



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

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POLICY

Where members of the public ask Crown Counsel for legal advice, they should be advised to consult a private lawyer or an investigative agency, as appropriate.

It would be inappropriate for Crown Counsel to provide an opinion to a member of the public on whether a set of facts described by that person, hypothetical or otherwise, would constitute an offence.

DISCUSSION

The decision to prosecute involves the exercise of discretion by Crown Counsel after reviewing a Report to Crown Counsel from the police or another investigative agency. The courts have held that the exercise of prosecutorial discretion is an independent, quasi-judicial function.

Providing an opinion to a member of the public based on allegations which have not been investigated by the police or another investigative agency, could create a conflict with any subsequent prosecutorial decision made on the basis of a Report to Crown Counsel. There could be liability concerns for Crown Counsel.

In carrying out their duties under the *Crown Counsel Act*, Crown Counsel represent the interests of society as a whole, not the interests of any specific individual. Crown Counsel are not employed as lawyers in civil litigation for the purpose of providing advice to individual persons.

In some cases, it may be helpful to direct a member of the public to the relevant statutory provision, along with the advice that a private lawyer or an investigative agency be consulted as appropriate.