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NSW Police Force

Media Policy

Public Affairs Branch

OFFICIAL

Document Properties

Title	Media Policy
Subject	Policy and Procedures
Command responsible	Public Affairs Branch
Authorisation	Commissioner's Executive Team
Security Classification	OFFICIAL
Publication date	May 2022
Current version number	Nine
Review date	May 2024
Document number	D/2021/1174164
Linked RMS folder	F/2023/76777
Copyright statement	Copyright of this document is owned by the State of New South Wales through the NSW Police Force © 2022. All rights reserved.
Suitable for public disclosure	Yes

Modification History

Version #	Version approval date	Author/Position	Summary of key changes
0	1990	unknown	Media Policy: Circular 90/85 replacing Police Instructions 132.01-132.16
0	1992/1993	unknown	Media Policy, Commissioner's Instruction 52
1	September 2000	unknown	Media Policy revised and updated
2	March 2002	unknown	Media Policy revised and updated
3	July 2004	Unknown	Media Policy revised and updated
4	April 2007	Keith McDermott, Senior Administrative Coordinator	Media Policy revised and updated
5	April 2010	Alan Tongs Executive Officer	Media Policy revised and updated
6	February 2012	Alan Tongs Executive Officer	Section 6 and 3 revised and section 14 added
7	November 2012	Alan Tongs Executive Officer	Major amendments at sections 2.5.2, 2.6, 4.2.3, 5.1.2, 6.1, 6.6, 10.3 and appendix 1.
7.1	February 2013	Alan Tongs Executive Officer	Minor amendments to sections 10.3.1 and Schedule One, section 7
7.2	May 2013	Alan Tongs Executive Officer	Amendments to sections 2.5.1 and 4.2.6, plus 4.1, 5.1.9 and 6.6.
8	March 2016	Alan Tongs Executive Officer	Major amendments to sections 3.2.2, 3.4.2, 4, 5.9, 6, 7, 8, 12 and Appendix 2, section 7&15.
8.1	January 2019	Osmanthus Hart-Smith Executive Officer	Minor amendments to section 10.5
9	May 2022	Osmanthus Hart-Smith Executive Officer	Policy revised and updated. Addition of sections 1.2.3, 2.3.2, 4.3, 5.4, 5.6 and 8.1.2.
9.1	February 2023	Emma Key Staff Officer	Minor amendments to sections 3.2.1 and 3.4.2
9.2	January 2024	Osmanthus Hart-Smith Executive Officer	Minor amendments to ensure compliance with <i>NSWPF Procedure for Corporate Policy Documents</i>

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Key Public Affairs Branch Services and Contacts

Police Media Unit

The Police Media Unit (PMU) provides media management and advisory services 24/7 to all NSW Police Force employees, including over-the-phone advice, developing media and communication strategies, attending major crime scenes and managing critical issues. **Contact** – E/N 45101.

Multimedia Unit

The Multimedia Unit films police operations and events for public release. The footage is edited, legally checked, approved and issued to news and social media. **Contact** – email -M-MDL-MMURA or call the Duty Manager, PMU on E/N 45101.

Digital Media Unit

The Digital Media Unit manages the corporate online presence (the NSW Police Force website and social media sites) and develops online communication strategies for projects and events. **Contact** - E/N 45416.

Film and Television Unit

The Film and Television Unit manages all non-news-related requests to interview staff for television series, films, documentaries, books, external training videos and mini-series etc. **Contact** – E/N 45262.

Media Training

Media training is facilitated for officers across NSW. The training courses build competence in managing TV, radio, print and social media, and include examples of best practice and what to avoid. **Contact** – E/N 45101.

Social Media Training

Social media training is provided across NSW by the Digital Media Unit. The training course teaches specialised skills for managing Eyewatch pages and ensures familiarity with NSW Police Force social media policies and guidelines. **Contact** – E/N 45416

Media Monitoring

News and current affairs involving the NSW Police Force is monitored, including print, television, radio and online. Copies of media segments and articles can be provided on request. **Contact** – E/N 45101.

What You Need to Know Before Making a Public Statement

Before making any public statement or releasing information publicly, you must check the following:

1. Do you have authority to make the statement? (See section 3 and Appendix 2.)
2. Does this policy allow you to release the information? (See sections 4 and 5.)
3. Does this policy limit or prohibit the release of information? (See sections 6 to 9 and 12 as relevant.)
4. Will the communication be consistent with NSW Police Force policies? (Check this policy to see if there are any specific sections dealing with the type of communication you propose to make, for example, releasing CCTV, statistics, or responding to critical incidents).

You must keep a record of any disclosure you make to the media, setting out the sources of any information released (section 3.2.2).

1. INTRODUCTION

1.1 Policing and the Media

Policing issues attract significant media attention, which can be used as an opportunity to help achieve our organisational goals. The media provides a powerful conduit for us to communicate key messages to the community. The NSW Police Force can use the media to:

- reassure the community and reduce the fear of crime
- maximise assistance and information from the public to help solve crime
- warn people of dangers or threats
- correct or clarify information in the community
- deter criminal activity by increasing the perception of detection
- create discussion in the community and/or among criminals during investigations
- highlight good police work
- increase police visibility
- provide transparency and maintain community confidence in policing.

It is important that we communicate to the public the actions and efforts of police to apprehend criminals, without jeopardising investigations or revealing police methodology. Positive and proactive police news stories are a proven method to help reduce the community's fear of crime, as well as providing the community with the confidence to report crime.

The news media is only one tool in a range of communication options available to the NSW Police Force. The Public Affairs Branch can provide advice on options and strategies to effectively communicate with the community and other stakeholders, either in conjunction with the news media or as an alternative.

1.1.1 Social Media

The requirements on releasing information via social media are the same as those for traditional media, which are set out in this policy. Further standards required of employees who represent the NSW Police Force on both police and non-police social media platforms are set out in the *Official Use of Social Media Policy*.

1.2 Policy Objective, Scope and Breaches

1.2.1 Policy Objective

This policy provides practical advice on how to deal with the media. By following it, you will:

- build positive public opinion of your work and that of your colleagues
- maximise community assistance to help solve crime, and

- avoid some of the pitfalls that exist when police deal with the media.

Different information can be released at various points in the process, from investigation to arrest, to charging and appearance in court. This policy sets out what information can be released at what stage of proceedings, and by whom.

