TYPE OF DOCUMENT – TYPE DE DOCUMENT : **Policy – Politique**	EFFECTIVE DATE – ENTRÉE EN VIGEUR : **September 1, 2015** **Le 1ᵉʳ septembre 2015**	DOCUMENT ORDER – No. DU DOCUMENT: **Policy – Politique 8**
CHAPTER II – CHAPITRE II : **The Decision to Prosecute** **Décision d'engager une poursuite**	Readers are referred to the list of Related Documents at the end of this Policy for additional information. Les lecteurs peuvent se référer à la liste des documents connexes notés à la fin de cette politique pour information supplémentaire.	

JUDICIAL PRE-AUTHORIZATIONS

1. Introduction

A search or seizure by the state is a serious intrusion in a person's life. Such action necessitates close scrutiny by the Crown Prosecutor to ensure that such searches proceed only in appropriate circumstances.

2. Judicial Pre-authorizations

While the police and other investigative agencies have the legislative authority to apply for the various judicial pre-authorizations to search or seize, the Attorney General has requested that the police and other investigative agencies consult with the Crown Prosecutor before making such an application.

Where the police officer or other investigative agent consults with the Crown Prosecutor regarding a judicial pre-authorization, the Crown Prosecutor shall not draft the supporting materials, but should review the materials the police officer or other investigative agent has drafted to ensure that the relevant facts are set out and the necessary criteria are met. The objective of the review is to secure the Crown Prosecutor's opinion that the application accords with the relevant law and is a justifiable exercise of the exceptional powers of search and seizure.

Where the Crown Prosecutor provides such assistance, he or she shall retain a copy of the information on which the opinion was formed as well as a copy of any advice given, unless doing so is impractical.

3. Detention of Seized Items

Following the execution of a judicial pre-authorization, the provisions under sections 489.1 and 490 of the *Criminal Code*, where applicable, must be followed.

Under section 489.1, following a seizure, a peace officer must make a report, in the form set out in Form 5.2, to the judge or justice of the court that issued the judicial pre-authorization. Under section 490, the peace officer, Crown Prosecutor, or other person having custody of the thing seized must satisfy the judge or justice that detention is required for the purposes of an investigation or prosecution. Proof is tendered by means of an affidavit filed with the judge or justice. A draft order of detention is submitted with the affidavit to the judge or justice for signature.

An order of detention has a limited duration, but may be extended upon application. The police officer or other investigative agent and the Crown Prosecutor must bear in mind the duration of any order of detention and the availability of extensions.

4. Denying Access to Information Used to Obtain a Judicial Pre-authorization

Under section 487.3 of the *Criminal Code*, an application may be made at the time the judicial pre-authorization is issued, or any time thereafter, for an order denying access to information used to obtain the judicial pre-authorization.

The Crown Prosecutor should assist the police officer or other investigative agent in the preparation and execution of the application for an order denying access to the information.

5. Electronic Surveillance

All applications to obtain authority to intercept private communications under Part VI of the *Criminal Code*, with the exception of private communications intercepted with the consent of a party to the communication, will be handled by a Crown Prosecutor specifically designated pursuant to the *Criminal Code*. Notice shall be provided to the Deputy Attorney General before any such application is made.

6. Related Documents

Policy 22   Disclosure
Policy 29   Trial Exhibits