

Joseph Hickey - OCLA

From: AG CJB ADAG WebFeedback AG:EX [ADAG.Webfeedback@gov.bc.ca]
Sent: October 1, 2014 6:41 PM
To: joseph.hickey@ocla.ca
Subject: Your Email of September 24, 2014 (411456)
Attachments: G__CJB_VictoriaHQ_Shr_STRATEGIC PLANNING OFFICE__MAIL
REGISTRY__HTally__WORKING DRAFTS__CHA1_ChargeAssessmentGuidelines.pdf

Mr. Joseph Hickey
Executive Director
Ontario Civil Liberties Association
Email: joseph.hickey@ocla.ca<<mailto:joseph.hickey@ocla.ca>>

Dear Mr. Hickey:

Your letter of September 24, 2014, addressed to the Honourable Suzanne Anton, Minister of Justice and Attorney General, has been forwarded to the Criminal Justice Branch for a response. The Criminal Justice Branch is responsible for the conduct and supervision of criminal prosecutions in British Columbia.

It is not the role of the Attorney General to become involved in individual cases.

As you may know, section 11 (d) of the Canadian Charter of Rights and Freedoms guarantees any person charged with an offence the right to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal. Crown Counsel work hard to ensure that this principle is not violated, and there are considerable safeguards in our justice system to ensure that the rights of the accused are preserved.

A person accused of an offence is presumed innocent and has a constitutional right to make full answer and defence. The accused, through the trial process, is entitled to test the Crown's case.

When the police conclude an investigation into criminal allegations, they have the discretion to submit a Report to Crown Counsel (RTCC) to the Criminal Justice Branch for a determination on whether its charge assessment standard is met. If charges are approved, a prosecution is initiated.

British Columbia's charge assessment model provides for a careful scrutiny of the investigative report from police to determine whether the evidence supports a substantial likelihood of conviction, and whether the circumstances are such that a prosecution is required in the public interest. Charges can only be approved for offences that are substantiated by the evidence in light of their specific legal requirements. As such, each case involves an individualized assessment based on the file as a whole, with a detailed analysis of the available, admissible evidence and the governing law.

You may wish to review the BC Prosecution's Charge Assessment policy (CHA 1) for more information on public interest factors that favour a prosecution proceeding. We have attached CHA 1 for your reference, and you are able to access the Crown Counsel Policy at the following website:

www.ag.gov.bc.ca/prosecution-service/policy-man/index.htm<<http://www.ag.gov.bc.ca/prosecution-service/policy-man/index.htm>>

The provisions you reference in your letter are the responsibility of the federal Department of Justice and may only be amended by the federal government. As such, you may wish to share

your views with the Honourable Peter Gordon MacKay, QC Minister of Justice and Attorney General of Canada. Minister MacKay is responsible for proposing such amendments to Parliament and may be reached at the following:

The Honourable Peter Gordon MacKay, P.C., Q.C., M.P.
Minister of Justice and Attorney General of Canada
284 Wellington Street
Ottawa ON K1A 0H8
Email: peter.mackay@parl.gc.ca<mailto:peter.mackay@parl.gc.ca>
Telephone: 613-995-1547
Facsimile: 613-992-7910

We hope you find this information of assistance.

Sincerely,

Office of the Assistant Deputy Attorney General Criminal Justice Branch Ministry of Justice