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**From:** McGoey, Christine (JUS) [mailto:Christine.McGoey@ontario.ca]  
**Sent:** November-09-10 6:18 PM  
**To:** [REDACTED]  
**Cc:** Gillespie, Donna (JUS); Callaghan, Michael (JUS)  
**Subject:**

[REDACTED]:

[REDACTED]:

I received your voicemail. As I indicated, we met with the OIC, her supervisor, and a number of Crowns to review the Tencer matter and the investigation to date.

With respect to the Erez/Tencer matter I can advise you of the following:

- The file was reviewed in case management by Ms. Gillespie and also as part of a larger review of frauds, by a senior Crown Counsel from another Region
- The Crowns considered that the complainant was an experienced businessman; that the contemplated return was 35% over 60-70 days, that there were no written loan agreements or confirmed collateral on sizable loans, and that he did not seek to verify the invoices of the suppliers because the accused asked him not to
- The Crown also considered alternatives to prosecution that might exist. In this case you have advised me there have been extensive civil proceedings that have apparently established that there is no hope of compensation from the accused, although some complainants are exploring other civil remedies
- There are very serious criminal matters competing for limited trial time, with cases being stayed because of delay, and we have to consider the impact of any delay that might occur throughout the process and the variety of factors that are taken into account in assessing which cases will go to trial before others

Ultimately, the decision was made to withdraw the charges relating to Mr. Tencer after these various factors were considered.

I spoke with Ms. Gillespie who advised me that she was in touch with the OIC about her view of the matter with respect to withdrawal. She had reviewed the file and was aware of the information Mr. Tencer supplied. She did not advise the officer of the date the charges would be withdrawn. We have spoken to the officer about that, and agree that there should have been more timely communication about that.

The charges will not be resurrected. As I indicated to you, the Crown would very likely face an abuse of process motion should that course of action be pursued.

This type of case would not be subject to private prosecution.

Two Crowns have been assigned to meet with the OIC to assess the evidence collected to date with respect to other allegations for reasonable prospect of conviction and public interest. They will consider each case on its merits.

Thank you for bringing this to my attention.

Christine McGoey

Crown Attorney