

MANDATORY CHILD ABUSE REPORTING AND CONFIDENTIALITY IN THE LAWYER-CLIENT RELATIONSHIP

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All of the Canadian common law provinces and territories have legislation that provides for state or quasi-statal agencies to remove children from the care of their parents or guardians if they are in need of protection, as defined in the legislation. To increase the likelihood that children at risk will receive the appropriate attention, in all jurisdictions except the Yukon, the legislation generally requires individuals to report to child welfare authorities, any information indicating that a child is or might be in need of protection.¹ People who acquire this information in the course of a confidential professional relationship are not exempt from this requirement. In three jurisdictions, the professional who fails to report information supporting a reasonable suspicion of child abuse may be subject to disciplinary action by his or her professional organization as well as prosecution for an offense under the child welfare legislation.² Most of the statutes, however, provide that reporting requirements do not abrogate any privilege that may exist between a solicitor and the solicitor's client.³ Neither Newfoundland nor Nova Scotia make special provision for protecting the confidentiality of the lawyer and client relationship; in Newfoundland solicitors have the same responsibility for reporting suspected child

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¹ See Appendix A for these statutory provisions. For an overview of mandatory reporting provisions in North America and a detailed analysis of the Alberta legislation, see Wayne N. Renke, "The Mandatory Reporting of Child Abuse Under the *Child Welfare Act*," (1999) 7 Health Law Journal 91. The Yukon legislation provides for non-mandatory reporting.

² See, Child Welfare Act, S. A. 1984, c. C-8.1, s.3(5); Child and Family Services Act, CCSM c. C80, s.18.2(1); Family Services Act, S.N.B. 1980, c. F-2.2., s.30(4) which provide that the person responsible for child welfare services may require any professional organization to investigate the failure of any of its members to report suspected child abuse. The New Brunswick statute defines the professionals to whom this section applies; lawyers are not included in the list. The Alberta section applies only to those professions prescribed by regulation; to date, none have been. Curiously, in the Yukon, where reporting is not mandatory, the legislation provides that no disciplinary action may be taken against a professional who chooses to report information indicating that a child might be in need of protection.

³ For statutory provisions, see Appendix A.

abuse as do all other professionals.⁴

As professionals, lawyers enjoy a particularly privileged status. The legal profession in all Canadian jurisdictions has the privilege of self-governance. Lawyers, through their professional organizations, determine who has the privilege of offering legal services to the public and what type of assistance is included in the definition of legal services. While some attributes of self-governance are relatively modern, the justification for self-governance is rooted in the legal profession's traditional role as defender of the individual against the power of the state. Lawyers must work free of state supervision in order to carry out their responsibility to zealously defend their clients against state action that threatens the client's liberty or property.

If lawyers are to be effective and zealous advocates, and achieve the purpose for which their client has retained them, then clients must be able to confide in their lawyer, secure in the knowledge that what they communicate will remain confidential (except to the extent that the client authorizes disclosure of a confidential communication). The codes of professional conduct adopted by the several governing bodies of the Canadian legal profession, emphasize the lawyer's obligation to hold, in strict confidence, all information concerning the affairs of the client acquired during the professional relationship.⁵

There is considerable overlap between the protection afforded the client due to the lawyer's obligation to maintain confidentiality of information received in the course of the lawyer-client relationship and the protection that the client enjoys regarding communications that are privileged. If a communication is privileged, it cannot be introduced as evidence without the consent of the person claiming the privilege. Only in exceptional circumstances does our legal system permit individuals, called as witnesses in a criminal or civil proceeding, to assert a privilege to refuse to answer legitimate questions put to them by the parties to the proceeding. Communications between clients and lawyers are privileged if the communication was made for the dominant purpose of obtaining legal advice and was intended to

⁴ In 1992, as part of the response to cases of sexual abuse of children in various Catholic institutions in the province, the Newfoundland government amended the Child Welfare Act to provide for mandatory reporting of child abuse. The Law Society of Newfoundland asked the government to include protection for solicitor-client privilege, available in similar legislation in other jurisdictions, but the request was not granted. See Practice Note to Members of the Law Society of Newfoundland, Re Bill 68, An Act to Amend the Child Welfare Act, January 13, 1993.

