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<p>CHAPTER VII – CHAPITRE VII :</p> <p>Interjurisdictional and International Matters Questions intergouvernementales et internationales</p>	<p>Readers are referred to the list of Related Documents at the end of this Policy for additional information.</p> <p>Les lecteurs peuvent se référer à la liste des documents connexes notés à la fin de cette politique pour information supplémentaire.</p>	

EXTRADITION

1. Extradition from Canada

The federal International Assistance Group of the Department of Justice handles all applications by other countries for the return of fugitives from Canada. Public Prosecution Services has no role to play in extraditions from Canada to other countries.

2. International Criminal Matters Referred to Specialized Prosecutions

Where the Crown Prosecutor encounters an international criminal matter to which this Policy relates, he or she shall advise the Director of Specialized Prosecutions, who will assign the matter to an appropriate Crown Prosecutor.

3. Authority to Arrest a Fugitive

Where the police or other investigative agency in another country asks the police or other investigating agency in New Brunswick to arrest a fugitive on the strength of a warrant issued in that country, the Crown Prosecutor should advise the police or other investigative agency that a person cannot be arrested in Canada for the purpose of extradition to another country without that other country first having made an application for extradition to the federal Department of Justice resulting in the issuance of an extradition warrant pursuant to the *Extradition Act*.

If there is a warrant under some other Canadian legislation such as the *Immigration and Refugee Protection Act* or if the accused has committed an offence in New Brunswick, the local police may be able to effect an arrest, but that arrest does not hold the fugitive for extradition purposes.

4. Extradition to Canada

Requests for extradition of accused persons to Canada involving New Brunswick are coordinated by the Director of Public Prosecutions.

To determine whether to request the federal Department of Justice to apply to another country for the extradition of an accused or convicted fugitive, the Director of Public Prosecutions shall consider the following:

- (a) whether the return of the fugitive can be achieved through some alternative process (such as voluntary return or deportation);

- (b) whether the Crown has a strong case to support extradition;
- (c) whether the circumstances of the case and the public interest warrant the initiation of extradition proceedings;
- (d) whether the Crown would be seeking a relatively substantial jail sentence; and
- (e) any pertinent treaties, legislation, or requirements.

4.1 Application Procedure

Where the Director of Public Prosecutions determines that such an application should be made, the following procedure should be followed:

1. Adhere to the deadline provided in the treaty or legislation, if any. Normally there will be a requirement to complete the extradition materials within a certain period of time after the arrest of a fugitive on a provisional warrant, usually forty five (45) or sixty (60) days. If no provisional warrant has been executed, the Director of Public Prosecutions may prepare the extradition materials in due course and the fugitive will be arrested at the time of the application.
2. Obtain checklists, along with a recent precedent, if necessary, and advice on the drafting of the materials from the federal Department of Justice. Extradition generally requires an Affidavit of Law and affidavits of the witnesses to prove the case on a standard analogous to that for committal at a preliminary inquiry.
3. Provide the federal Department of Justice with unsworn drafts of the affidavits for review prior to swearing.
4. Retain a copy of all materials comprising the application package and send the complete application package to the federal Department of Justice for processing.
5. As part of the request for extradition, the Province of New Brunswick must undertake not to prosecute the fugitive for any offences committed prior to his or her return to Canada other than the offences for which the extradition application is made.
6. If the application is approved, the federal Department of Justice will retain a lawyer in the other country to conduct the extradition hearing before a court in that place.
7. When the fugitive is ready for return to Canada, the federal Department of Justice will contact the investigating officer and advise as to the time and procedure for obtaining and returning the fugitive in custody to the location in New Brunswick where the trial will be conducted. Following the return of the fugitive a first appearance and bail hearing will occur, as the New Brunswick court will then have jurisdiction on the information or indictment.

4.2 Particulars Required Where the Accused is Located in the United States

Where the accused is located in the United States the following information and materials are required by the federal Department of Justice to initiate apprehension proceedings under the *Extradition Act*:

- (a) personal information about the accused person, including his or her name, date of birth, place of birth, citizenship, physical description, and current photograph;
- (b) information about the offence, including the date it occurred, the place it occurred, relevant section of the *Criminal Code*, a brief outline, a copy of the Information or Indictment, a copy of the arrest warrant, and the name of the issuing judge;
- (c) the present location of the accused;

- (d) whether a provisional request for the accused person's arrest is required;
- (e) the name of the Crown Prosecutor involved;
- (f) the name of the investigating officer; and
- (g) the name and location of any foreign police force or other investigative agency involved.

5. Mutual Legal Assistance

Under Mutual Legal Assistance treaties with other countries and under enabling federal legislation, both the Crown Prosecutor and the police or other investigative agent are competent authorities for the purpose of making requests to the federal Department of Justice for assistance from other countries. The Crown Prosecutor will make a request for assistance where evidence is required after a charge has been laid. The police or other investigative agents make requests for assistance at the investigation stage.

The federal Department of Justice handles requests from other countries for mutual legal assistance.

6. Related Documents

None