

**Guidelines and Directives 005:**  
**Guideline for LECA Prosecutions**

Effective Date: April 1, 2024

## **Background**

Under the *Community Safety and Policing Act, 2019 (CSPA)*, the Complaints Director may become a party to a hearing before the Ontario Police Arbitration and Adjudication Commission (OPAAC).

## **Purpose**

This Guideline is intended to delineate responsibilities, create a framework, and increase transparency and clarity as to the expectations for counsel representing the Complaints Director in hearings before the OPAAC.

The Guideline should be read along with the individual retainers of counsel representing the Complaints Director.

## **Application**

This Guideline applies to counsel representing the Complaints Director before the OPAAC when the Complaints Director is a party to the hearing. Under section 202(5) of the *CSPA*, the Complaints Director is a party to the hearing if the Complaints Director directed the chief of police to initiate the hearing and the chief of police declines to participate as a party.

The Guideline applies when counsel is retained to represent the Complaints Director until the completion of the retainer.

## Definition

**“Prosecutor”** – refers to counsel representing the Complaints Director in a hearing before the OPAAC under section 202(5) of the *CSPA*.

**“Designated Counsel to the Complaints Director”** – refers to a designated Crown Counsel employed with Law Enforcement Complaints Agency (“LECA”).

## Procedure

1. The prosecutor shall exercise independence in the day-to-day decision-making of the prosecution and exercise independent judgment in making decisions.
2. This independence is institutional, rather than personal, and is aimed at safeguarding the independence of LECA.
3. The prosecutor shall exercise good judgment. Good judgment includes seeking to secure the just, most expeditious and cost-effective determination of every proceeding on its merits.
4. The prosecutor is accountable for their decisions. The prosecutor must consult with designated counsel to the Complaints Director or LECA’s Deputy Director on every major litigation step in the prosecution. Responsible prosecutorial decision-making often requires consultation with colleagues, superiors, investigators, and with designated counsel to the Complaints Director or LECA’s Deputy Director.
5. For example, a litigation step that could raise an issue of sufficient significance impacting LECA or public interest at large warrants consultation with designated counsel to the Complaints Director or LECA’s Deputy Director. Conversely, judgment should be applied by the prosecutor to exclude consultation on

inconsequential procedural steps, such as scheduling, in which the Complaints Director would obviously have no interest.

6. In rare cases, the Complaints Director may issue a directive to the prosecutor, if in their opinion doing so would be in the public interest.
7. The prosecutor shall keep the Complaints Director apprised of the status of the prosecution by responding promptly to any requests for an update from LECA's Case Coordinator.
8. The prosecutor is responsible for their staff, such as other counsel or business professionals, who may be working on the file.
9. The prosecutor is obliged to make decisions in accordance with this Guideline, the *CSPA*, O. Reg. 404/23 Adjudication Hearings under the *CSPA*, any Rules of Procedure or Practice Directions of the OPAAC, and the prosecutor's professional obligations as a member of the Law Society of Ontario.