



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

ARCS/ORCS FILE NUMBER: 57270-00 57400-00	EFFECTIVE DATE: October 12, 2010	POLICY CODE: MOT 1
SUBJECT: Motor Vehicle Fatality Cases		CROSS-REFERENCE: ALT 1 RES 1 VIC 1

POLICY

All Reports to Crown Counsel regarding persons responsible for motor vehicle related deaths should be referred to Administrative Crown Counsel who should obtain the approval of Regional or Deputy Regional Crown Counsel on any charge assessment decision under the *Criminal Code* or *Motor Vehicle Act* (including violation ticket offences).

The policy on Alternative Measures – ALT 1 contains guidelines for the referral and use of alternative measures. Under that policy, any offence for which causing death is a legal ingredient of the offence must not be considered for alternative measures. Policy ALT 1 also provides that, for other offences involving a fatality, Regional or Deputy Regional Crown Counsel must approve any referral of a person for alternative measures consideration and also the use of specific Alternative Measures recommended in any Alternative Measures Report. Such approvals may be granted only where exceptional circumstances exist so that the use of alternative measures is not inconsistent with the protection of society.

Crown Counsel should be assigned to the prosecution at the earliest opportunity and reasonable efforts should be made to ensure that the same Crown Counsel conducts the preliminary inquiry or trial.

Crown Counsel should, where possible, ensure the deceased's family has been given information regarding available victim assistance programs and the availability of the *Crime Victim Assistance Act*.

DISCUSSION

There is a potential for res judicata problems in issuing violation tickets for *Motor Vehicle Act* offences where there is a possibility that *Criminal Code* charges may also be laid. Under the violation ticket process, the accused can pay the fine amount indicated on the ticket or fail to dispute the ticket and be deemed guilty before a charge assessment decision can be concluded on a potential *Criminal Code* charge, creating a possible defence of res judicata.