⁵ For the relevant provisions of the various Canadian Codes of Professional Conduct, see Appendix B.

be confidential.⁶ There is no privilege attaching to communications that are criminal or made to facilitate the commission of a crime. Finally, privilege may be overridden to permit an accused to make full answer and defence to a criminal charge.⁷

The protection afforded by the lawyer's obligation of confidentiality is greater than the protection afforded by a claim of privilege, and the remedies available to the client for the loss of protection are quite different. The lawyer who makes an unauthorized disclosure of confidential information may be liable to the client in damages for breach of retainer or breach of fiduciary duty,⁸ and may also be liable to disciplinary action by the professional organization that licensed the lawyer to practise. If a lawyer releases privileged information, either inadvertently or in the mistaken belief that the information is not privileged, the client may obtain an injunction to prevent its use by an adverse party, and obtain damages from the lawyer for negligence or breach of retainer.⁹

The codes of professional conduct, enforced by the law societies in the various Canadian jurisdictions, address the question of when a lawyer may or must disclose

⁶ See Garry D. Watson and Frank Au, "Solicitor-Client Privilege and Litigation Privilege in Civil Litigation" (1998) 77 C.B.R. at 315-353.

⁷ See *R. v. Murray; Bernardo, Intervenor*, (2000), 48 O.R. (3D) 437, in which Justice Gravelly of the Ontario Superior Court of Justice granted Ken Murray's application to disclose information about the instructions received from his client, Paul Bernardo, as part of Murray's defence to the charge of obstructing justice by hiding his client's videotapes depicting sexual assault.

⁸ See *Ott v. Fleishman*, (1983) 46 B.C.L.R. 321 (S.C.), in which the lawyer's concern for public interest was not sufficient to justify his disclosure of confidential information. The plaintiff retained a private investigator to obtain evidence of her husband's adultery, and subsequently entered into a sexual relationship with the investigator. The lawyer reported the investigator's conduct to the agency responsible for the supervision of private investigators, and the plaintiff was required to give evidence at two hearings concerning whether the investigator's licence should be revoked. The court awarded the plaintiff \$500 damages, and denied her request for aggravated and exemplary damages. For a comment critical of the decision, see R. Grant Hammond, "Lawyer and Client - Liability for Disclosure of Confidential Information" (1984) 62 C.B.R. at 408-418.

⁹ For a discussion of the difference between confidentiality and privilege, see Paul M. Perrell, Case Comment: *The Royal Bank of Canada v. Lee and Fishman* (1993) 72 C.B.R. at 72-84; for a discussion of the appropriate remedies for inadvertent disclosure of a privileged document, see *Maritime Life Assurance Company v. Hartford Accident and Indemnity Company and the Guarantee Company of North America*, (1998) 28 C.P.C. (4th) 223. The Law Society of British Columbia *Professional Conduct Handbook*, Chapter 5, section 15, sets out the lawyer's obligation to respect the confidentiality of documents belonging to, or intended for, the opposing party if the lawyer comes into possession of the document without the authorization of the opposing party.

confidential information obtained during the solicitor-client relationship, but the provided answers are somewhat delphic. The Canadian Bar Association Code of Professional Conduct, 1987, sets out a two-part rule. Lawyers *may* disclose confidential information obtained in the course of the lawyer-client relationship if they have reasonable grounds for believing that a crime will likely be committed, and they *must* disclose the information (to whom is not specified) if the anticipated crime is one of violence.¹⁰ The majority of Canadian law societies include this CBA rule in their codes of professional conduct. Nova Scotia and New Brunswick require disclosure to prevent a crime of violence or a serious crime respectively, but there is no permissive component to the rule. Ontario and British Columbia have no mandatory component: disclosure is justified only to prevent death or serious harm to any person.¹¹

