

PROVINCE OF ONTARIO
MINISTRY OF THE ATTORNEY GENERAL

CROWN POLICY MANUAL

March 21, 2005

DISCLOSURE

PRINCIPLES

Crown counsel must make disclosure according to law. Proper disclosure to the defence, of information in the Crown's possession, is one of the underpinnings of the fair trial process. The law also provides, however, for limited or delayed disclosure in order to protect privileges and other interests (for example, protection of witnesses). Thus, tensions can arise between the duty to disclose and the co-existing duty to protect those other interests.

Crown counsel should consult about difficult decisions: Disclosure decisions can have permanent impacts upon trials of accused persons and rights of third parties. Improper disclosure may result in mistrials, retrials, stays of proceedings and lawsuits. Many areas of the law of disclosure continue to develop. Where Crown counsel propose to give, withhold or delay disclosure for reasons which are not recognized by current caselaw or statute, they must have the approval of their Crown Attorney, who, in turn, should consult with the Regional Director of Crown Operations.