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MEDIA INQUIRIES AND PUBLIC STATEMENTS

RATIONALE

Because public confidence in the administration of criminal justice is enhanced by the availability of appropriate and timely information concerning cases before the courts, Crown Attorneys are strongly encouraged to respond to media inquiries about the cases in which they are involved.

For the purposes of this policy, “**media**” includes reporters and representatives from the print and electronic media sources, authors, and anyone else who may publish or broadcast the information or comments that are provided to them.

POLICY

1. Crown Attorneys should view media inquiries as opportunities to speak to Nova Scotians and the public generally. Responses to inquiries are to be made in such a manner that they educate the public about the Public Prosecution Service, the role of the Crown Attorney in the justice system, and inform the public about the Crown’s position in the case in question.
2. When responding to media inquiries, Crown Attorneys are to utilize good professional judgment and refrain from making comments that could jeopardize the accused’s right to a fair trial, reveal undisclosed elements of the Crown’s case or strategy, violate any bans imposed by the court or legislation, or be interpreted as arguing the Crown’s case in the media.
3. The public comments of Crown Attorneys should be factual in nature while a trial or proceeding is ongoing. Crown Attorneys should not express personal opinions regarding the strength of the case for the prosecution or defence, the likelihood of conviction, the credibility of witnesses, or the conduct of anyone participating in the trial.

When the trial has concluded, comments regarding any verdict or decision must be restrained and respectful of the Court and all participants in the proceedings. However, it is not inappropriate, once a verdict has been rendered, to comment on the courage of the complainant or, in the case of a guilty verdict, to remark on the strength of the Crown’s case.

The Crown Attorney must always take care that their public comments do not undermine public confidence in the administration of justice.

4. To facilitate the accurate reporting of trial proceedings, where feasible, Crown Attorneys are encouraged to provide the media with the following items:
 - a copy of an Agreed Statement of Facts, once it has been filed with the court;
 - at Crown Attorney's discretion, a copy of an opening or closing address to the jury **once it has been delivered to the jury** and only if the wording in the copy accurately represents the oral presentation made in court (be mindful that during the oral presentation the Crown Attorney may add or delete material that would significantly change the printed copy intended for media);
 - the wording of any legislation to which they have referred in court.
5. Although Crown Attorneys must refrain from providing any legal advice to the media on whether or not particular matters may be published, it is permissible to point out or to confirm the existence of any restrictions on publication imposed by legislation or by the court in a particular case.

If Crown Attorneys present information or evidence which by its nature is subject to a restriction on publication, the feature of that information or evidence which gives rise to the restriction should be made apparent. If, for example, a conviction was under the *Youth Criminal Justice Act* rather than the *Criminal Code*, that should be clearly stated.
6. Pre-charge advice provided by Crown Attorneys to the police is confidential; accordingly, Crown Attorneys should not comment on the existence of a police investigation, prior to a charge being laid. If questioned as to whether a particular individual or situation is under investigation or whether charges will be laid, Crown Attorneys are to refer the media to the police. If there is a police investigation in progress the appropriate party to answer media questions is the police.
7. Crown Attorneys are not to make public comments regarding any case in which they are not directly involved. Occasionally, Crown Attorneys are asked by reporters to explain in general terms a court process or legal issue because of a specific case that is (or will be) in the news. Unless the Crown Attorney is directly involved in the prosecution of that case, he or she must guard against having their comments applied to that specific case. If in doubt, refer the reporter to the Director of Communications.
8. Crown Attorneys are not to agree to the adjournment or re-scheduling of a case if the purpose of the adjournment or re-scheduling is to minimize or avoid media scrutiny of the proceedings. To prevent unfair speculation in regard to the motives for re-scheduling a case, the reasons for re-scheduling a case should be clearly stated in court.

If a case has received media attention, or is expected to receive media attention, Crown Attorneys should ensure that the Director of Communications is notified of significant developments in the case and the date upon which proceedings will occur. This is particularly important when the date of a scheduled appearance is changed on short notice.

9. When responding to inquiries about the possibility of an appeal by the Crown, the prosecuting Crown Attorney may state that the case will be reviewed to determine whether or not there are grounds for an appeal, but that decisions in regard to an appeal are made by the Chief Crown Attorney for Appeals. Crown Attorneys must refrain from expressing personal views about the merits of a possible appeal or that they are recommending (or have recommended) that the case be appealed.

Crown Attorneys are reminded that the *sub judice* rule precluding public discussions which could prejudice on-going proceedings applies until the end of the appeal process.

If an appeal has been launched, those seeking information about the appeal may be directed to contact the Registrar of the Court of Appeal who can provide access to the Notice of Appeal and other public documents.

10. Crown Attorneys are also guided by the Nova Scotia Barristers' Society *Code of Professional Conduct*. Rule 7.5 *Public Appearances and Public Statements* states:

7.5-1 Provided that there is no infringement of the lawyer's obligations to the client, the profession, the courts, or the administration of justice, a lawyer may communicate information to the media and may make public appearances and statements.

7.5-2 A lawyer must not communicate information to the media or make public statements about a matter before a tribunal if the lawyer knows or ought to know that the information or statement will have a substantial likelihood of materially prejudicing a party's right to a fair trial or hearing.

11. Crown Attorneys may refer media inquiries to the PPS Director of Communications at any time. When media contact occurs, which does not relate to a specific, current prosecution, it is important that the Director of Communications be made aware of the media interest. Because the media often work with tight deadlines, if a Crown Attorney is unable to take a media call at his or her office, support staff are to direct the call to the Director of Communications.

12. PPS prosecution policies are public documents and may be referred to by Crown Attorneys. Crown Attorneys, however, should avoid public debate about prosecution policies, or the policies of any department of government. Media inquiries which go beyond asking what the PPS policy is in regard to a specific topic are to be referred to the Director of Communications, unless prior approval for public discussion of particular policy issues has been obtained from the DPP or his designate.

13. All written news releases regarding the Public Prosecution Service and/or its Crown Attorneys in the performance of their jobs or professional development are the responsibility of the Director of Communications. The Director of Communications writes any necessary news releases in accordance with Canadian Press style, arranges for editing and distribution through Communications Nova Scotia and follows up with media as required. The Director of Communications will liaise as necessary with individual Crown Attorneys, Chief Crown Attorneys and the Director of Public Prosecutions in the development and finalization of news releases.