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<p><b>CHAPTER III – CHAPITRE III :</b> <b>Professionalism</b> <b>Professionnalisme</b></p>	<p>Readers are referred to the list of Related Documents at the end of this Policy for additional information. Les lecteurs peuvent se référer à la liste des documents connexes notés à la fin de cette politique pour information supplémentaire.</p>	

## MEDIA COMMUNICATIONS

### 1. Introduction

Public confidence in the administration of justice depends on access to appropriate and accurate information. Where required, the Crown Prosecutor should provide the media with appropriate information to ensure that citizens have an opportunity to determine whether the justice system is functioning effectively and in a fair and equitable manner. In any communication with the media, the Crown Prosecutor must uphold the overriding duty to ensure the proper administration of justice.

### 2. Statement of the Policy

Public Prosecution Services should communicate with the media where doing so enhances public confidence in the justice system.

The Director of Public Prosecutions may identify a need to provide information to the public. In those situations, the Director of Public Prosecutions shall determine the appropriate means of communication and the content of the communication.

Ultimately, the Attorney General retains discretion in any case to determine whether to release information and the extent of any information that is to be released.

### 3. Determining Whether to Respond to a Media Inquiry

Subject to the overriding duty to ensure the proper administration of justice, media should be provided with timely, appropriate, and accurate information on matters relating to ongoing prosecutions. No communication with the media should occur where it would compromise the fulfilment of that overriding duty.

Where an employee is in doubt about some aspect of a media inquiry, the employee should decline to answer the inquiry at that time and seek the advice of his or her immediate supervisor. This will often be advisable where

- (a) the case is of high profile, of major public concern, or of a particularly controversial nature; or
- (b) a designated spokesperson has already handled other media inquiries regarding the same matter.

Where appropriate, the Director of Communications for the Attorney General should be consulted with respect to an inquiry from the media.

The response to a media inquiry should be tempered in a case where an inordinate amount of time or resources would be required to prepare a response.

#### **4. Determining Who Should Respond to a Media Inquiry**

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An inquiry relating to the justice system, including any inquiry relating to court proceedings shall be handled by the person who can best ensure that accurate information is presented to the public. Normally, that will be the Director of Public Prosecutions, the Executive Director of Public Prosecutions, the Director of Specialized Prosecutions, the appropriate Regional Director, or the Director of Communications. Consultation should occur among the appropriate individuals within that group to determine who should respond to a particular media inquiry.

In certain circumstances, it may be more appropriate for the Crown Prosecutor, who may be the most knowledgeable person with respect to the information requested, to respond directly in order to ensure that accurate information is presented to the public.

#### **5. Guiding Principles When Communicating With the Media**

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Where it is appropriate for an employee to communicate with the media, the following general principles should govern the employee's approach:

- (a) **Protect the integrity of the trial** – All comments that may prejudice the right of an accused to a fair trial must be avoided. The Crown Prosecutor shall not argue the cases in the media.
- (b) **Give facts, not opinions** – The employee should provide factual information, but not offer personal opinions, about court decisions, laws, or governmental policies. The goal is to foster understanding, not to create sensation.
- (c) **Speak for attribution** – All communications with the media should be considered “on the record”. The employee must assume that any comments he or she makes can be attributed to him or her in his or her own name or on behalf of the Attorney General, the Department of Justice and Attorney General, or Public Prosecution Services.
- (d) **Be timely** – The employee should seek to prevent an inaccurate public record by providing information in a timely way, respecting where possible the needs of journalists to meet deadlines.
- (e) **Be responsive** – Where it is not appropriate to respond to a request for information because it calls for an opinion, invites comment on matters under judicial consideration, or attempts to confirm the existence of a police investigation, the employee should consider explaining why it would be inappropriate to provide an answer to the question posed.
- (f) **Educate the public** – The media and the public generally may not understand the complexities of the justice system. The employee should take the opportunity to explain aspects of the system, where appropriate, in a comprehensible way.