Proper checking and authorisation from appropriate commanders is crucial. Careless or unauthorised statements or release of information by police can have significant consequences, including:

- endangering the life or safety of a person
- damaging the reputation of innocent people
- damaging the reputation of the NSW Police Force or individual employees
- violating someone's right to privacy or a fair trial
- jeopardising police investigations or operations
- jeopardising court proceedings against people who may escape penalty as a result
- committing an offence, such as breaching laws or orders prohibiting or suppressing the publication of names or other information.

If in doubt, consult this policy or PMU staff, who are available to help you 24 hours a day, seven days a week.

1.2.2 Policy Scope

How NSW Police Officers behave in public under media (including social media) scrutiny directly contributes to the way the NSW Police Force is presented to the community, and how the community perceives us as an organisation. It is critical that NSW Police Officers manage their interactions with the media in a professional manner.

All employees¹ are required to comply with this policy. This policy should be read in conjunction with the *Code of Conduct and Ethics* and the *Procedures for Managing Conflicts of Interest*.

1.2.3 Policy Breaches

Breaches of the *Media Policy* may be subject to investigation under the Misconduct Management Framework and may result in management action and/or criminal or civil sanctions.

¹ Employees: persons engaged to assist the NSW Police Force to undertake its responsibilities in accordance with the *Police Act 1990* including Police Officers, Administrative Officers, Ministerial Employees, Volunteers in Policing and temporary employees.

1.3 Related Policies

Other policies related to this document are set out below:

- *Code of Conduct and Ethics (Standards of Professional Conduct Booklet)* Professional Standards, 2020
- *Incident and Emergency Standing Operating Procedures*, Emergency Management Unit, 2019
- *NSW Police Force Handbook*, 2021
- *Official Use of Social Media Policy and Guidelines*, Public Affairs, 2021
- *Personal Use of Social Media Policy and Guidelines*, Public Affairs, 2021
- *Policy for Speaking at or Attending Conferences*, Public Affairs Branch, 2021
- *Political Affiliations Guidelines*, Professional Standards, 2019
- *Procedures for Managing Conflicts of Interest*, Professional Standards, 2019
- *Registrable Persons – Child Protection Registry Information Disclosure Policy*, State Crime Command Child Protection Squad, 2016
- *Secondary Employment Policy and Procedures*, Human Resources, 2010
- *Standard Operating Procedures for Issuing Child Alerts*, Public Affairs Branch, 2021

2. PUBLIC AFFAIRS BRANCH

2.1 The Police Media Unit

The Police Media Unit (PMU) provides a media management and advisory service to all NSW Police Force employees, ranging from over-the-phone advice to attending major crime scenes and managing critical issues. PMU is staffed 24/7 by both sworn officers and unsworn communications specialists. PMU provides the following services:

- writing and distributing media releases on behalf of police
- producing and executing media strategies for operations and major events
- providing strategic media advice, focusing on how media opportunities can be best managed for investigative purposes
- coordinating media conferences and launches
- managing media enquiries from all external media outlets
- providing an on-call service for Media Liaison Officers to manage the media on-site during incidents
- coordinating multimedia and social media resources to maximise exposure in electronic media
- producing and distributing a daily media briefing to the senior executive
- anticipating and managing media and public responses, and
- monitoring news media broadcasts – print, television, radio and online.

PMU should always be contacted when you are dealing with:

- critical incidents
- suspicious deaths
- emergencies or disasters
- major events or arrests
- serious crimes or terrorist incidents
- child abductions
- controversial issues
- incidents involving well-known people or sporting identities
- incidents involving NSW Police Officers or other employees
- requests to interview, photograph or film police employees
- misinformation in the community, media or social media about crime or policing
- positive news stories that promote good police work.

PMU can be contacted 24/7 on E/N 45101 or (02) 8263 6101.

2.2 Media and Communications Strategies

PMU develops media and communications strategies to assist a variety of policing situations, ranging from the management of major incidents through to facilitating a Police Area Command/Police District (PAC/PD) crime reduction strategy.

PMU has extensive experience and must be consulted in the development of all police media or communication strategies, including PAC/PD media strategies. The level of PMU involvement will depend on the size and sensitivity of the operation or issue, or the persons concerned.

Media and communications strategies can include, but are not limited to:

- objectives of the strategy
- identification of critical issues and threats that could affect the strategy
- key messages for a wide audience and any particular groups (e.g. youth, elderly, culturally and linguistically diverse audiences etc)
- alternative considerations for best delivering the key messages, for example, the development of posters, artwork, marketing, promotional items or the use of the NSW Police Force internet, intranet and social media sites
- identification of controlled footage for release
- details of an appropriate spokesperson, including alternatives
- talking points and other preparation materials for media interviews
- flexibility to allow the strategy to be easily updated to meet the changing requirements of the operation
- a plan to combat misinformation in the community, media or social media
- chain of command approval for the release of information to ensure consistency is maintained in the day-to-day release of information
- processes for liaison and the timely flow of information between the relevant PAC/PD/Strike Force/specialist unit and the Executive, PMU, and other

- emergency services or key stakeholders as required (e.g. Government Ministers and departments, including their media units), and
- evaluation of the strategy and capture of media results.

While the media strategy will include an appropriate spokesperson, the ongoing coordination of the public response for larger media and communications strategies will rest with PMU in consultation with the relevant Strike Force Commander, Corporate Sponsor or Commander of the area with carriage of the investigation.

PMU also post media releases and accompanying images or video to NSW Police Force social media platforms. These images or videos can display CCTV footage for investigative purposes or publicise crime prevention tips and successful police activities.

2.3 Media and Social Media Training

2.3.1 Media Training

PMU can facilitate media training for all police employees across the state. A variety of specialised training modules are available to suit the specific needs of Police Officers and the organisation. The modules cover:

- news media and social media awareness
- the roles of Sergeants, Inspectors, Superintendents and above in dealing with the media
- live interview and press conference preparedness
- understanding the use of media to assist investigation strategies, and
- public information in emergency management and counter terrorism.

All modules can be tailored to meet the specific interests and timeframes available. The training courses are interactive and include contemporary TV, radio, print and social media examples showcasing best practice and what to avoid.

Contact PMU on E/N 45101 or (02) 8263 6101 to enquire about training at your command or unit.

2.3.2 Social Media Training

The Digital Media Unit runs Eyewatch training for all police employees across the state. The training covers:

- how to construct common posts (such as appeals for information and arrest/charge releases) and a guide to NSW Police Force style
- tips for engaging with the community on social media in a positive and constructive way, and
- legal constraints and potential ramifications.

