



*Manitoba
Department of Justice
Prosecutions*

Guideline No: 2:DIR:1

Policy Directive

Subject:

Direct Indictments

Date:

June 2017

POLICY STATEMENT:

Section 577 of the *Criminal Code* confirms the common law authority of the Attorney General to prefer an indictment in any circumstances including where a preliminary inquiry has not taken place or following a discharge at a preliminary inquiry. In such circumstances the *Code* requires that the indictment be preferred by the Attorney General or Deputy Attorney General and that the consent to the indictment be in writing. In keeping with the convention that the Attorney General does not become involved in individual cases, the Attorney General has sub-delegated the preferment of direct indictments to the Deputy Attorney General.

The decision to grant a direct indictment is entirely within the discretion of the Attorney General and is only reviewable on the basis that proceeding by direct indictment amounts to an abuse of process; *R. v. S.J.L.* 2009 SCC 14.

In order to ensure that the Deputy Attorney General, as the sub-delegated decision maker, can reasonably exercise discretion the department must develop guidelines regarding the materials that must accompany a request for a direct indictment.

Further, the Deputy Attorney General should seek input from defence counsel on the merits of proceeding by direct indictment or any recommendations to ameliorate any potential impacts. The Deputy Attorney General is not required to seek advance input if satisfied that this is not in the public interest to do so. In such circumstances, the Deputy Attorney General should seek input from defence counsel, following the preferment of the direct indictment, regarding any proposals to mitigate any potential impacts of proceeding in this manner.