from time to time.

Fairness

- 9.1 The municipal prosecutor shall in all cases attempt to treat similar cases in a consistent and fair manner.
- 9.2 The municipal prosecutor shall seek to have the cases for which he or she is responsible adjudicated in an expeditious fashion.

Access to Records

- 10.1 The municipal solicitor shall have access to any records within the Provincial Offences office as may be requested to ensure compliance with this Policy, and applicable standards.
- 10.2 The municipal prosecutor shall have access to records within the Provincial Offences office relating to charges before the Courts.

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- 10.3 a) The municipal prosecutor may request records within the Provincial Offences office not relating to charges before the court, and such request shall include a reason for the request.
- b) The Provincial Offences office may, upon receipt of said request for records,
- i) provide the records, or
 - ii) refer the request to the municipal solicitor.

Provincial Offences Office

- 11.1 The Provincial Offences office shall provide administration with respect to the Memorandum of Undertaking with the Attorney General of Ontario.
- 11.2 The Provincial Offences office shall not provide clerical or administrative assistance to the municipal prosecutor.