The formulation of this rule in the Code of Professional Conduct, adopted in June 2000 by the Law Society of Upper Canada, reflects the decision of the Supreme Court of Canada in *Smith v. Jones*.¹² In that case, a client accused of aggravated sexual assault was referred by his lawyer for a psychiatric assessment prior to trial. When the client decided to plead guilty, the psychiatrist wanted to inform the Crown Attorney of the client's well-developed plan to abduct and murder female prostitutes in the city where he lived. The client spoke of this plan during his interview with the psychiatrist; the lawyer had assured the client, quite correctly, that solicitor-client privilege protected the client's communications with the psychiatrist as if they were communications with the lawyer. When the lawyer refused to inform the Crown Attorney of the psychiatrist's concerns, the psychiatrist applied for a court order allowing disclosure. The SCC referred to the rule permitting disclosure to prevent a crime adopted by the Law Society of British Columbia,¹³ and held that disclosure of communications, otherwise protected by solicitor-client privilege, was justified under a public safety exception. On the facts as presented to the court, the psychiatrist was permitted to disclose as much of the client's communication as necessary to warn of the risk. The Supreme Court was not asked, and did not

¹⁰ See Appendix B.

¹¹ For discussion of an analogous problem, see Anne L. McBride, "Deadly Confidentiality: AIDS and Rule 1.6(b), (1990) 4 Geo. J. Legal Ethics 435.

¹² [1999] 1 S.C.R. 455

¹³ Justice Cory, for the majority, *ibid.* at 486.

determine, whether the psychiatrist had an obligation to disclose the information.¹⁴

Taken together, the Supreme Court's decision in *Smith v. Jones* and the various codes of professional conduct governing the lawyer's responsibilities provide justification and permission for any lawyer who decides to breach confidentiality and report concerns about possible child abuse. Despite statements contained in child welfare legislation regarding solicitor-client privilege, in all jurisdictions except two, the lawyer has an obligation under the applicable code of professional conduct to disclose confidential information necessary to prevent a crime of violence or a serious crime. The lawyer who fails to disclose information that might protect a child from abuse may be liable to disciplinary action or damages in a tort action brought by or on behalf of a child whose abuse might have been prevented.¹⁵ Given the support found in the legal profession's codes of conduct for breaching the confidentiality of the lawyer-client relationship where necessary to protect members of the public,¹⁶ lawyers who discover that a child may be at serious risk from continued contact with a client cannot assume that their professional responsibility to maintain their client's confidences prevents them from taking steps to warn of the risk.

In this area as in many others, provincial legislation and codes of professional conduct provide no easy answers for lawyers struggling to understand how to reconcile their duties to their clients with their duties to the public and duties to themselves. Reporting concerns that a child is at risk of abuse will not expose most lawyers to sanctions, either by way of disciplinary action by their governing body or through an action by the client for damages for breach of confidence.¹⁷ Nonetheless, if the client objects to the lawyer's choice to report suspected child

¹⁴ For a comment criticizing the Court's restraint in this regard, see Wayne N. Renke, "Case Comment: Secrets and Lives - The Public Safety Exception to Solicitor-Client Privilege: *Smith v. Jones*", (1999) 37 Alberta Law Review 1045.

¹⁵ See the discussion of American and U.K. cases and the professional's duty to disclose in *Jones v. Smith* at 479-485.

¹⁶ See, for example, the requirement in the Canadian Bar Association Code of Professional Conduct, Chapter IV, for disclosure where a lawyer has reasonable grounds for believing that a dangerous situation is likely to develop at a court facility.

