

## MINUTES

**COMMITTEE:** Ethics Committee

**DATE:** April 12, 1995

**10. DEFENCE COUNSEL INTERVIEWING COMPLAINANT; CHAPTER 8 RULES 11 AND 12**

This was a continuation of the Committee's consideration of this issue from the March 16, 1995 meeting of the Committee. The following question had been posed by a lawyer:

In circumstances where the Court has imposed an order on the accused to have no contact with the complainant, does that order bar the accused's lawyer from communicating with the complainant as well?

Jack Olsen indicated that he had an opportunity of discussing the matter with Richard Peck and passed on Mr. Peck's view to the Committee.

It was the Committee's view that although a complainant is a witness and not a party to a criminal proceeding, the complainant is, nevertheless, a special class of witness. The Committee was of the opinion that while it was not necessary for defence counsel to seek the permission of the Crown to interview a complainant, defence counsel ought to inform the Crown of his or her intention to interview the complainant before conducting the interview. Provided Counsel's proposed contact with the witness is for the purpose of preparing to defend the client, the Committee did not consider that an order that the accused have no contact with the complainant would bar the accused's lawyer from communicating with the complainant unless the order expressly so provided.

The Committee took the view that it would be most unwise for defence counsel to interview the complainant without having a third party present and the better course, if it was considered necessary to interview the complainant, would be to have a private investigator or another counsel conduct the interview.

Keywords: //no contact//no contact order//witness//party//

*Revised: January 12, 2009*