

PROVINCE OF ONTARIO
MINISTRY OF THE ATTORNEY GENERAL

CROWN POLICY MANUAL

March 21, 2005

SEXUAL OFFENCES

PRINCIPLES

Protection of the public through vigorous prosecution: Sexual offences present an ongoing serious threat to public and individual safety. It is essential that the sanctions of the criminal justice system be fully utilized through the vigorous prosecution of provable offences.

Awareness of unfair and inaccurate myths and stereotypes that taint perceptions about the dynamics of sexual offences: Despite recent advancements, both in the law and in social values, views about the dynamics of sexual offences are still permeated by long-entrenched myths and stereotypes. Crown counsel play an important role in combating the harmful effects that these distortions can have on the pursuit of justice.

Sensitivity to the perspective and special needs of victims of sexual offences: Sexual offences are unique because they involve violations of sexual integrity and autonomy. It is the potentially devastating effect that these offences have upon victims that distinguishes them in terms of their relative gravity and the public interest implications of prosecution. Sensitivity to the perspective of victims, their privacy interests and, in particular, the deeply personal and degrading nature of their victimization, must underscore all aspects of prosecutorial action.

Disclosure: Complainants often have an expectation of privacy in their discussions with Crown counsel. Accordingly, the complainant should be informed of the Crown's duty to disclose the content of those communications to the defence.

Protocols: In cases of serious sexual assault¹ the Crown Attorney in each jurisdiction should ensure:

¹ The term "serious sexual assault", as used here, should be interpreted broadly but generally connotes cases involving significant physical or psychological harm to the victim. For example,

- A system is in place to identify these cases
- Crown counsel is assigned carriage of the case at an early stage in the proceedings
- Best efforts are made to give these cases priority in trial scheduling
- Victims are informed of court dates and matters that potentially affect their security, including bail conditions. This information function may be performed by VWAP or the police
- Unless there are exceptional circumstances, victims of serious sexual offences should be informed of proposed resolutions wherever possible, and in advance of the matter being heard in court, or reported in the media.

Sentencing: In cases of sexual assault and other sexual offences, Crown counsel should ensure that full submissions are made at sentencing hearings, including victim impact, and that the court is made aware of all factors relevant to the protection and safety of the victim and the public.

this would include cases involving: sexual intercourse or other direct genital contact; bodily harm and/or the use of weapons; victims of tender years; special needs victims; protracted sexual abuse; a breach of trust or abuse of authority by the offender. These principles apply to all cases of serious sexual assault.