¹⁷ Since lawyers are not required to report suspected child abuse under the various child welfare statutes, except in Newfoundland, the statutory provisions barring any civil action for the making of a report as required, if the report is made reasonably and without malice, would not likely provide the lawyer with a defence to a civil action for damages brought by a client complaining of the disclosure of confidential information. The requirements of the codes of professional ethics would, however, provide a defence.

abuse, a decision from a disciplinary body or court confirming the correctness of the lawyer's choice cannot undo the devastation flowing from the process of responding to the objections.¹⁸ With privilege comes responsibility; for the conscientious, just and public-spirited lawyer, faced with difficult choices between competing interests, it may not always be clear which responsibilities matter most.

¹⁸ Consider, for example, the professional and personal costs to family lawyer Carole Curtis of obtaining an acquittal on misconduct charges brought against her by the Law Society of Upper Canada, based on allegations that she had counseled a client to disobey a custody order. See Tom Onyshko, "Lawyers can counsel clients to disobey court orders, Ontario discipline case suggests" *Lawyers' Weekly*, 13(22), 15 October 1993.

Appendix A: Statutory Provisions Requiring Persons to Report Information of Child Abuse

Yukon

Children's Act, Republished Statutes of the Yukon, 1986-1990, c. 22

s. 115(1) A person who has reasonable grounds to believe that a child may be a child in need of protection may report the information upon which he bases his belief to the director [of family and children's services], an agent of the director, or a peace officer.

(2) No legal action of any kind, including professional disciplinary proceedings, may be taken against a person who reports information under subsection (1) by reason of his so reporting, unless the reporting was done maliciously and falsely.

Northwest Territories and Nunavut

Child Welfare Act, R.S.N.W.T 1988, c. C-6

s. 30(2) Every person who has information of the abandonment, desertion or need of protection of a child or the infliction of abuse on a child shall without delay report the information to the Superintendent [of Child Welfare].

(3) Notwithstanding any other Act, every person who has reasonable grounds to suspect in the course of his or her professional or official duties that a child has suffered or is suffering abuse that may have been caused or permitted by a person who has had charge of the child shall without delay report the suspected abuse to the Superintendent.

(4) This section applies notwithstanding that the information reported is confidential or privileged.

(5) No action shall be commenced against a person for reporting information to the Superintendent in accordance with this section unless it is done maliciously or without reasonable grounds to suspect that the information is true.

(6) Nothing in this section shall abrogate any privilege that may exist between a solicitor and the solicitor's client.

s. 30.1(1) Subject to subsection (2), no person authorized to act under this Act shall be liable for anything done or not done with regard to the welfare and protection of a child, where that person is carrying out his or her duties in good faith under this Act.

(2) This section does not apply to persons required to report under section 30.

British Columbia

Child, Family and Community Service Act, R.S.B.C. 1996, c. 46, amended

s. 14(1) A person who has reason to believe that a child

(a) has been, or is likely to be, physically harmed, sexually abused or sexually

exploited by a parent or other person; or

(b) needs protection under section 13(1) (d) to (k),

must promptly report the matter to a director [designated under the Act] or a person designated by a director.

(2) Subsection (1) applies even if the information on which the belief is based

(a) is privileged, except as a result of a solicitor-client relationship; or

(b) is confidential and its disclosure is prohibited under another Act.

...

(5) No action for damages may be brought against a person for reporting information under this section unless the person knowingly reported false information.

Alberta

Child Welfare Act, S. A. 1984, Chap. C-8.1, as amended

s. 3(1) Any person who has reasonable and probable grounds to believe and believes that a child is in need of protective services shall forthwith report the matter to a director [designated under the Act].

(2) Subsection (1) applies notwithstanding that the information on which the belief is founded is confidential and its disclosure is prohibited under any other Act.

(3) This section does not apply to information that is privileged as a result of a solicitor-client relationship.

(4) No action lies against a person reporting pursuant to this section unless the reporting is done maliciously or without reasonable and probable grounds for the belief.