Contact the Digital Media Unit on E/N 45416 or (02) 8263 6416, or email #EYEWATCH to enquire about training at your command or unit.

2.4 Media Monitoring

PMU monitors news and current affairs media involving the NSW Police Force - including print, television, radio and online.

2.4.1 Print Media and Online

PMU has access to professional media monitoring services and can request copies of articles from all suburban, metropolitan and regional newspapers. Requests for individual copies of articles can be made at any time by emailing #PMU. The Sydney Morning Herald, Daily Telegraph, the Australian and ABC online news services are also monitored. Daily newspaper clips and relevant online stories form the basis of a comprehensive daily Media Briefing for the Senior Executive.

2.4.2 Television

Major news and current affairs programs are monitored 24/7 by PMU. Specific segments can be requested through PMU within 30 days of the original air date. To identify a segment, details of the time, program and station are required. PMU also summarises the news bulletins of all free-to-air networks (Seven, Nine, Ten, ABC and SBS) as well as other news and current affairs programs, which are included in the daily Media Briefing for the Senior Executive.

2.4.3 Radio

PMU monitors talk-back radio stations (2GB and ABC702) throughout the day. Specific radio segments can be requested through PMU if sufficient details are provided. If you hear an interview or segment and require a copy, please note the *exact* time and station in the request.

For all requests on media monitoring, contact PMU on E/N 45101 or (02) 8263 6101.

2.5 The Multimedia Unit

2.5.1 Multimedia Unit

Research has demonstrated that publicised images of operational police successes have a positive impact in reducing the community's fear of crime and increasing confidence in police.

The Multimedia Unit, Public Affairs Branch, provides a controlled and secure in-house filming service. The Unit films police operations for public release, particularly where the presence of commercial media during an operation is unsafe, or there is a risk of breaching operational security.

Multimedia Unit staff are NSW Police Force employees who can be deployed to record police activity with an assurance of complete security. The resulting footage is edited, legally checked, approved, and issued to news media within a few hours.

All footage filmed is first approved by the Commander of the relevant Specialist Unit or PAC/PD and the Commander, Undercover Branch where applicable, prior to any news release. This approval process protects police methodology and the identity of any police undercover operatives.

The Multimedia Unit also works closely with the Office of the General Counsel to ensure all images released are legally sound and will not breach the terms of warrants, jeopardise court proceedings, breach other laws or infringe legal rights.

All requests for Multimedia Unit services must be sent via email to -M-MDL-MMURA, and must include an outline of requirements and a risk assessment as per the *Request for Assistance* form. The deployment of the Multimedia Unit for news media is at the discretion of the PMU Duty Managers.

The Multimedia Unit can be contacted via email at -M-MDL-MMURA, or via the Duty Manager, PMU on E/N 45101 or (02) 8263 6101.

2.5.2 Crime Scenes, Search Warrants and the Multimedia Unit

As a general rule, the Multimedia Unit must not enter a crime scene itself or private property subject to a search warrant or crime scene warrant.

The Multimedia Unit can film a crime scene or the private property subject to a search warrant from a public place, or from private property (other than that subject to the crime scene or search warrant) with the consent of the owner/occupier.

In some circumstances, the Multimedia Unit can enter a crime scene or the private property subject to a search or crime scene warrant, to assist the search by recording the execution of the warrant. To do so, the Multimedia Unit must have the prior approval of the Officer in Charge of executing the warrant. If the resulting video does not contain personal information, then with the authority of the Officer in Charge and the normal legal screening process, the images taken may also be published to the media. Before this option is pursued, advice must be sought from the Duty Manager, PMU.

2.6 The Digital Media Unit

The Digital Media Unit is responsible for the management of online content and communications on digital channels operated by the NSW Police Force. This includes the corporate internet site and all social media accounts including Facebook, Instagram, LinkedIn, Weibo, Twitter and YouTube. The Unit is not responsible for Eyewatch pages, which are managed locally by the Eyewatch Coordinator in each PAC/PD, however the Unit oversees all content and can provide advice on social media strategy and online community engagement.

The Digital Media Unit works with PMU to develop digital media strategies which complement other traditional media strategies for major events and incidents. Assistance can also be provided with appeals for public information, plus with messages and content for the NSW Police Force internet and intranet sites. Additionally, the Unit

monitors digital publications and channels to identify issues that may impact on the NSW Police Force.

The Digital Media Unit can be contacted on E/N 45416 or (02) 8263 6416.

2.7 The Film and Television Unit

The Film and Television Unit, Public Affairs Branch manages filming requests involving NSW Police Force employees and resources for both long and short-term television series, films, documentaries, external training videos, mini-series, student videos and commercials/ advertisements (where appropriate). Former television programs such as 'The Force' and 'RBT' are examples of the type of activity managed by the Unit.

Any requests to interview police employees or take footage for purposes other than news/current affairs style programs, must be referred to the Film and Television Unit.

Filming requests are generally subject to strict legal contracts which give the NSW Police Force veto rights prior to broadcast. When the NSW Police Force exercises its right to veto footage or episodes, they must not be broadcast by the production company. To do so would be in breach of the contract.

The Unit arranges specific technical advice for scriptwriters, authors and production companies. The Unit also assists with inquiries regarding access to personnel, facilities, uniforms, Body Worn Video and equipment by the film and television industry for research or production purposes. This assistance is subject to cost recovery where appropriate.

Any requests received by this Unit are subject to review in consultation with the relevant command and must comply with and/or promote key corporate objectives.

The Film and Television Unit can be contacted on E/N 45262 or (02) 8263 6262.

3. MEDIA ENGAGEMENT

3.1 Authority to Comment

Police Regulation 2015 clause 76 requires members of the NSW Police Force to treat information which has come to their knowledge in an official capacity as strictly confidential. Apart from a limited exception where life or property is at risk, it prohibits members from divulging information unless they have the proper authority to do so.

Staff must not contact the media in their capacity as NSW Police Force employees to make any comment about any incident, police policy or procedure unless this policy grants authority to do so. This applies to all media including talk-back radio, commenting on social media platforms and submitting letters or emails to the editor.

Employees can only release information publicly for a lawful purpose, if relevant to their duties, and allowed by legislation and NSW Police Force policies such as the *Media*

Policy and the Code of Conduct and Ethics. Failure to comply with these policies may result in management action.

