

defence counsel cannot interview a witness that may be called for the Crown. . . . The counsel for the defence may not attempt to influence the story that the witness may give. The mere fact that he interviews a witness in preparation of his defence has no effect upon the Crown."

Members of the Bar are aware of their responsibilities in such a venture. The police should not instruct their witnesses to refrain from speaking with defence counsel. However, the witnesses should be cautioned that any statements which they make at such an interview may be subject to cross-examination at a later date. (s. 11 Canada Evidence Act).

The importance of the relationship between the police and defence counsel should not be minimized. If a harmonious relationship exists it will promote greater efficiency in the presentation of the case before the Court. Misunderstandings have arisen regarding what information should be made available on request by defence counsel. Let us examine some of the more common requests:

The Information—The wording, or a copy of the Information, should be made available. The defendant is entitled to make a full answer and defence to the charge, so he should know what the charge alleges. The wording of the Information has posed some problems. The Information must contain the essential elements of the offence charged. (R. v. Madill (No. 2) (1943) 1 W.W.R. 370). Such "details of circumstance" required to "identify the transaction" should be included. (R. v. Mucci, 97 C.C.C. 158). Normally the essential elements, date and jurisdiction, are sufficient details for the defendant. If there is a disagreement between the defence and the Crown, the defence counsel is entitled to make application to the Court for further particulars (ss. 497, 701 (2) C.C.) and to object to defects apparent on the face of the Information. (ss. 510, 704(1) C.C.).

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