

Disclosure of Information on Major Incidents Involving Persons in Custody

Scope: Department-wide

Objective: To define the parameters of information disclosure in the event of a major incident 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 major incidents involving persons in custody will be disclosed to the general public and/or to media representatives.

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 major incidents received from Correctional Services and Court Services. Prepares and obtains approval on news releases and website content. Uploads approved content to website. Releases approved communications and responds to media inquiries.

Director of Correctional Services – Identifies and provides information on major incidents within correctional facilities to the Communications Division and Senior Management of the Department in accordance with this policy.

Director of Court Services – Identifies and provides information on 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.

Director of Public Safety – Consults with police services regarding persons unlawfully at large 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.

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*.

Matters currently under investigation

No specific information will be issued on incidents under investigation.

Types of major incidents

For the purpose of this policy, major incidents are defined as follows:

- A major disturbance at a correctional facility (a disturbance of four or more persons in custody, over a protracted period of 60 minutes or longer, and (a) necessitating the hold or call back of staff or (b) exceeding the resource capacity of the facility, and requiring emergency police services to respond to the identified threat);
- major disruptions of day-to-day activities in a correctional facility or Justice Centre/Court (including major power outages or loss of telephone service) where it has been determined that there is a threat to public safety;
- purposeful damage to a correctional facility, Justice Centre/Court, Department of Justice office or Department vehicle estimated to be in excess of \$5,000;
- a motor vehicle accident which occurs while transporting a person(s) in custody resulting in an emergency medical response at the scene or inpatient hospitalization;
- assault committed by a person in custody against another person within a correctional facility, while in the custody of Sheriff Services, or while in court resulting in serious injury that requires inpatient hospitalization;
- escape from custody including escape from Sheriff Services, escape from correctional facilities and escape from escorted temporary absences;
- wrongful release of a person from custody prior to the expiration of his or her sentence or remand;
- seizure of explosives or firearms at a correctional facility or Justice Centre/Court;
- a hostage taking;
- a bomb threat;
- major seizure of drugs at a correctional facility;

- closure of a correctional facility to the public as a result of a health concern (e.g., flu outbreak); and,
- the death of a person while in custody.

Website posting

In the event of a major incident, the Department of Justice will post information approved by the Deputy Minister on the Department's website, as long as it does not impede the capture of an individual, impede an ongoing police investigation, and/or put victims at risk.

Social Media

Once information has been posted to the Department of Justice website about a major incident, communications staff may use social media channels to inform the public and media.

News releases

In addition to posting information on the Department of Justice website, the Department will issue a news release where it is believed there may be a danger to public safety or in the event of the following major incidents:

- assault committed by a person in custody against another person within a correctional facility, while in the custody of Sheriff Services, or while in court resulting in serious injury that requires inpatient hospitalization;
- escape from custody including escape from Sheriff Services, escape from correctional facilities and escape from escorted temporary absences;
- wrongful release of a person from custody prior to the expiration of his or her sentence or remand where it is determined that there is a threat to public safety;
- seizure of explosives or firearms at a correctional facility or Justice Centre/Court;
- a hostage taking;
- closure of a correctional facility to the public as a result of a health concern (e.g., flu outbreak);
- the death of a person while in custody,

as long as the release of this information does not impede the capture of an individual, impede an ongoing police investigation, and/or put victims at risk.

Release of emerging information

When the information to be released is based on initial reports of major incidents, the release will note that the information is emerging and may be revised as new information becomes available.

Public notification of major disruptions

For the purpose of this policy, a major disruption, including a major power outage or loss of telephone service, at a correctional facility or Justice Centre/Court is deemed to be a major incident if it is determined that there is a threat to public safety.

In the event of a major disruption, the Deputy Minister will seek advice from Senior Management of Correctional Services and/or Court Services. If it is determined that there is a threat to public safety, the public will be notified.

Public notification of escapes from custody

In the event of an escape from custody, including an escape from Sheriff Services, an escape from a correctional facility or an escape from an escorted temporary absence, the Department will notify the public unless it is determined that public notification may, in any way, impede the capture of the individual, impede an ongoing police investigation, and/or put victims at risk. The Deputy Minister will seek advice from Senior Management of Public Safety, Correctional Services and/or Court Services and if these risks are not identified, the public will be notified (see Appendix A).