Saskatchewan

Child and Family Services Act, S.S. 1989-90, s. C-7.2, as amended

s. 12(1) Subject to subsections (2) and (3), every person who has reasonable grounds to believe that a child is in need of protection shall report the information to an officer or peace officer.

(2) Subsection (1) applies notwithstanding any claim of confidentiality or professional privilege other than:

(a) solicitor-client privilege; or

(b) Crown privilege.

(3) No action shall be commenced against a person with respect to making a report pursuant to subsection (1) except with leave of the Court of Queen's Bench.

...

(3.2) On an application for leave, leave shall be granted only if the applicant establishes, by affidavit evidence or otherwise, a *prima facie* case that the person made the report maliciously and without reasonable grounds for his or her belief.

Manitoba

Child and Family Services Act, C.C.S.M. c. C80, as amended

s. 18(1) Subject to subsection (1.1), where a person has information that leads the person reasonably to believe that a child is or might be in need or protection as provided for in section 17, the person shall forthwith report the information to [a child and family services] agency [incorporated under the Act] or to a parent or guardian of the child.

s. 18(1.1) Where a person under subsection (1)

...

(b) has information that leads the person reasonably to believe that the parent or guardian

(i) is responsible for causing the child to be in need of protection; or

(ii) is unable or unwilling to provide adequate protection to the child in the circumstances; or

(c) has information that leads the person reasonably to believe that the child is or might be suffering abuse by a parent or guardian of the child or by a person having care, custody, control or charge of the child,

subsection (1) does not apply and the person shall forthwith report the information to an agency.

s. 18.1(2) No action lies against a person for providing information in good faith and in compliance with s. 18.

s. 18(2) Notwithstanding the provisions of any other Act, subsection (1) applies even where the person has acquired the information through the discharge of professional duties or within a confidential relationship, but nothing in this subsection abrogates any privilege that may exist because of the relationship between a solicitor and the solicitor's client.

Ontario

Child and Family Services Act, R.S.O. 1990, c. C-11, as amended

s. 72(2) A person who believes on reasonable grounds that a child is or may be in need of protection shall forthwith report the belief and the information upon which it is based to a [children's aid] society [designated under the Act].

(3) Despite the provisions of any other Act, a person referred to in subsection (4) who, in the course of his or her professional or official duties, has reasonable grounds to suspect that a child is or may be suffering or may have suffered abuse shall forthwith report the suspicion and the information on which it is based to the society.

(4) Subsection (3) applies to every person who performs professional or official duties with respect to a child, including

(a) a health care professional, including a physician, nurse, dentist, pharmacist and

psychologist;

(b) a teacher, school principal, social worker, family counsellor, priest, rabbi, clergyman, operator or employee of a day nursery and youth and recreation worker;

(c) a peace officer and a coroner;

(d) a solicitor; and

(e) a service provider and an employee of a service provider.

...

(7) This section applies although the information reported may be confidential or privileged, and no action for making the report shall be instituted against a person who acts in accordance with subsection (2) or (3) unless the person acts maliciously or without reasonable grounds for the belief or suspicion, as the case may be.

(8) Nothing in this section abrogates any privilege that may exist between a solicitor and his or her client.

New Brunswick

Family Services Act, S.N.B. 1980, c. F-2.2., as amended

s. 30(1) Any person who has information causing him to suspect that a child has been abandoned, deserted, physically or emotionally neglected, physically or sexually ill-treated or otherwise abused shall inform the Minister [of Family and Community Services] of the situation without delay.

(2) This section applies notwithstanding that the person has acquired the information through the discharge of his duties or within a confidential relationship, but nothing in this subsection abrogates any privilege that may exist because of the relationship between a solicitor and the solicitor's client.

...

(5) No action lies, in relation to the giving of information under this section, against a person who in good faith complies therewith.