The authority to comment on particular types or aspects of police operations is summarised in this section and Appendix 2. See also sections 4 to 9 and 12 for details on what can and cannot be released to the media.

3.1.1 Commenting on Operational Issues

Personnel authorised to do so may release information to the media (including social media) about day-to-day operational matters (such as traffic incidents, robberies and assaults) for which they have direct responsibility and/or expertise. Factual information may be released provided it complies with this policy and relevant laws. It is best practice to advise PMU of any comments made and to whom.

The absence of information on a particular incident or situation often leads to misinformed media speculation. If the police do not provide information, the media will obtain information from elsewhere, including less reliable sources. There are advantages in providing basic facts in a timely fashion, particularly to correct misinformation before it spreads. If in doubt, contact PMU for advice.

If a person is authorised to speak to the media about issues in a particular portfolio (e.g. domestic violence), then the information should first be endorsed by the appropriate Corporate Sponsor. Also, for matters which have a wider impact, you must refer to the relevant senior officer, such as a Corporate Sponsor, or seek approval from the appropriate person in your chain of command.

3.1.2 Commenting on Crime Statistics

The NSW Bureau of Crime Statistics and Research (BOCSAR) is the primary agency responsible for the release of NSW crime statistics, and for public comment on crime trends and patterns.

Commanders might be asked to comment on local trends within their PAC/PD at public meetings, community groups or to local media. The release of statistical information might help correct misunderstandings about crime levels in local communities, thereby easing fears or raising awareness of risks.

Commanders are encouraged to highlight improvements in their areas and address problems indicated by fluctuating BOCSAR figures. Falling crime statistics are often not publicised by the media, so do not hesitate to repeat them at every opportunity, especially on live radio or television where your comments cannot be edited out.

Commanders may only release crime statistics relating to their area of responsibility. Confine the information to statements of fact via the crime statistics. Further commentary can be supplied by BOCSAR. For details on required consultation and authorisation for issuing statistics, see Appendix 2 section 6.

3.1.3 Media Contact and the Police Media Unit

Any media enquiry by statewide or national media must in the first instance be referred to PMU, which will assist in determining the best response to the enquiry. In particular, always seek PMU advice if approached by talk-back radio or current affairs television programs.

Employees should immediately contact PMU if they become aware that a media organisation:

- is intending to publish material that could compromise an operation, investigation, or prosecution, or
- has published material that is inaccurate, misleading or unfair.

PAC/PD personnel who are authorised to do so may provide media comment to local media without contacting PMU so long as they are confident their comments comply with this policy and applicable laws (see sections 4 to 9). If in doubt, comments must be checked with PMU.

3.1.4 Commenting on Policy and Procedures

Police employees, as part of their regular duties, can explain or describe existing non-confidential policies or procedures to members of the public. However, only the Commissioner, Deputy Commissioners, Corporate Sponsors, Heads of Discipline and Executive Directors/Assistant Commissioners are authorised to comment publicly on policies or procedures.

For details on required consultation and authorisation for commenting on policies and procedures, see Appendix 2 section 14.

3.1.5 Corporate Sponsors

Corporate Sponsors are responsible for representing the Commissioner internally and externally on matters concerning particular communities, crimes or policing portfolios. The Corporate Sponsor Program ensures there is expertise and a clear and consistent provision of advice and representation on key corporate issues.

When approached to provide public comment, consider whether it may be more appropriate for the relevant Corporate Sponsor (or Head of Discipline/Crime Area) to do so. The relevant Corporate Sponsor may provide or authorise the release of information in their area of responsibility where it does not involve current operational matters.

3.1.6 Attending Conferences

The process for obtaining approval to attend or speak at conferences or seminars is set out in the NSW Police Force *Policy for Speaking at or Attending Conferences*.

3.2 Releases to the Media

3.2.1 Relationship with the Media

Information must be released to the media on an equal basis. Do not favour one organisation over another with exclusive or special advantages. Any compelling case for an exception, including targeted placement to assist investigations, must be approved by the Executive Director², Public Affairs Branch in consultation with the relevant Deputy Commissioner.

However, when a media organisation initiates its own enquiry (i.e. an exclusive story) respect the exclusivity of the journalist's angle. Do not:

- divulge that information to other media outlets unless they ask for information specifically about the same issue, or
- assist a media organisation to publish a story aimed at undermining another media outlet's exclusive (spoilers).³

If unsure of what action to take, contact PMU for advice.

Staff must not speak on matters outside their area of responsibility or contact the media without authority. Do not provide media representatives with personal telephone numbers.

3.2.2 Media Releases - Recording the Sources of Information

Police employees authorising a media release must ensure a record is kept referencing the source of information used in the media release, such as the persons supplying the information or the report the data is drawn from. This ensures any questions about the factual accuracy of the information released can be traced back to the source for verification. See also section 14.1.1.

3.2.3 Key Corporate Police Media Messages

When preparing media releases or planning for media interviews, take the opportunity to include one or more of the following key corporate media messages where appropriate:

- police are in your community working hard to address crime and the fear of crime
- crime prevention is our priority
- police need the community's help to continue to drive down crime (Crime Stoppers)
- crime is coming down (as relevant)
- police encourage personal responsibility

² Revised from Duty Manager to Executive Director to properly align decision making and approval for areas of risk. D/2023/153635 relates.

³ Spoilers could only be assisted in exceptional circumstances if approved by the Executive Director, Public Affairs Branch.

- police respect people's rights but will promptly act when the law is broken.

When relevant, publicise the Crime Stoppers Number: 1800 333 000 (one eight hundred, triple three, triple zero) and the online reporting option (https://www1.police.nsw.gov.au/crime_report). NSW Crime Stoppers is a 24/7 point of contact for the public to provide information to the NSW Police Force.

3.3 Interviews

3.3.1 Requests for Interviews

If asked to do a media interview, you must receive approval from the appropriate command level in order to proceed. The authority to comment on particular aspects of policing operations is briefly summarised at section 3.1 and set out in detail at Appendix 2.

Where an interview might cause controversy or have wider impact on the NSW Police Force or other agencies, contact PMU and seek approval as far up the chain of command as appropriate. PMU will provide advice on approval requirements and help in preparing for the interview once it has been approved.

If you receive a potentially contentious media request, get it in writing and consult with PMU prior to seeking approval.

