

PROVINCE OF ONTARIO
MINISTRY OF ATTORNEY GENERAL

CROWN POLICY MANUAL

March 21, 2005

RESOLUTION DISCUSSIONS

PRINCIPLES

Resolution discussions are an essential part of the criminal justice system in Ontario. When properly conducted, they provide a form of dispute resolution that can benefit all of the participants in that system including victims, witnesses, the accused, counsel, police, and the people of Ontario. The proper administration of justice, including consideration of the public interest, is the primary concern of any resolution discussion.

The term “resolution discussion” refers to the process during which defence and Crown counsel discuss the evidence and likely outcome of a criminal prosecution with a view to achieving results that advance the administration of justice. Resolution discussions encompass much more than simply plea negotiations. Resolution discussions include any discussion between counsel aimed at resolving any issues that a criminal prosecution raises.

In conducting resolution discussions, Crown counsel should attempt to balance the interests of the victim, the protection of the public, and the rights of the accused in the framework of the optimal use of limited resources. Reference may be made to the preamble of the Crown Policy Manual for a more detailed discussion of the role of Crown counsel.

A resolution agreement with respect to charges and/or sentence should adequately reflect the public interest and the gravity of the provable offence or offences. Crown counsel should ensure that the interests of the victim are considered in reaching a resolution.

There are some fundamental principles of resolution discussions that are binding directives:

- Crown counsel must not accept a guilty plea to a charge knowing that the accused is innocent

- Crown counsel must not knowingly accept a guilty plea to a charge when a material element of that charge can never be proven unless that fact is fully disclosed to the defence
- Crown counsel must not purport to bind the Attorney General's right to appeal any sentence
- Unless there are exceptional circumstances, Crown counsel must honour all agreements reached during resolution discussions.