Prince Edward Island

Family and Child Services Act, R.S.P.E.I. 1988, c. F-2, as amended

s. 14(1) Every person who has knowledge or has reasonable and probable cause to suspect that a child has been abandoned, deserted or abused must forthwith report or cause to be reported the circumstances to the Director [of Child Welfare] or to a peace officer who shall report it to the Director, and shall provide to a child care worker such additional information as is available to him or is known to him.

...

(4) A person who makes a report pursuant to subsection (1) or who does anything to assist in any investigation conducted pursuant to subsection (2) is not liable to any civil action in respect of any matter contained in the report of anything done in good faith in assistance in the investigation.

(5) Nothing in this section affects or abrogates any privilege that may exist because of the relationship between a solicitor and his client.

Nova Scotia

Children and Family Services Act, S.N.S. 1990, c. 5, as amended

s. 23(1) Every person who has information, whether or not it is confidential or privileged, indicating that a child is in need of protective services shall forthwith report that information to an agency [established for the protection of children].

(5) No action lies against a person by reason of that person reporting the information pursuant to subsection (1), unless the reporting of that information is done falsely and maliciously.

s. 24(2) Notwithstanding any other Act, every person who performs professional or official duties with respect to a child, including

(a) a health care professional, including a physician, nurse, dentist, pharmacist or psychologist;

(b) a teacher, school principal, social worker, family counsellor, member of the clergy, operator or employee of a day-care facility;

(c) a peace officer or a medical examiner;

(d) an operator or employee of a child-caring facility or child-care service;

(e) a youth or recreation worker,

who, in the course of that person's professional or official duties, has reasonable grounds to suspect that a child is or may be suffering or may have suffered abuse shall forthwith report the suspicion and the information upon which it is based to an agency.

(3) This Section applies whether or not the information reported is confidential or privileged.

...

(5) No civil action lies against a person by reason of that person reporting information pursuant to subsection (2), unless the reporting is done falsely and maliciously.

s. 25(2) Every person who has information, whether or not it is confidential or privileged, indicating that a child is or may be suffering or may have suffered abuse by a person other than a parent or guardian shall forthwith report the information to an agency.

...

(5) No action lies against a person by reason of that person reporting information pursuant to subsection (2) unless the reporting is done falsely and maliciously.

Newfoundland

Child, Youth and Family Services Act, S. Nfld. 1998, c. C-12.1, as amended

s. 15 (1) Where a person has information that a child is or may be in need of protective intervention, the person shall immediately report the matter to a director [of Child, Youth and Family Services employed by a community health board], social worker or a peace officer.

...

(4) This section applies, notwithstanding the provisions of another Act, to a person referred to in subsection (5) who, in the course of his or her professional duties, has reasonable grounds to suspect that a child may be in need of protective intervention.

(5) Subsections (4) applies to every person who performs professional or official duties with respect to a child, including,

(a) a health care professional;

(b) a teacher, school principal, social worker, family counsellor, member of the clergy or religious leader, operator or employee of a child care service and a youth and recreation worker;

(c) a peace officer; and

(c) a solicitor.

(6) This section applies notwithstanding that the information is confidential or privileged, and an action does not lie against the informant unless the making of the report is done maliciously or without reasonable cause.

Appendix B: Provisions of Provincial and Territorial Codes of Professional Conduct Dealing with Disclosure of Confidential Information in order to Prevent Serious Injury

Canadian Bar Association, Code of Professional Conduct, 1987

Chapter IV, Confidential Information

Commentary 11: Disclosure of information necessary to prevent a crime will be justified if the lawyer has reasonable and probable grounds for believing that a crime is likely to be committed and will be mandatory when the anticipated crime is one involving violence.

Yukon

Law Society of Yukon

Canadian Bar Association, Code of Professional Conduct, 1974

Nothing further in Rules in Yukon Code of Professional Conduct

Northwest Territories

Law Society of the Northwest Territories

Canadian Bar Association, Code of Professional Conduct, 1987

Nothing further in Policy Directives adopted by Executive of the Law Society

Nunavut

Law Society of Nunavut

Canadian Bar Association, Code of Professional Conduct, 1987

British Columbia

Law Society of British Columbia

Professional Conduct Handbook

Chapter 5: Confidential Information

12. A lawyer may disclose information received as a result of a solicitor-client relationship if the lawyer has reasonable grounds to believe that the disclosure is necessary to prevent a crime involving death or serious bodily harm to any person.