3.3.2 Interviews Tips

Police employees who undertake media interviews must:

- take care with their personal presentation. Uniformed officers must ensure their uniform and appearance complies with the *NSW Police Force Handbook*
- ensure the interview location is appropriate
- always assume the camera, microphone or smart phone etc. is recording
- never make 'off the record' statements
- prepare the facts and key messages
- tailor their messages to the intended audience
- keep the messages and answers simple
- not wander off, or be drawn off, the subject
- speak normally, avoiding jargon, acronyms and phrases such as 'the person was pronounced life extinct'
- focus on the reporter in one on one interviews and not look at the camera
- not say 'no comment'. If you cannot answer a question, say so
- stay calm and polite – even if an interviewer is aggressive
- keep answers to their area of responsibility
- not speak on policy matters unless they are authorised to do so (e.g. Corporate Sponsors)
- not speculate – stay with the facts.

You are responsible for anticipating and responding to issues which might damage the reputation of the NSW Police Force if left unanswered. It is important to take action to correct or clarify media misinformation and speculation.

3.3.3 Current Affairs Programs and Major News Bulletins

Participation in extended interviews on current affairs and panel style shows (either live or recorded) is restricted to the Commissioner, Deputy Commissioners, Corporate Sponsors, Assistant Commissioners/Executive Directors and personnel authorised and appropriately trained for that environment. Any compelling case for an exception must be referred to the Executive Director, Public Affairs Branch, for decision.

3.3.4 Livestreaming Interviews

The NSW Police Force has the capacity to livestream media statements or interviews. Livestreaming is an option for getting messages to a wide audience in situations where there is a need for the public to be informed, but it is difficult for the media to attend or they are unlikely to attend in sufficient numbers. Examples include remote, rural or other locations where access is limited, or crime prevention initiatives where there is insufficient media interest to hold a media conference.

All livestreaming must be approved by the relevant Superintendent and PMU. Police employees seeking approval to make public statements via livestreaming must be authorised to speak publicly on the proposed topic, in accordance with this policy.

3.4 Other Media Engagements (Including Ride Alongs)

3.4.1 Joint Operations

Any release of information following a joint operation involving other State or Federal agencies *must* also be approved by their relevant authority. Media for such operations must be managed by PMU, who will liaise with the media unit of the other agency to ensure all information is cleared for release. In these instances, joint media conferences with spokespeople from both agencies are often organised. It is preferable that the NSW Police Force spokesperson participating in the joint media conferences is wearing uniform.

3.4.2 Media Accompanying Police on Operations (Ride Alongs)

Any exercise where the media accompany police on an operation, including 'ride alongs', must be coordinated by PMU and be approved by the Executive Director⁴, Public Affairs Branch in consultation with the relevant Deputy Commissioner.

These media opportunities should inform or reassure the public, or help prevent crime, and must not:

⁴ Revised from Duty Manager to Executive Director to properly align decision making and approval for areas of risk. D/2023/153635 relates.

- compromise a police investigation or operation
- disclose operating procedures or investigative methodology
- disclose personal information
- have the potential to identify victims of crime (e.g. via the police radio)
- cause distress to victims and others
- jeopardise the prosecution of offenders
- fail to comply with the *Safe Driving Policy*, or
- cause community unrest.

A formal risk assessment must be conducted by the relevant PAC/PD or incident/operation commander before approval is given. The primary focus of the assessment is the safety of the media undertaking a 'ride along'. If the risk is identified as high the 'ride along' must not be approved.

If approval is granted for the media to accompany police on an operation, ensure participating media representatives sign a *Deed of Confidentiality and Indemnity* (available from PMU). The deed *must* be completed before the exercise begins. Media representatives who fail to sign the deed cannot accompany police on operations.

The media presence should be factored into the operation planning, including the safety risk assessment. In the exercise briefing, make sure Police Officers are instructed on the media presence and on the NSW Police Force's expectations, particularly regarding safety and behaviour in these situations.

Take great care with demeanour, language and procedures during the exercise as they will be closely scrutinised and recorded by the media. Ensure police behaviour is always the same as that expected in all public dealings.

If a situation arises which is dangerous, the media must immediately comply with the directions of police or the Media Liaison Officer. If the media refuse to comply, or if the incident/operation becomes high risk, the 'ride along' must be terminated.

3.4.3 Extended Media Exercises

Requests from media organisations for camera crews to accompany police for extended periods while officers perform their duties (e.g. reality TV) must be referred to the Executive Director, Public Affairs Branch.

3.4.4 Misuse of Police Resources

Ensure police resources are not misused and normal standards of dress and behaviour are maintained. Politely decline media requests for photographs or footage of inappropriate behaviour such as:

- driving faster than normal to create a good photographic effect
- standing on a police car bonnet, or
- using appointments inappropriately.

If you become aware that the media has obtained this type of vision or it is circulating online, inform PMU as soon as possible.

4. RELEASE OF INFORMATION

This section sets out what information can legally be released at each stage of an investigation. Every proposed communication should also be checked against the restrictions on publication identified in sections 6 to 8.

4.1 What Can Be Released During an Investigation or Prior to an Arrest

Before a person is arrested the following information may be released:

- a description of the basic facts of the offence (assault, stealing etc) being investigated, which can be as detailed or as brief as suits the investigation
- while taking care not to identify a victim, the time and place (street name and town/suburb) but not a house or flat number. Releasing home details could identify the victim
- while taking care not to identify a victim, the sex, age and suburb/town of victim. The occupation of the victim can be released if it is relevant to the incident (e.g. a supermarket employee who has been assaulted at work) and does not identify the victim
- the name and rank of the relevant commander or senior investigator (if approved). Covert operatives must not be identified.
- descriptions of suspects and vehicles, weapons, clothes and other articles involved, if it does not hinder the investigation or subsequent prosecution. Suspect descriptions may include ethnicity-based descriptors prior to arrest, but not afterwards (see section 9.3)
- appeals for public help to locate suspects or evidence. Always include the Crime Stoppers number: 1800 333 000
- general descriptions of remarks made by offenders, but not a direct quote (e.g. "The man allegedly threatened staff and demanded money")
- general descriptions of injuries/conditions
- the hospital(s) the injured attended (if appropriate and does not create a security risk)
- public reassurances about police action to deal with the matter.

4.2 What Can Be Released After Proceedings Have Commenced

Different information can be released at various points in the process from arrest to charging to appearance in court. The information that can be released before charges are laid is very different in nature to what can be released once court proceedings have commenced.

It is important that we continue to communicate police actions and efforts to apprehend criminals. However, proper checking and authorisation from appropriate commanders and PMU is crucial.

