

PROVINCE OF ONTARIO
MINISTRY OF ATTORNEY GENERAL

CROWN POLICY MANUAL

March 21, 2005

**APPEALS: CONCEDING DEFENCE APPEALS
AND RESPONDING TO NEW EVIDENCE**

PRINCIPLES

In rare cases, Crown counsel, reviewing a defence appeal against conviction and/or sentence, may determine that the appeal should be allowed. This decision may be based on new evidence that was not available to the defence at trial.

The decision to concede an appeal decision is a complex and difficult one. It must be based on:

- A thorough appreciation of the dual role of Crown counsel as strong advocates for the prosecution, as well as “Ministers of Justice”, with a duty to ensure that the criminal justice system operates fairly for all
- A comprehensive and rigorous analysis of the strengths and weaknesses of the case, and
- A determination that fairness and the interests of justice are best served by conceding the appeal.

The concession of an appeal may have a profound impact on the key participants in the trial process and, most particularly, on complainants, victims and their families. Unless there are exceptional circumstances, Crown counsel must keep the complainant or victim’s family informed of any decision to concede a defence appeal.

This policy applies equally to:

- Conviction appeals in indictable matters being heard in the Court of Appeal for Ontario

- Summary conviction matters in the Superior Court of Justice and the Court of Appeal for Ontario, and
- All appeals to the Supreme Court of Canada.