



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

ARCS/ORCS FILE NUMBER: 58500-00	EFFECTIVE DATE: April 1, 2003	POLICY CODE: YOU 1.3
SUBJECT: <i>Youth Criminal Justice Act – Conferencing</i>		CROSS-REFERENCE:

POLICY

Crown Counsel must attend any judicially attended court conference.

Crown Counsel may attend any judicially ordered (non-court) conference or non-judicial conference.

Crown Counsel should retain a traditional prosecutorial role in any conference they attend and should not generally call, facilitate or organize conferences.

Crown Counsel should not participate in restorative justice conferences involving the victim and the young person.

DISCUSSION

Overview

The *Youth Criminal Justice Act* permits a Youth Justice Court, a prosecutor and certain other individuals to convene conferences for the purpose of making a decision under the Act. Although there is no restriction on the mandate of the conference under the Act, s. 19(2) provides that conferences may be called to give advice on extrajudicial measures, bail conditions, sentences, sentence reviews and reintegration plans. Conferences can be characterized as:

- judicially attended court conferences (such as a sentencing circle) that are judicial proceedings with a record of proceedings and attendance by the young person, judge, Crown Counsel, defence counsel and court staff;
- judicially ordered (non-court) conferences (such as an integrated case management conference to explore living arrangements for a youth that take place as a result of an

order of the court, but are not a court proceeding, with a report submitted back to the court); or

- non-judicial conferences (such as a conference called by police or Crown Counsel to explore an extrajudicial measure).

Crown Counsel Participation

The Branch distinguishes between mandatory and voluntary Crown Counsel participation in conferences. The Branch has advised the Office of the Chief Judge that Crown Counsel are required to participate in judicially attended court conferences, but are not required to participate in judicially ordered (non-court) conferences or non-judicial conferences. The Branch supports Crown Counsel who wish to participate voluntarily in any conference except a restorative justice conference involving the young person and the victim.

Role of Crown Counsel

The role of Crown Counsel in any conference must be consistent with their adversarial role as counsel for the prosecution with interests that may be significantly different from those of the police, the victim or interest groups. Crown Counsel are generally not trained in conferencing methodology or facilitation and the Criminal Justice Branch lacks facilities for conferencing. Consequently Crown Counsel should not generally call conferences under s. 19, assume any responsibility for facilitating or planning conferences, or arrange the attendance of non-prosecution witnesses at any conference.