Public notification of wrongful releases from custody prior to expiration of sentence or remand

In the event of a wrongful release from custody prior to expiration of a person's sentence or remand, the Deputy Minister will seek advice from Senior Management of Public Safety, Correctional Services and/or Court Services on whether the individual poses a risk to public safety and seek advice to determine if public notification may, in any way, impede the capture of the individual, impede an ongoing police investigation, and/or put victims at risk. If the advice indicates that the individual is a threat to public safety and that public notification would not be expected to impede the capture of the individual, impede an ongoing police investigation, and/or put victims at risk, the public will be notified through a news release (see Appendix B).

Young persons unlawfully at large

As identification of a young person is prohibited under the *Youth Criminal Justice Act (YCJA)*, public notification identifying a young person who is unlawfully at large will not take place without an Order from a Youth Court Judge.

When warranted because the young person poses a serious risk to public safety, the Department of Justice will work with police to seek an Order from the Youth Court for necessary disclosure.

Information which may be released – escape or wrongful release from custody prior to expiration of sentence or remand

In notifying the public of an escape or wrongful release from custody prior to expiration of sentence or remand, the following information may be released:

- individual's name;
- individual's age;
- a photo and/or description of the individual;
- nature of the incident (e.g., escape from correctional facility, escape from Sheriff Services, wrongful release prior to the expiration of his or her sentence or remand);
- correctional facility in which the individual was being held or court in which he/she was appearing;
- whether the individual was remanded or sentenced;
- length of sentence(s) being served;
- warrant expiry date;
- offence(s) for which the person was in custody;
- time and date of the escape/wrongful release;
- when the police were notified;
- when the internal investigation commenced or will commence; and,
- procedure for reporting a sighting to authorities.

Where a release has been issued identifying a person unlawfully at large, an additional release will be issued upon capture of the individual to notify the public that he or she has been apprehended. In addition to the individual's name, this release will include the date and time that the individual was apprehended and municipality in which it occurred.

Information which may be released – death in custody

In the event that an individual dies while in custody, the following information may be released by approved spokespersons for the Department:

- the fact that a death has occurred;
- where the death occurred (e.g., correctional facility or while in the custody of Sheriff Services);
- the time and date of the incident;
- whether the death appears to be due to natural causes, suicide or is suspicious in nature, or whether foul play is suspected;
- whether next of kin have been notified;
- when the police and medical examiner were notified; and,
- when the internal investigation commenced or will commence.

In addition to the above, the following information may be provided once next of kin have been notified:

- individual's gender;
- individual's age;
- whether the individual was remanded or sentenced;
- date of admission to the correctional facility (if applicable);
- length of sentence(s) being served (if applicable); and,
- offence(s) for which the individual was in custody.

Special considerations may apply to youth who die in custody, and legal advice and/or an Order from a Youth Court judge may be required before identifying information is released.

Information which may be released – all other major incidents

For all other major incidents including:

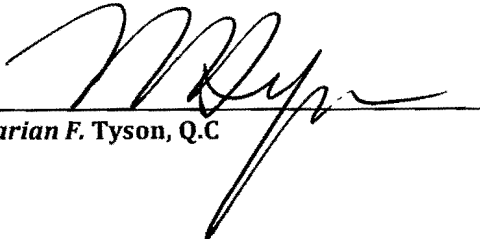
- A major disturbance at a correctional facility (a disturbance of four or more persons in custody, over a protracted period of 60 minutes or longer, and (a) necessitating the hold or call back of staff or (b) exceeding the resource capacity of the facility, and requiring emergency police services to respond to the identified threat);
- major disruptions of day-to-day activities in a correctional facility or Justice Centre/Court (including major power outages or loss of telephone service) where it has been determined that there is a threat to public safety;

- purposeful damage to a correctional facility, Justice Centre/Court, Department of Justice office or Department vehicle estimated to be in excess of \$5,000;
- a motor vehicle accident which occurs while transporting a person(s) in custody resulting in an emergency medical response at the scene or inpatient hospitalization;
- assault committed by a person in custody against another person within a correctional facility, while in the custody of Sheriff Services, or while in court resulting in serious injury that requires inpatient hospitalization;
- seizure of explosives or firearms at a correctional facility or Justice Centre/Court;
- a hostage taking;
- a bomb threat;
- major seizure of drugs at a correctional facility; and,
- closure of a correctional facility to the public as a result of a health concern (e.g., flu outbreak);