Alberta

Law Society of Alberta

Code of Professional Conduct

Chapter 7: Confidentiality

s. 8(b) A lawyer must disclose confidential information when necessary to prevent a crime likely to result in death or bodily harm, and may disclose confidential information when necessary to prevent any other crime.

s. 9 When confidential information is disclosed by a lawyer pursuant to Rule # 8, the lawyer must disclose the minimum information required to give effect to Rule # 8 and no more.

Commentary: Rule 8(c): A client who seeks an advocate with respect to past conduct is entitled to have disclosures held in confidence by the advocate. The same rationale does not apply to a prospective crime since the client has no right to expect the lawyer to assist in future misconduct. . . . A lawyer advised of a prospective crime by a client must first assess whether it is reasonable to assume that the client will carry out the expressed intention. If doing so, the lawyer must evaluate factors such as the client's history and the nature and extent of the lawyer/client relationship. If the crime seems reasonably likely to be effected and is likely to result in death or bodily harm, disclosure must be made to the extent necessary to prevent the crime. If the prospective crime does not involve death or bodily harm and disclosure is therefore discretionary, the lawyer must evaluate the risk to the safety or property of others. The prospect of a "victimless" crime without serious consequences may not warrant disclosure.

Saskatchewan

Law Society of Saskatchewan

Code of Professional Conduct

Chapter 4: Confidential Information

Commentary 11: Disclosure to prevent a crime

Disclosure of information necessary to prevent a crime will be justified if the lawyer has reasonable grounds for believing that a crime is likely to be committed and will be mandatory when the anticipated crime is one involving violence against the person.

Manitoba

Law Society of Manitoba

Code of Professional Conduct

Chapter 4: Confidential Information

Canadian Bar Association, Code of Professional Conduct, 1987

Chapter IV, Confidential Information, Commentary 11, as above

Ontario

Law Society of Upper Canada

Rules of Professional Conduct

Rule 2, Relationship to Clients: Confidentiality

2.03(3) Where a lawyer believes upon reasonable grounds that there is an imminent risk to an identifiable person or group of death or serious bodily harm,

including serious psychological harm that substantially interferes with health or well-being, the lawyer may disclose, pursuant to judicial order where practicable, confidential information where it is necessary to do so in order to prevent the death or harm, but shall not disclose more information than is required.

New Brunswick

Law Society of New Brunswick
Professional Conduct Handbook
Part C, Relations with a Client
5. Confidential Communications

The ethical obligation not to disclose a client's affairs. . . does not extend to communications relating to criminal or fraudulent transactions unless the lawyer is advising a client who has been charged with a criminal offence. A lawyer is under a duty to volunteer information concerning the commission of serious crime. Another exception is when the national interest makes disclosure imperative.

Prince Edward Island

Law Society of Prince Edward Island
Canadian Bar Association Code of Professional Conduct, 1987
Chapter IV, Confidential Information, Commentary 11, as above
No relevant additions adopted by the Law Society.

Nova Scotia

Nova Scotia Barristers Society
Legal Ethics and Professional Conduct Handbook
Chapter 5: Confidentiality

5.12 A lawyer has a duty to disclose information necessary to prevent a crime where

- (a) the lawyer has reasonable grounds for believing that the crime is likely to be committed; and
- (b) the anticipated crime involves violence.

Newfoundland

Law Society of Newfoundland
Code of Professional Conduct
Chapter IV, Confidential Information
Canadian Bar Association, Code of Professional Conduct, 1987
Chapter IV, Confidential Information, Commentary 11, as above