



CRIMINAL JUSTICE BRANCH, MINISTRY OF ATTORNEY GENERAL
CROWN COUNSEL POLICY MANUAL

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SUBJECT: Complaints and Enquiries Relating to Specific Prosecutions		CROSS-REFERENCE: CHA 1 CHA 1.1 LEG 1.1 MED 1

POLICY

An important responsibility of the Criminal Justice Branch is to provide prompt and substantive responses to complaints and enquiries in order to enhance public confidence in the criminal justice system.

If a complaint is received concerning specific prosecutions, including the conduct of Crown Counsel, the following complaint procedure applies.

PROCEDURE

- A. Concerning complaints made to Crown Counsel offices with respect to specific prosecutions, including the conduct of Crown Counsel:
1. The complaint should be referred to Administrative Crown Counsel. If the complaint involves a serious issue, Administrative Crown Counsel should report to Regional Crown Counsel. In all other cases, Administrative Crown Counsel should attempt to resolve the complaint.

In all cases where a complaint is received in writing, any Crown Counsel who is the subject of the complaint should receive a copy of the complaint letter, and any subsequent review should include a discussion with that Crown Counsel.
 2. Where Administrative Crown Counsel refers the complaint to Regional Crown Counsel:
 - (a) Regional Crown Counsel should determine whether the complaint requires that a response be given by the Assistant Deputy Attorney General. If so, Regional Crown Counsel should ensure that a report and draft reply are prepared in accordance with the Guidelines below and forwarded to the Assistant Deputy Attorney General.

- (b) In appropriate cases, Regional Crown Counsel may wish to delegate to Deputy Regional Crown Counsel or to Administrative Crown Counsel the responsibility of further investigating the complaint and replying directly to the complainant. In such case, a copy of any written reply should be sent to Regional Crown Counsel.
 3. If an individual Crown Counsel is the focus of a complaint, he or she should receive a copy of any written reply.
- B. Where the office of the Assistant Deputy Attorney General requests a report from Regional Crown Counsel regarding a letter written to the Attorney General, the Deputy Attorney General, or the Assistant Deputy Attorney General:
 1. Regional Crown Counsel or Deputy Regional Crown Counsel should obtain a report from Crown Counsel handling the case or from Administrative Crown Counsel and should prepare a report for the Assistant Deputy Attorney General.
 2. If a draft reply is requested, it should be prepared in accordance with the Guidelines below.
 3. The Assistant Deputy Attorney General will ensure that Regional Crown Counsel is sent a copy of the final reply signed by the Assistant Deputy Attorney General, the Deputy Attorney General, or the Attorney General, as the case may be.
 4. If an individual Crown Counsel is the focus of a complaint, he or she should receive a copy of any written reply.
- C. Where the office of the Assistant Deputy Attorney General requests Regional Crown Counsel to reply directly to a complaint or enquiry, Regional Crown Counsel or Deputy Regional Crown Counsel should send a written reply to the complainant, or meet with, or telephone the complainant, as appropriate. Regional or Deputy Regional Crown Counsel should then send a copy of the written reply or a report on the meeting or telephone call to the Assistant Deputy Attorney General.

Crown Counsel Act

2. The Branch has the following functions and responsibilities:
 - (f) to provide liaison with the media and affected members of the public on all matters respecting approval and conduct of prosecutions of offences or related appeals;

Freedom of Information and Protection of Privacy Act

- 15(4). The head of a public body must not refuse, after a police investigation is completed, to disclose under this section the reasons for a decision not to prosecute
- (a) to a person who knew of and was significantly interested in the investigation, including a victim or a relative or friend of a victim, or
 - (b) to any other member of the public, if the fact of the investigation was made public.

Victims of Crime Act

- 6(1). Subject to the *Youth Criminal Justice Act* (Canada) and insofar as this does not prejudice an investigation or prosecution of an offence, justice system personnel must arrange, on request, for a victim to obtain information on the following matters relating to the offence:
- (c) the reasons why a decision was made respecting charges.

Guidelines**I. DRAFTING OF REPLIES**

1. Identify each issue raised in the letter.
2. Ascertain the central or overriding concern.
3. Ensure that the reply is focused on the central or overriding concern and responds to the other issues raised by the correspondent.
4. Attempt to explain without arguing – show compassion and understanding of the correspondent's position – emphasize balance and perspective.
5. If a matter is still before the court, it is generally inappropriate to comment on the issue.
6. Be helpful – go out of the way to identify appropriate remedies, options, and referrals to other agencies.
7. When reporting the fact of a conviction, state the conviction date, sentence date if different, and full details of any sentence imposed. Note the court location and level of court. However, be aware of the restrictions on the release of the name of any young person charged with an offence.

8. As appropriate, indicate that the complainant may contact a Regional or Deputy Regional Crown Counsel or some other person. Include the name, address and telephone number.
9. It may be appropriate, in the final paragraph, to thank the person for writing and express the hope that the comments of the writer will prove helpful.
10. Consider carefully the nature of the intended recipient and simplify phrases and legal terminology accordingly.

II. EDITING YOUR DRAFT

1. Review your draft against the guidelines above.
2. Consider whether any recommendations should be made about changes in policy, procedure, or the law. If so, prepare a separate memo.

Assistance in drafting a letter may be requested from the Correspondence Unit at Headquarters.

III. COMPLAINTS ABOUT POLICE CONDUCT

Where a letter contains a complaint about police conduct as well as Criminal Justice Branch issues, the draft reply should advise the correspondent that complaints about police conduct may be referred as follows:

1. Complaints about RCMP Members should be directed to the Officer in Charge of the RCMP Detachment involved.

[Note that addresses for British Columbia RCMP offices are on line at:
<http://bc.rcmp.ca/ViewPage.action?siteNodeId=27&languageId=1>]

In the event that complainants are not satisfied with the way their complaint is handled at the detachment level, they have the option of filing a formal complaint with the RCMP Public Complaints Commission. The Commission is a civilian body, independent of the RCMP, and has jurisdiction to investigate complaints against RCMP members. It is located at:

Public Complaints Commission
Suite 102, 7337-137 Street
Surrey BC V3W 1A4

Telephone: 604 501-4080 and
(toll-free at 1-800-665-6878 outside the Lower Mainland area)
Facsimile: 604 501-4095

2. Complaints About City (Municipal) Police should be directed to the Chief Constable of the police force involved.

[Note that addresses for British Columbia Municipal Police are on line at:
http://www.pssg.gov.bc.ca/police_services/forces/index.htm]

In the event complainants are not satisfied with the way in which the Chief Constable addresses their concerns, the complainant may contact the Office of the Police Complaint Commissioner. The Office of the Police Complaint Commissioner provides independent civilian oversight of the citizen complaint process. It is located at:

Office of the Police Complaint Commissioner
Suite 900, 1111 Melville Street
Vancouver BC V6E 3V6

Telephone: 604 660-2385
Facsimile: 604 660-1223

IV. UNINVESTIGATED COMPLAINTS

Where a complainant alleges that an offence has been committed and there has not been a Report to Crown Counsel, the complainant should be advised to write directly to the appropriate police force. Crown Counsel do not give advice to the public on hypothetical facts.