The following information may be released by approved spokespersons for the Department:

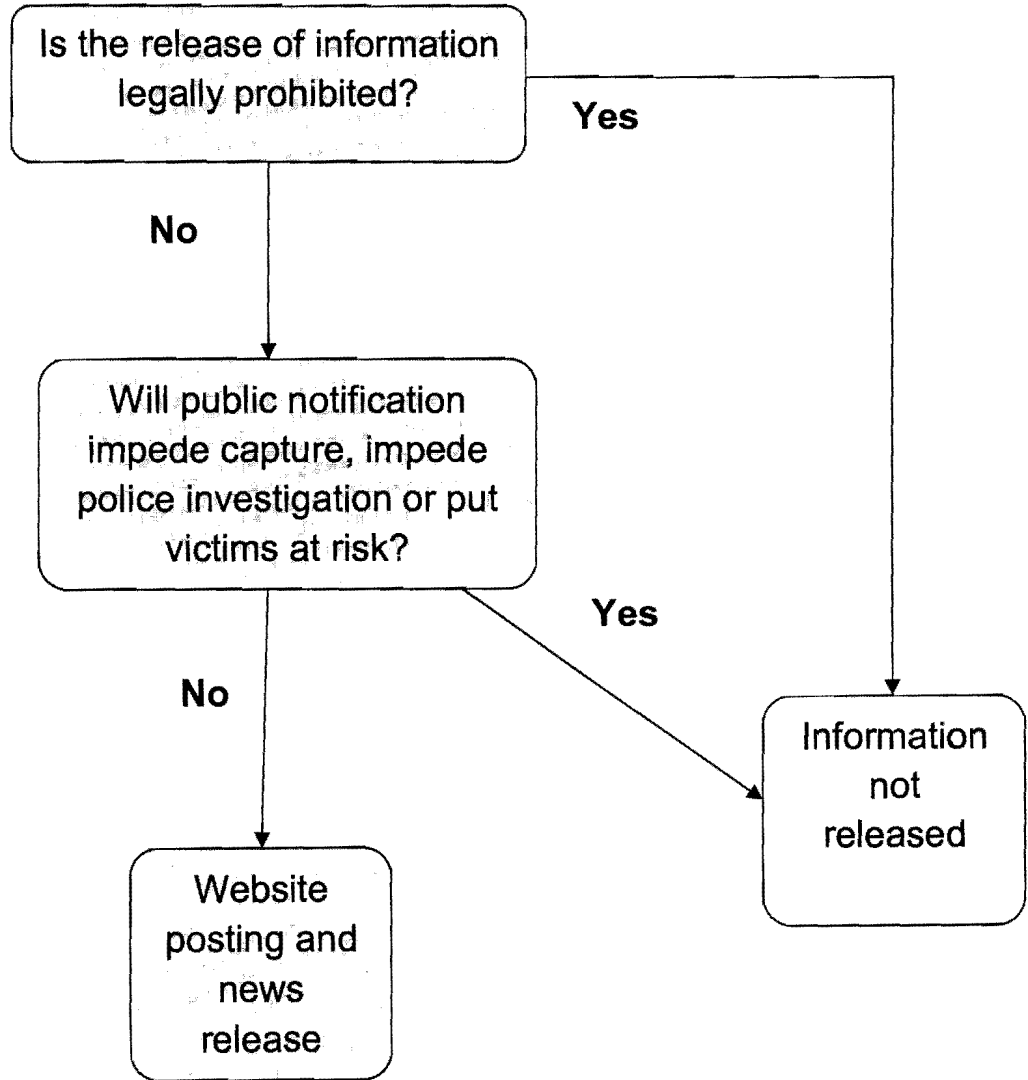
- the nature of the incident;
- the time and date it occurred;
- the number of persons involved (e.g., the number of persons in custody/ correctional officers);
- whether injuries were sustained and whether medical attention was required;
- for seizures of explosives or firearms, the types seized;
- for major seizures of drugs, the types of drugs seized;
- whether a correctional facility was locked down as a result of the incident;
- whether police or other emergency responders were involved; and,
- whether an internal investigation will take place.

APPROVED BY DEPUTY MINISTER:



Marian F. Tyson, Q.C.

Appendix A: Decision Tree for Escapes from Custody



Appendix B: Decision Tree for Wrongful Release of Persons in Custody Prior to Expiration of Sentence or Remand