#### **6. Specific Direction Where Responding to a Media Inquiry is Appropriate**

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##### **6.1 Inquiries Relating to Policy or Fiscal Matters**

Any question relating to policy, fiscal, or personnel matters should be referred to the Director of Public Prosecutions.

##### **6.2 Provision of Factual Information**

Where appropriate, an employee may provide factual information, but not opinions, concerning the following:

- (c) criminal law or procedure;
- (d) the operation of the criminal justice system;
- (e) the role of the Crown Prosecutor and Public Prosecution Services;
- (f) the meaning of a court decision, without commenting on whether it is “right”, “wrong”, “good”, “bad”, or “appealable”; and
- (g) the role and responsibilities of the Attorney General.

### **6.3 Information Which Shall Not be Disclosed or Commented Upon**

Employees shall not disclose or comment on the following:

- (a) privileged information;
- (b) advice given to, or discussions held with, the Attorney General, colleagues, foreign officials, or members of an investigative agency, including pre-charge advice provided by the Crown Prosecutor to an investigative agency, whether or not such advice or discussions are privileged;
- (c) any information subject to a publication ban;
- (d) the policies, procedures, or decisions of an investigative agency; and
- (e) any information subject to non-disclosure under legislation, including
  - (i) the *Criminal Code*;
  - (ii) the *Controlled Drugs and Substances Act*;
  - (iii) the *Youth Criminal Justice Act*; and
  - (iv) the *Right to Information and Protection of Privacy Act*.

### **6.4 Communications Regarding Investigations and the Laying of Charges**

#### **6.4.1 Communications Before Charges Are Laid**

Before a charge is laid, the media may seek to confirm that the police are investigating a specific individual, that a particular file is under review, or that a potential charge is expected to be laid.

An employee who responds to such a media request shall advise the media personnel that they are unable to comment on the ongoing investigation of individuals, files under review, or potential charges.

#### **6.4.2 Communications Where a Charge Is Not Laid**

The media may seek information or an explanation in respect of a situation in which a charge is not laid.

An employee who responds to such a media request shall advise the media personnel that they are unable to comment on the particulars of an investigation. Where appropriate the employee may comment on the charge approval standard.

## **7. Information Relating to Specific Prosecutions**

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Once an information has been laid in a prosecution, an employee may disclose the following information:

- (a) the name of the accused;
- (b) the charge; and

- (c) the current standing of the case.

The employee must be vigilant to ensure that any comment in respect of a prosecution does not

- (a) risk any prejudice to the accused person's right to a fair trial;
- (b) result in a mistrial or risk that a mistrial will be declared; or
- (c) otherwise bring the administration of justice into disrepute.

An employee shall not comment in respect of

- (a) the strength or weakness of the Crown or defence case;
- (b) evidence relating to a specific case;
- (c) undisclosed elements of the Crown's case or strategy;
- (d) the existence of any plea negotiations;
- (e) the possibility of a plea of guilty;
- (f) the merit of a ruling, judgment or sentence arising from a specific case;
- (g) the appropriateness of a judge's charge to the jury or the verdict of a judge or jury; or
- (h) any comments made by a judge.

In cases where there is doubt about the appropriateness of a response, the employee should consult with his or her immediate supervisor.

## **8. Information Relating to a Potential Appeal**

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Unless the Crown has commenced an appeal or the limitation period within which to commence an appeal has expired, employees shall advise the media that employees are not to comment on the possibility of an appeal.

Once an appeal has been commenced or the limitation period has expired without commencing an appeal, an employee may disclose the current standing of the case.

## **9. Communicating with the Media in One's Personal Capacity**

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As with any government employee, employees of Public Prosecution Services are subject to certain limitations when communicating with the media in one's personal capacity. An employee shall not make any comment that would do any of the following things:

- (a) compromise his or her ability to do his or her job;
- (b) risk bringing the administration of justice into disrepute or weaken the public's confidence in legal institutions; or
- (c) contravene professional codes of conduct.

## **10. Related Documents**

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None