Once a person has been arrested, careless or unauthorised statements or releases of information by police can have drastic consequences. These include committing a criminal offence such as sub judice contempt by publication or a breach of statutory restrictions on publication (see sections 6 to 8 below).

4.2.1 In Custody but Not Charged

Once a person is in custody but not yet charged contempt rules may apply. Only the following information may be released:

- that the person is in custody
- where they are being held
- the person is being interviewed by police in connection with an incident or offence (helping police with inquiries)
- while taking care not to identify the person, or a small group of persons, their age, sex, occupation, and suburb/town. (Extra care must be taken not to identify children, and also when the person is from a small community, as even minimal information may identify them)
- where they were arrested (but no house or unit numbers)
- when they were arrested
- the Command(s), Unit(s) or Squad(s) involved in the arrest
- the bare facts of the crime, which should only be included after obtaining advice from PMU or the Office of the General Counsel. Generally, the specific facts of any case should not be released into the public domain unless it has become a matter of public record (for example, if a Fact Sheet has been tendered by a prosecutor during a bail application). Always seek advice from the Office of the General Counsel or Operational Legal Advice prior to the release of information of this kind.

Do not identify the person in any further detail. Do not use ethnicity-based descriptors in any statements about a suspect once they have been arrested (see section 9.3).

4.2.2 After Charging

Once charges have been laid, the following information may be added:

- the charges (use the exact wording of the charge)
- the court in which the person is to appear
- the date set for appearance
- whether bail was granted or refused (do not release details of bail conditions)
- the bare facts of the crime, which should only be included after obtaining advice from PMU or the Office of the General Counsel.

Commenting on a case that is before the courts, or releasing information about it, can potentially constitute sub judice by publication contempt of court. Always:

- consider the repercussions of proposed actions and statements. An offender may be acquitted or a mistrial declared because of statements made to the media that go beyond the limitations set by this policy. You may also be guilty of contempt if you publish material with a tendency to prejudice proceedings (see section 8)
- remember that in most cases, courts are open to the public so the media can report on evidence and proceedings for themselves
- remember that no one should comment outside the court process until the case has concluded and the period allowed for appeals has passed.

4.2.3 Media Requests for the Names of Persons Appearing at Court

The names of persons appearing before the courts can only be released by PMU:

- on the day of that person's first court appearance, or if the person has appeared in court and their name is on the public record, and
- for the purpose of identifying the correct matter and courtroom only, not for publication, and
- if the person is not a juvenile and was not a juvenile at the time of the alleged offence, and
- if the request is not onerous (an unreasonable diversion of resources).

The media must also be advised that if they intend to publish the name it remains their sole responsibility to establish whether there are any statutory restrictions on publication, and to contact the court to determine whether the name is subject to a suppression order.

4.2.4 Charging NSW Police Force Employees

To ensure transparency in the community, the Commissioner has authorised PMU to issue a media release if a NSW Police Force employee (sworn or unsworn) is charged with an offence, regardless of the nature of the offence.

As with any other person charged, the employee's age, sex, occupation, and suburb/town may be disclosed. However, care must be taken not to identify the person more than this, particularly as his/her occupation as a NSW Police Force employee is being disclosed. See sections 4.2.1 and 4.2.2 for details.

Where relevant, the status of the employee may also be released e.g. suspended, suspended with or without pay, on non-operational duties.

If the police employee is currently seconded to or otherwise working for another agency such as the Australian Federal Police, then the NSW Police Force must issue a media release, following consultation with the other agency.

The media release must be authorised by the relevant Assistant Commissioner/ Executive Director. If the issue is related to a Law Enforcement Conduct Commission (LECC) inquiry, no public comment can be made by the NSW Police Force unless

authorised by the Commissioner of Police. For details on required consultation and authorisation for a public release, see Appendix 2 section 3.

4.2.5 Before Sentencing or Before the Expiry of the Appeal Period

When someone has been convicted of a criminal offence but not sentenced, or has been sentenced but the appeal period has not expired:

- release only factual statements about the conviction and a fair summary of court proceedings, and
- do not make any comment that might adversely affect appeal rights.

If you are unsure about what may be released or whether any suppression orders apply, seek advice from PMU or the Office of the General Counsel.

4.2.6 Release of Police Fact Sheets

Section 314 of the *Criminal Procedure Act 1986* gives media an entitlement to inspect court held documents relating to criminal proceedings (including fact sheets) for the purpose of fair reporting. The media must apply to the Registrar of the Court no later than two working days after proceedings are finalised.

All media enquiries for access to fact sheets that are part of the court's records are to be referred to the registrar of the relevant court.

If a fact sheet has not been filed with the court but the police prosecutor has either read it aloud in open court or handed it up to the magistrate or registrar to assist in making a bail determination, then police prosecutors may make it available for the purpose of accurate reporting unless there are good reasons not to. For example, the fact sheet may contain sensitive information that would not be in the public interest to release, or if it is subject to an order prohibiting publication, a suppression order, or if disclosure is prohibited by any law.

If a fact sheet has not been either read aloud or handed up in court, the media must not be given access and the enquiry should be referred to PMU.

4.2.7 After Expiry of the Appeal Period

In exceptional circumstances, it may be possible to provide comment on a case once the appeals process has been exhausted as contempt law no longer applies. However, statutory restrictions and suppression orders may continue to apply and there is a risk of defamation if a statement goes beyond mere reference to the prior conviction. Prior to any comment being provided, contact must be made to PMU and the Office of the General Counsel to discuss.

Spent convictions legislation also contain restrictions about the publication of certain spent convictions. Advice should be sought from the Office of the General Counsel prior to the release of historical conviction data.

See section 5.4 for information about the release of images of convicted persons.

4.3 Requests for the Release of Other Information⁵

4.3.1 Media Requests Relating to the Issuing of Infringement Notices

When a person is issued an on-the-spot fine and no further police action is anticipated, the following information can be released:

- a description of the basic facts of the offence, including the Command, District, Unit or Squad involved
- while taking care not to identify the person or victim (if applicable), the time and place (street name and town/suburb) but not a business name, house or flat number
- while taking care not to identify the person, or a small group of people, their age, sex, occupation and town/suburb. Extra care must be taken not to identify children, or when the person is from a small community, as even minimal information may identify them
- the fine issued (if known, include the financial penalty).

