

PROVINCE OF ONTARIO  
MINISTRY OF ATTORNEY GENERAL

**CROWN POLICY MANUAL**

---

March 21, 2005

---

**BAIL HEARINGS**

---

**PRINCIPLES**

Decisions about bail are some of the most important and challenging that Crown counsel make. These decisions require that Crown counsel balance the following interests:

- Protection of the community including victims and other individuals
- The reputation of the administration of justice and public perception of the criminal justice process
- Society's interest in ensuring that accused persons attend court
- The liberty interests of the accused.

In exercising discretion in this area, Crown counsel has the task of weighing conflicting interests. While all of the factors listed above must be accorded serious consideration, given the potential for tragedy at the bail hearing stage of the process, protection of the public including victims must be the primary concern in any bail decision made by Crown counsel.

The May/Illes, Hadley and Yeo Inquests arose out of situations where accused persons were released on bail and subsequently committed murder/suicide. In the course of these inquests, issues surrounding bail hearings, including the conduct of Crown counsel and the exercise of Crown discretion, came under careful scrutiny.

Although speed is essential in operating an efficient and effective court system, Crown counsel should exercise particular care in conducting bail hearings. It is at this early stage of the proceedings that Crown counsel's discretion is of paramount importance. While it is important that efforts be made to improve the efficiency of bail courts, this

efficiency should not be achieved at the expense of public safety or fairness to the accused.

Crown counsel should seek the detention of the accused where either the circumstances of the accused or the allegations raise serious concerns about risk of harm to the public or to specific people in the event that the accused is released. Crown counsel should not consent to the release of an accused where there are serious safety concerns unless the Crown is satisfied that terms of release address those concerns.