

Disclosure of Information Following Internal Investigations into Major Incidents Involving Persons in Custody

Scope: Department-wide

Objective: To define the parameters of information disclosure following an internal investigation into major incidents involving persons in custody. This will contribute to transparency and consistent communications from the Department.

Policy

It is the policy of the Department of Justice that information relating to internal investigations into major incidents involving persons in custody will be publically disclosed following the completion of the investigation.

Information will be released by designated spokespersons for the Department and in accordance with the parameters outlined below.

Responsibilities

Deputy Minister – Provides final approval of content for public release.

Communications Division – Reviews information on internal investigations received from Correctional Services and Court Services. Obtains approval for website content and uploads approved content to website. Prepares, obtains approval on, and issues news releases. Responds to media inquiries.

Executive Director, Correctional Services – provides information on completed internal investigations into major incidents in correctional facilities to the Communications Division and Senior Management of the Department in accordance with this policy. Determines whether the release of information would impact the safety and security of Correctional Services operations.

Executive Director, Courts Services – provides information on completed internal investigations into major incidents relating to Sheriff Services and Justice Centres/Courts to the Communications Division and Senior Management of the

Department in accordance with this policy. Determines whether the release of information would impact the safety and security of Court Services operations.

Director/Executive Officer, Compliance and Internal Investigation – Provides report on completed internal investigations to Executive Director Correctional Services and/or Executive Director, Courts Services.

Director of Public Safety – Consults with police services to determine whether release of information will impede the capture of an individual, impede an ongoing police investigation or put victims at risk.

Information Access and Privacy (IAP) Administrator – Provides advice as required in accordance with privacy legislation (e.g., *Freedom of Information and Protection of Privacy (FOIPOP) Act*), policies and best practice.

Legal Services Solicitor – Provides advice as required on legal issues regarding information release (e.g., court-ordered publication bans, restrictions on the release of information under the *Youth Criminal Justice Act*).

Authority to disclose

Disclosure of information is subject to legislation including the *Freedom of Information and Protection of Privacy (FOIPOP) Act*.

Advice may be sought from the Department of Justice IAP Administrator about the application of the *Freedom of Information and Protection of Privacy (FOIPOP) Act* or policy under the Act.

Advice may be sought from a Department of Justice solicitor about the application of laws or Department policies.

Release of information prohibited

Under certain circumstances, a publication ban may be ordered by the court prohibiting publication of information that might identify a victim or person in custody/at large. Prior to the release of any information by the Department of Justice, Correctional Services and/or Court Services will confirm that the release of this information will not contravene any publication ban that may be in place.

The *Youth Criminal Justice Act (YCJA)* prohibits the release of information identifying persons under the age of 18. This information will not be released unless authorized by a Youth Court judge.

A Departmental solicitor from the Legal Services Division will be consulted if there is uncertainty about the authority to release information or if there are other legal matters pertaining to the release of information.

Other circumstances in which information will not be released

The Department will not release information following an internal investigation where the matter is still before the courts or other tribunal or where it has been determined that the release of this information would compromise the safety and security of its operations, impact a separate ongoing investigation, impede the capture of an individual, or put victims at risk.

Personnel Issues

Following an internal investigation, the Department will not release names or other information which may identify staff.

When release is refused

When the law or policy prohibits release of information, media representatives or members of the general public will be advised of their right to make an access to information application to the Department in accordance with the *Freedom of Information and Protection of Privacy (FOIPOP) Act*.

Types of internal investigations

For the purpose of this policy, an investigation is defined as a close examination, or systematic inquiry, of incidents that are not, or may not be, routine in nature or areas that are not reviewed by another process identified in policy and procedures or in law.

Internal investigations into major incidents refers to investigations conducted by the Department of Justice into major incidents as defined by the policy *Disclosure of Information on Major Incidents Involving Persons in Custody*.

Website posting

Following the completion of an internal investigation into a major incident, the Department of Justice will post information approved by the Deputy Minister on the Department's website as long as the matter is not before the courts or other tribunal and as long as the release of this information does not compromise the safety and security of its operations, impact a separate ongoing investigation, impede the capture of an individual, or put victims at risk.

Social Media

Once information relating to an internal investigation has been posted to the Department of Justice website, communications staff may use social media channels to inform the public and media.


Information which may be released following internal investigations into major incidents

The following information may be released by approved spokespersons for the Department following the conclusion of the internal investigation:

- the nature of the incident that prompted the internal investigation;
- the focus of the investigation;
- factors that were considered while conducting the investigation;
- the facts regarding the incident including:
 - the time and date it occurred;
 - the location at which it occurred (e.g., correctional facility, court, or while being transported by Sheriff Services);
 - the number of persons involved (e.g., the number of persons in custody/ correctional officers);
 - the correctional facility in which the individual(s) was being held or court in which he/she was appearing;
 - whether injuries were sustained and whether medical attention was required;
 - for deaths in custody, whether the death appears to be or is known to be due to natural causes, suicide, foul play or is suspicious;
 - for seizures of explosives or firearms, the types and quantities seized;
 - for major seizures of drugs, the types and quantities of drugs seized;
 - whether police, other emergency responders or the medical examiner were involved and when they were contacted;

- the findings of the investigation including what the investigation revealed and what led to or contributed to the incident; and,
- action being taken to reduce or eliminate the likelihood of a similar incident from reoccurring.

APPROVED BY DEPUTY MINISTER:



Marian F. Tyson, Q.C

Appendix A: Decision Tree for Release of Information Following an Internal Investigation

