



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

ARCS/ORCS FILE NUMBER: 55820-15	EFFECTIVE DATE: November 18, 2005	POLICY CODE: POL 1
SUBJECT: Police – Allegations Against Peace Officers		CROSS-REFERENCE: <u>ADH 1</u> <u>CON 1</u> <u>DIS 1</u> <u>LEG 1</u>

POLICY

In order to ensure that there is no perception of a conflict of interest and to maintain public confidence in the administration of criminal justice, the charge assessment decision on an allegation against a peace officer must be made by either Regional Crown Counsel or the Director, Legal Operations.

Regional Crown Counsel should make the charge assessment decision unless concerned that there could be an objectively reasonable perception of a conflict of interest or that the maintenance of public confidence in the administration of justice requires that the decision should be made at Headquarters. In either case, the matter should be referred to the Director, Legal Operations for a charge assessment decision, pursuant to the procedure set out below.

PROCEDURE

When a Report to Crown Counsel is received containing allegations that a peace officer has committed a criminal offence, regardless of whether the offence allegedly occurred in the course of duty or not, the following procedure is to be followed:

1. The Report to Crown Counsel should be forwarded to the Administrative Crown Counsel in the location where the offence allegedly occurred.
2. The Administrative Crown Counsel should forward the file to Regional Crown Counsel.
3. Regional Crown Counsel should review the file and make the charge assessment decision, unless the matter is referred to the Director, Legal Operations for one of the reasons described above. In that case, the file should be accompanied by a memorandum containing a brief recital of the relevant facts sufficient to carry out an assessment without reference to the police file. Regional Crown Counsel should include a recommendation for the consideration of the Director, Legal Operations,

unless the referral was made because of a concern about conflict of interest. The following headings should be used:

RE:	Accused	Alleged Offence:
	Complainant:	Offence Date
	Region:	Offence Location:
	RCC Completion Date:	On or Off Duty:
	Recommendation:	

4. The Director, Legal Operations will make a decision with respect to laying a charge and communicate that decision to Regional Crown Counsel. If there is any difference between a recommendation of Regional Crown Counsel and the decision of the Director, Legal Operations, the matter will be referred to the Assistant Deputy Attorney General.
5. The final decision should be communicated to Administrative Crown Counsel who should notify the police.
6. When Regional Crown Counsel makes the charge assessment decision, a report should be sent to the Director, Legal Operations.
7. If criminal charges are approved, Crown Counsel should be designated by Regional Crown Counsel, on consideration of the following:
 - (i) whether the officer is presently, or was formerly, employed in the jurisdiction where the offence occurred and is thus known to local Crown Counsel;
 - (ii) whether the allegation concerns an offence in the course of duty or duty-related activities, regardless of locality; and
 - (iii) whether the offence is of a particularly serious nature, or has considerable public profile.Regional Crown Counsel should consider the appropriateness of requesting Crown Counsel from outside the local jurisdiction to prosecute the case, or retaining ad hoc counsel from the private bar (see ADH 1).
8. Where there is an allegation that the actions of a peace officer have caused the death of another person, the Director, Legal Operations will provide a copy of the material to the Assistant Deputy Attorney General.

Should Crown Counsel be aware that a police agency has conducted an internal investigation related to the circumstances of a prosecution being conducted by Crown Counsel, all information, including witness statements, compiled by the internal investigation should be obtained. Any information obtained from the internal investigation that is relevant to the related case should be disclosed to the defence as soon as possible (see DIS 1).

When there is an allegation of misconduct against a peace officer by any individual, the complainant should be referred to the appropriate police detachment. Where an allegation of apparent substance first arises during a court proceeding, Crown Counsel should recommend to the appropriate police agency that an investigation into the misconduct be undertaken.