



Public Prosecution
Service of Canada

Service des poursuites
pénales du Canada

Office of the Director of
Public Prosecutions

Bureau du directeur
des poursuites pénales

DEC 13 2007

Ms. Janet Dench
Executive Director
Canadian Council for Refugees
302 - 6839 Drolet Street
Montreal, Quebec H2S 2T1

Dear Ms. Dench:

Thank you for your correspondence of November 1 and November 6, 2007 to the Honourable Rob Nicholson, Minister of Justice and Attorney General of Canada, regarding the case of Ms. Janet Hinshaw-Thomas. Given that the Public Prosecution Service of Canada (PPSC) is responsible for the conduct of prosecutions under the *Immigration and Refugee Protection Act*, your letter has been forwarded to me for response.

The PPSC is an independent organization that is responsible for prosecuting cases under federal statutes. It prosecutes once a charge has been laid following an investigation by the police or an investigative agency. In this case, an investigation was carried out by the Canadian Border Services Agency (CBSA).

Under the *Immigration and Refugee Protection Act*, the consent of the Attorney General of Canada is required before a charge can be laid under section 117. The authority to grant the consent has been delegated to officials with the PPSC. Before granting consent, the PPSC must decide if there is a reasonable prospect of conviction on the basis of the available evidence and if a prosecution is in the public interest. Our obligation to make this assessment does not end with the granting of the consent, but continues throughout the prosecution.

In the case of Ms. Hinshaw-Thomas, an assessment of evidence submitted to us by the CBSA after the consent to lay the charge had been provided allowed us to determine that there was no longer a reasonable prospect of conviction. Therefore a stay of proceedings in the case was filed by the PPSC on November 8, 2007.

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With regard to your request to amend section 117 of the *Immigration and Refugee Protection Act*, this matter falls under the purview of the Honourable Diane Finley, Minister of Citizenship and Immigration. Therefore, I have taken the liberty of forwarding a copy of your correspondence to Minister Finley for her consideration.

I would appreciate it if you could forward a copy of this correspondence to the signatories of the above mentioned letters addressed to the Honourable Rob Nicholson.

Thank you for writing.

Yours sincerely,



Brian Saunders
Acting Director of Public Prosecutions

c.c. The Honourable Diane Finley, P.C., M.P.
The Honourable Stockwell Day, P.C., M.P.