



Policy Directive

*Subject: Prosecution of Firearms Registration Offences
Date: April 2003*

POLICY STATEMENT:

The *Criminal Code* and the *Firearms Act* require anyone possessing a “firearm” as defined in s. 2, *Criminal Code* to hold a valid firearms registration certificate. However, enforcement of the registration provisions with respect to long guns under the *Criminal Code* (rifles and shotguns that fall outside the definition of restricted and prohibited firearms) is generally not in the public interest. Crown Attorneys are directed as follows:

- a) Where an option exists as to whether the charge should be laid under the *Firearms Act* or the *Criminal Code*, the police should always lay the charge under the *Firearms Act*. *Firearms Act* prosecutions will be conducted by the federal Department of Justice. Provincial Crowns will not prosecute trials on these charges.
- b) If a *Criminal Code* registration offence is laid by police (s. 91 or 92), the matter should be referred to the Assistant Deputy Attorney General (ADAG) Prosecutions. The ADAG will then refer it to the Federal Department of Justice for prosecution, with a fiat from the Deputy Attorney General. If the Federal Government declines prosecution, the charge will be stayed on the basis that prosecution by Manitoba is contrary to the public interest¹.
- c) If there are any unexpected costs related to the administration of the Federal Government’s firearms registration scheme, they should be quantified on the file and an accounting will be sought from the Federal Government.

RATIONALE:

The firearms registration offences, although contained in the *Criminal Code*, are essentially a regulatory scheme. Provincial prosecution resources should be directed to the prosecution of substantive criminal offences.

¹ The test for charging has 2 prongs: 1st, is there a reasonable likelihood of conviction; 2nd, is there a public interest in proceeding? Throughout the Commonwealth, including Manitoba, the assessment of the public interest covers a wide range of issues. Here, the relevant criteria include the triviality of the alleged offence or the fact that it is of a “technical” nature only. In a consideration of the public interest, there is a sliding scale: broadly speaking, the graver the offence, the less likely there will be a public interest that will permit a disposal other than prosecution.