If the incident relates to a traffic offence, the following further information may be released:

- the driver's licence type (e.g. learner, P1/P2 provisional)
- the number of demerit points lost, and
- the suspension of a driver's licence (if applicable).

4.3.2 Media Requests Relating to Other Licensing

The media may request information relating to firearms and security licensing, including refusals, revocations, compliance and legal action.

Any request from the media for information about the Firearms Registry or Security Licensing and Enforcement Directorate which is not already publicly available must be referred to PMU.

In many cases, particularly when the request is complex or time consuming, the media will be required to make a formal application for access to information under the *Government Information (Public Access) Act 2009* (NSW).

4.3.3 Media Requests Relating to Apprehended Violence Orders

Where a media enquiry relates to an Apprehended Violence Order (AVO) application following an incident where a criminal offence is detected and charges laid, the same information as outlined in section 4.2.2 can be released. If the enquiry relates to an AVO sought following an incident where charges have not been preferred, no information

⁵ Section added in response to internal request for additional guidance on media matters which relate to the work of the Firearms Registry and the Security Licensing Enforcement Directorate. D/2022/380121 relates.

may be disclosed. At no time can the details of an AVO application or hearing be provided to media. Such enquiries should be referred to Local Courts Media.

5. RELEASE OF IMAGES

The release of photographic images or video recordings is a powerful investigative tool for:

- a) identifying a Person of Interest (POI)
- b) creating more media interest (TV, print and online) resulting in better coverage and the message reaching a wider section of the public.

5.1 Authorisation for Releasing Images⁶

The release of any photographic image or video recording for operational reasons *must* be coordinated through PMU. Prior to being approved for release, all content (alongside written media materials) is reviewed by the PMU Duty Managers in consultation with the Office of the General Counsel.

The only exception is the release of static images relating to either summary offences or Table 2 offences for use in appeals for information. These images can be posted on official NSW Police Force social media sites, including Eyewatch sites, and/or released to local media. A brief explanation of summary offences and Table 2 offences is set out in Appendix 1.

The static images which are exempted for local release must:

- be authorised at the relevant PAC/PD (or equivalent) by a relevant officer of the rank of Inspector or above, consistent with the requirements of the public release of information set out in this policy and any guidelines issued by the Public Affairs Branch
- not normally show the commission of an offence (see section 5.6 for exceptions)
- not depict a person involved with an offence who is a child or was a child at the time of the offence or any other person protected by a statutory restriction on publication (see section 7.1)
- not give rise to a risk of contempt of court or breach other relevant laws (see sections 6 to 8).

If uncertain, Commands should always seek advice from PMU.

All images and audio relating to undercover operatives or their vehicles must be pixelated or altered to hide their identity and not released without approval from the Commander, Undercover Branch.

⁶ Section revised to allow operational use of images relating to summary offences or Table 2 offences on command social media sites. D/2011/213899 relates.

The publication of all moving images (such as from CCTV footage) must be coordinated through PMU.

Before publishing a photographic image, video footage or other copyright material, ensure that the NSW Police Force has the right to copy, distribute and publish the material consistent with copyright laws (see section 5.9).

5.2 'Wanted' Photographs

Photographs may be released of people for whom first instance or arrest warrants have been issued by a court, provided the publication of the photo serves a valid operational purpose.

The publication of such photographs is a useful tool, particularly when using local and regional media outlets.

Release of a photograph must not:

- enable identification of the circumstances of the particular crime/event, or
- suggest that the person is guilty of the offence or has a criminal record.

Images of wanted persons posted on official NSW Police Force social media sites, including Eyewatch sites, must be removed immediately after a person has been apprehended, or if the warrant has been withdrawn or suspended.

Once the person has been apprehended or the warrant withdrawn or suspended, PMU and/or the local Eyewatch administrator (as relevant) *must be informed immediately*. Failure to urgently remove the image from a NSW Police Force social media site could result in contempt of court and may jeopardise court proceedings.

This section does not apply to the publication of images on the NSW Police Force Most Wanted site on the internet. The *Publishing Wanted Persons on the Most Wanted Website Policy* exists for this site.

5.3 Other 'Persons of Interest'

In certain matters, police may issue photographs of individuals they wish to interview in relation to offences but for whom no warrant has been issued. For example, Police Officers may wish to question a person captured by security cameras misusing an Automatic Teller Machine.

In releasing photographs in this situation:

- it is crucial that no information is issued with the image that canvasses the person's guilt or innocence
- use words such as "police would like to interview the person in this photo in relation to these matters" or "police believe the man may be able to assist them with their inquiries"

- do *not* use words that would allow a reasonable reader to infer the person is guilty of an offence.

Prior to the release of the photograph police must ensure that:

- the photograph has already been circulated internally within the NSW Police Force with no result
- no other means of identifying the person is available, and
- all persons in the background and location identifiers are either pixelated or removed.

If the image is posted on official NSW Police Force social media sites, as soon as the person of interest has been located the Officer in Charge of the investigation must inform PMU and/or the local Eyewatch administrator (as relevant) so that the image and any related text can be urgently removed.

Failure to comply with the above requirements may jeopardise court proceedings or constitute contempt of court.

If there are no images of a person of interest available, police may also wish to release images of individuals they believe have witnessed a crime in order to assist with their investigation. This is acceptable provided the above conditions are met.

5.4 Release of Witness Images

In some circumstances, police may release images of a potential witness to a crime to assist with an investigation.

If the nature of the crime is mentioned in the accompanying text, it must be made explicitly clear that the individuals depicted in the image were simply in the area where the crime was committed and are not believed to have been involved in the crime.

The image and accompanying text must be endorsed by a relevant officer of the rank of Inspector or above from the relevant PAC/PD, with final authorisation required from PMU⁷. In each individual case, the following criteria must be met:

- the image has already been circulated internally within the NSW Police Force with no result, and no other means of identifying the person are available
- all persons in the background and location identifiers are pixelated or removed, and
- no charges have been laid in relation to the incident.

The image must not:

- depict a person who is a child or was a child at the time of the offence, or any other person protected by a statutory restriction on publication (see section 7.1), or
- give rise to a risk of contempt of court or breach other relevant laws (see sections 6 to 8).

As soon as the potential witness has been located, the Officer in Charge of the investigation must inform PMU and/or the local Eyewatch administrator (as relevant) so the image and any related text can be urgently removed from the public domain.

