"CORE" POLICIES

Among the policies applicable to all prosecutions, certain "core" policies tend to have a major impact on the course of a prosecution, or upon the very existence of a prosecution. The policy entitled **The Decision to Prosecute** establishes, *inter alia*, the evidential threshold for prosecutions in Nova Scotia and is thus the principal "charge screening" document. This policy statement responds to the Beveridge-Duncan Report* which recommended in March, 2000 that the PPS formulate "a clear statement of principle with respect to the sufficiency of evidence standard to be applied by the Crown", and further that the PPS formulate "guidelines with respect to the appropriate application of the sufficiency of evidence test". Accordingly, the present policy differs significantly from its predecessor and provides increased assistance in regard to application of the policy.

The current standard, particularly that there be a "realistic prospect of conviction", is explained, at length, in **The Decision to Prosecute** document. This threshold, as recommended by the Law Reform Commission of Canada, lies within the notional gap between a *primae facie* case and a 51% likelihood of conviction. The word "reasonable" does not appear in the current statement of the evidential threshold, Management Committee being of the view that the word "realistic" more accurately describes the concept being established in the policy. The present language also helps to distinguish the Nova Scotia approach from that used in some other jurisdictions which utilize a "reasonable prospect of conviction" threshold and require prosecutors to determine that there is a 51% likelihood of conviction before a charge can proceed.

The public interest considerations, which continue to be an integral part of the charge screening process, are similar to those which were included in previous versions of the policy, but they are discussed more fully in the current policy.

The policy document entitled **Resolution Discussions and Agreements** replaces the previous, outdated, policy document relating to "plea bargaining". The new policy document recognizes that informed discussions and agreements between the counsel involved in a criminal prosecution are a legitimate and necessary part of a modern criminal justice system. This policy document tends to reflect current practices and, hopefully, establishes principles which will assist prosecutors and which will provide necessary transparency.

The policy entitled **Staying Proceedings and Recommencing Proceedings** is an entirely fresh document for the PPS and it is intended to establish consistency in the approach taken by prosecutors when a stay of proceedings is being considered. This document gives tacit approval to the proposition that the power to direct a stay of proceedings is an incidental component of the general authority given to the prosecutor conducting a criminal prosecution. [See Regina v. McKay (1970), 9 C.R. (3d) 378, (Sask. C.A.)].

The **Disclosure** policy is largely unchanged, but reflects current trends in the law. Undoubtedly, this policy will be revised and expanded as new dicta emerge from the courts, particularly in regard to such matters as cybercrime, privacy, and privilege.

*Part of the **Report on the Review of the NSPPS** by the Hon. Fred Kaufman, Q.C., 2002