



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

ARCS/ORCS FILE NUMBER: 55060-00	EFFECTIVE DATE: November 18, 2005	POLICY CODE: REC 1
SUBJECT: Recognizances to Keep the Peace – Section 810 <i>Criminal Code</i>		CROSS-REFERENCE: CRI 1 SPO 1

POLICY

In deciding whether to make an application for a peace bond (recognizance) under section 810 of the *Criminal Code*, Crown Counsel should consider whether there is a reasonable likelihood of a recognizance being ordered.

Given concerns for the safety of complainants, a warrant for the arrest of the defendant, as opposed to a summons, should ordinarily be sought to ensure that appropriate release conditions are imposed.

On an application for a peace bond, a judge or justice is required to consider whether it is desirable to order a prohibition from the possession of firearms or other weapons pursuant to section 810(3.1). Crown Counsel should ensure that the court considers that provision.

Crown Counsel should oppose the imposition of a peace bond on the complainant (mutual peace bonds) unless the complainant has received independent legal advice and wishes to proceed in that manner.

DISCUSSION

Section 810 provides that a court may order a peace bond if the court is satisfied that there are reasonable grounds for the fears of the complainant.

While it is part of the *Criminal Code*, section 810 does not create a criminal offence, and no conviction or sentence results from a successful application. Section 810 provides a preventative remedy designed to enable the court to bind persons to keep the peace.

On occasion, the court or defence counsel will suggest that both parties be bound by peace bonds. It is important to remember that while the accused comes to court with notice of that which he or she faces, the complainant does not. It would be inappropriate for a complainant to attend court as a witness and, without notice, leave the courtroom bound by a court order. If

such a prospect arises and the complainant indicates a desire to proceed in that manner, Crown Counsel should ensure that the complainant obtains independent legal advice.

Section 810 is enforced by application of section 811, which creates the hybrid offence of breach of recognizance. No equivalent provision exists with respect to a common law peace bond, and there are difficulties with its enforcement. Provided that the threshold test is met, Crown Counsel should proceed under section 810 rather than request that the court resort to its common law authority.