

News / Queen's Park

## Ontario fails to track complaints against Crown attorneys

Attorney General Madeleine Meilleur says her ministry lacks a centralized system, raising questions about oversight of misbehaving prosecutors.



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Attorney General Madeleine Meilleur acknowledges that her ministry has no centralized method for tracking complaints against misbehaving prosecutors.

**By:** [Jennifer Pagliaro](#) City Hall reporter, [Jayme Poisson](#) News reporter, Published on Tue Dec 16 2014

Ontario's Ministry of the Attorney General has no idea how many complaints have been lodged against its nearly one thousand prosecutors from across the province, or how many have been disciplined for misconduct in recent years.

The lack of organized, accountable oversight, legal observers say, marks a "failure" by the government to properly scrutinize complaints against its Crown attorneys: public servants responsible for making important decisions such as who to prosecute for crimes and recommending sentences for those found guilty.

"Only with proper oversight can the public have confidence in our justice system and those who administer it," Anthony Moustacalis, president of the Criminal Lawyers Association, said in a statement to the Star.

An ongoing Star investigation has discovered cases where Crown attorneys were the focus of sexual harassment complaints and other accusations of misbehavior. The Star's stories [were raised](#) in the provincial legislature, and Attorney General Madeleine Meilleur was asked to provide an accounting of all complaints against Crowns and their outcome.

In a letter, written in response to those questions, Meilleur said: "The Ministry does not have a centralized system for tracking complaints with respect to Crown Attorneys. Therefore, to compile global statistics would require a search of each individual personnel file for all Crown Attorneys employed in over 60 offices across the province."

Despite not having centralized information on internal complaints and their outcomes, Meilleur wrote that Crowns are held to the "highest standard" and "are expected to conduct themselves professionally and fairly at all times" in accordance with Crown policy and professional conduct rules dictated by the Law Society, the independent body that oversees all lawyers.

While the Law Society can investigate and discipline prosecutors, legal observers say complaints against prosecutors are often dealt with internally by the ministry — investigations that are kept secret and, now, evidently not tracked. (The Law Society, which represents nearly 50,000 lawyers of all types in Ontario, told the Star that over the past 23 years only nine of 2,200 disciplinary hearings have involved prosecutors.)

Meilleur's letter says complaints to her ministry from staff or the public against prosecutors are dealt with by their direct superiors — either the head Crowns in their local office or a regional director.

"After a review, if the conduct falls short of expected standards, appropriate remedial or disciplinary action will be considered," says the response.

Sylvia Jones, the Conservative MPP who raised questions about Crown oversight in the legislature this summer, called the Attorney General's response "incredibly frustrating."

Jones said the government is either not being honest about not having the numbers, or — what she said would actually be "more disturbing" — they don't know how many complaints there have been.

"There's no way for us to judge whether it's good or it's bad, because there's no numbers," said Jones. "How do you fix something if you're not tracking it?"

Jones requested the information about complaints and disciplinary actions resulting from those complaints back in July, by way of filing what is called an order paper, which required a response from the ministry within four months. The ministry responded just before the deadline, on Nov. 24. (The Star asked for the same information in August, in hopes of getting it sooner, but was told by a spokesperson it would "not be appropriate" to respond to the Star's request in advance of responding to Jones' request.)

Jones filed the order paper after hearing about a Brampton Crown attorney who left his job in 2012 amid sexual harassment allegations.

A Star investigation found John Raftery was the subject of a group sexual harassment complaint while employed at the Brampton Crown office and received a hefty payment (double his annual salary, or nearly \$370,000) after he suddenly left his job.

Raftery has declined to comment about the payout or the allegations of harassment during his time as a Crown.

In January, the former Crown-turned-defence lawyer was charged with assault and criminal harassment of two young women who worked at a Mississauga grocery store. Those charges were dropped in October after the Crown said there was no reasonable prospect of conviction.

That wasn't the only recent case involving alleged misbehaviour by prosecutors.

In February, Toronto police charged a Scarborough Crown attorney with assault causing bodily harm after a late-night pub fight with a colleague. The charges were dropped in June, and the prosecutor entered into a peace bond stipulating he would not return to the pub for a year.

In April, another Scarborough Crown attorney was accused of threatening a youth witness outside a courtroom, putting the future of a schoolyard assault trial in jeopardy. A judge later ruled his conduct was "unprofessional," "crude" and "reprehensible," but did not abuse the court process.

The ministry has repeatedly said it does not comment on "confidential human resources matters."

The Star has filed an access-to-information request, asking for any records related to alleged prosecutorial wrongdoing. The ministry denied the request, citing labour relations issues and solicitor-client privilege. An appeal to the province's information and privacy commissioner was also denied.

One Crown attorney, who spoke on the condition of anonymity, said the response from the ministry is unacceptable.

“The system protects the worst Crowns, who suffer no consequences, professionally or financially,” the prosecutor said. “The reality is, when Crowns engage in bad behaviour it reflects poorly on all of us. The fact that Crowns are almost never disciplined and that (the Ministry of the Attorney General) doesn’t even see fit to track this information is really demoralizing to the rest of us who try and do a good job every day.”

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