

PROVINCE OF ONTARIO
MINISTRY OF ATTORNEY GENERAL

CROWN POLICY MANUAL

March 21, 2005

**CROWN AND DEFENCE COUNSEL
AS WITNESS, LITIGANT or SUBJECT OF COMPLAINT TO LAW SOCIETY OF
UPPER CANADA**

PRINCIPLES

If Crown counsel are subpoenaed to be witnesses in a case in which they had a professional involvement, they should immediately seek the advice of their Crown Attorney.

Crown counsel who are themselves the subject of a proposed lawsuit, or charge under the *Criminal Code*, other federal legislation, a serious provincial offence such as under Part III of the *Provincial Offences Act*, or a complaint to the Law Society of Upper Canada, must immediately bring the matter to the attention of the Crown Attorney who in turn will notify the Regional Director of Crown Operations (DCO). The DCO shall then bring this matter to the attention of the Assistant Deputy Attorney General, Criminal Law Division, (ADAG). A formal response to a complaint to the LSUC should be forwarded by the ADAG, after thorough consultation and review by the DCO and the ADAG, in consultation with Crown counsel whose conduct is the subject of the complaint. In all cases, Crown counsel must keep their direct supervisor apprised of the status of any outstanding charge, lawsuit or complaint, including, in the case of a criminal charge, whether or not a conviction was registered.

If Crown counsel intends to call defence counsel as a witness in matters involving a client or former client, Crown counsel must first consult with the Crown Attorney and obtain the approval of the Regional Director of Crown Operations. Similar approval must be obtained prior to attempting to admit evidence relating to a pre-trial resolution or other resolution discussion.

If Crown counsel consider that a formal complaint to the Law Society of Upper Canada is warranted in respect of conduct of a defence counsel, they must immediately bring the matter to the attention of the Crown Attorney who in turn will notify the Regional Director of Crown Operations (DCO). The DCO shall then bring this matter to the

attention of the Assistant Deputy Attorney General, Criminal Law Division, (ADAG). After thorough consultation with Crown counsel, review by the DCO and the ADAG, and in appropriate circumstances, the formal complaint to the LSUC should be forwarded by the ADAG.