

SUBJECT: DISCLOSURE – CHILD PORNOGRAPHY MATERIALS

POLICY

While prosecutors must consider safeguarding all disclosure material, the subject matter of some material engages such extreme personal privacy interests and is so vulnerable to misuse that such material merits special consideration and protection in the disclosure process. For example, the risk of harm from the improper use of sensitive disclosure materials, such as videotapes or photographs that depict or describe sexual and/or child abuse, is so great that there is an important public policy interest in ensuring that these materials are not improperly disseminated or misused during or after criminal proceedings.

Child pornography, and copies of it, is criminal contraband and unauthorized possession is a criminal offence. We must treat child pornography no differently than illicit drugs and prohibited weapons. While case law implies that possession for legitimate purposes under the Criminal Code is permissible, that protection arguably extends no further than counsel on the matter; our staff should be shielded from the material.

All child pornography relevant to opinion files or pending court cases shall be kept by the police. They will provide the prosecutor with a *list* of the material, which can and should be disclosed, but not copies of the material itself. As appropriate in computer-related cases, an Encase or other technical report without the images or offending text will also be provided, along with a copy for defence counsel. The complete report, with images, etc., will remain at the police station. This will require both prosecution and defence counsel to attend to the station/detachment to view the material. If a prosecutor requires any of the material for court, an officer shall attend with it.