5.5 Convicted Persons

The NSW Police Force is generally exempt from the *Privacy and Personal Information Protection Act 1998* (the PPIP Act) for the purpose of releasing photographs of *people who have been convicted* of offences. However, the exemption can only be exercised to release pictures of convicted persons if there is a valid law enforcement purpose, for example if there is a warrant seeking their arrest.

When considering the release of an image of a person, PAC/PD Commanders must consider:

- whether the circumstances leading to the request to publish an image are appropriate
- whether the public distribution of the image is reasonable
- alternate means of educating the community
- loss of control of images distributed in the community
- advising a known offender of the proposed course of action, and
- whether the person is facing additional charges, in which case contempt of court principles must be considered (see section 8.2).

The publication of such images must be a last resort measure.

5.6 Persons on the Child Protection Register

Photographs of persons on the Child Protection Register (CPR) may be released if that person is in breach of their obligations and is wanted by police. This is an important tool for the protection of public safety but is subject to legal sensitivities.

Any images of individuals on the CPR may only be released by PMU, and only after approval is granted by the delegates to the Commissioner under the *Child Protection (Offenders Registration) Act 2000*, these being the Commander, Child Abuse and Sex Crimes Squad and the Manager, Child Protection Register Unit. If both are unavailable, approval may be granted by the Commander, State Crime Command.

Images of wanted persons posted on official NSW Police Force social media sites, including Eyewatch sites, must be removed immediately after a person has been apprehended, or if the warrant has been withdrawn or suspended.

Once the person has been apprehended or the warrant withdrawn or suspended, PMU and/or the local Eyewatch administrator (as relevant) must be informed immediately.

Failure to urgently remove the image from a NSW Police Force social media site could result in contempt of court and may prejudice court proceedings.

5.7 Police Held Footage

The release of police held footage to the public is an option available, for example, to assist with investigations. Police held footage includes images captured during interviews (ERISP) or operations such as via in-car video, Taser-cam, PoAir and Body Worn Video.

Except for static images relating to summary offences or Table 2 offences⁸, employees wishing to release any police held footage for operational reasons must contact PMU. PMU will assess the proposal in consultation with the Executive Director, Public Affairs Branch, and will coordinate the approval process.

5.8 Releasing CCTV Footage to the Media

The release of CCTV footage for operational reasons must be coordinated through PMU, except for static images taken from CCTV footage relating to summary offences or Table 2 offences³.

Prior to the release of CCTV footage, police must ensure that:

- if a POI's face is shown in order to identify them, then the commission of the crime must not be shown
- if showing the commission of the crime is more beneficial to the investigation, then any faces must be pixelated.

A POI's face *and* the commission of the crime may be shown if:

- all other avenues of investigation have been exhausted, and
- the release is approved by the Executive Director, Public Affairs Branch, following receipt of legal advice from the Office of the General Counsel.

The appropriateness of showing the commission of a crime (with or without a POI's face being pixelated) needs to be judged on a case-by-case basis.

If releasing CCTV of a crime occurring:

⁸ See Appendix 1 for further explanation.

- consider the effects this may have on a victim (e.g. showing a violent crime may cause unnecessary distress)
- do not reveal criminal methodology or encourage copy cat offences.

Any victim's face must be pixelated (unless they have given express permission for their face to be shown). A POI must not be referred to as an offender.

A juvenile cannot be identified under any circumstances (even in order to seek information on their identity) unless there is permission given by a parent or guardian. Images of juveniles must not be released at all once proceedings have commenced. When unsure if a person is a juvenile, err on the side of caution rather than releasing the information. If a juvenile is shown in error as it was thought they were an adult prior to identification, advise the Office of the General Counsel immediately.

In most cases CCTV footage is not the property of the NSW Police Force. If you want to release CCTV images, authorisation must be given by the owner of the CCTV (e.g. shopping centre, council, Sydney Trains etc). See section 5.9.

5.9 Photographs/Video of Exhibits

The media can be allowed to film exhibits (such as seized drugs or firearms) under controlled conditions that will not create problems during later court proceedings. The release of these images can reassure the public of police successes in removing dangerous items from the streets, or form part of an investigative strategy.

PMU must be contacted to coordinate media access to exhibits.

If appropriate security and control measures are not possible, the Multimedia Unit must be used to film the exhibits for public release.

5.10 Photo Opportunities with Politicians

If a politician requests to be photographed or filmed with a NSW Police Force employee, ensure that the photograph shows police employees performing official duties. Employees may be photographed with political figures as part of their official duties such as a Ministerial visit or a forum run by a local Member of Parliament.

Photographs of politicians or candidates with police employees designed specifically for the production of political brochures, posters and other campaign material is not permitted.

If employees are unsure what action to take in relation to requests made by political figures, they are encouraged to seek the advice of PMU or their Commander/Manager in the first instance.

5.10.1 Politicians and Information on Police Activity

PMU must be consulted if a politician seeks information on police activity for public release.

Employees must not release police information to political figures or their staff outside of official channels. Unauthorised releases may result in management action. See the 'Political Activity' section of the *Political Affiliations Guidelines*.

5.11 Publishing Images and Copyright

Before publishing a photographic image, video footage or other copyright material, ensure that the NSW Police Force has the right to copy, distribute and publish the material consistent with copyright laws.

Permission from the copyright owner (generally the person who took the photograph) is sufficient (by way of a licence to publish the image). Permission should be recorded in writing.

Permission is required even in circumstances where the image is already available in the public domain (for example, on Facebook). In circumstances where the image is proposed to be released for operational reasons, consent of the copyright owner is still required.

6. INFORMATION NOT FOR RELEASE

6.1 Investigations, Arrests and Court Proceedings

6.1.1 Investigations

Never release any information that:

- hinders or jeopardises an investigation
- states or implies that a particular crime has been committed (e.g. “the victim was *murdered* with a blunt instrument...”)
- speculates on the cause of a death
- goes beyond bare facts to reveal details of evidence which may later be disputed by an alleged offender
- may prejudice a trial
- reveals distinguishing methodology used by criminals, people who commit suicide (beware ‘copycat’ crimes or suicides) or investigating police
- details or speculates about a motive or absence of motive
- details amounts of stolen money
- goes beyond bare facts to detail forensic or other examinations or identification ‘line-ups’, or
- is contrary to a Court or Coroner’s order prohibiting publication.

If in doubt, seek advice from the Office of the General Counsel or Operational Legal Advice.

6.1.2 Offenders

Never release any information that:

- states or implies that someone who has not yet been charged is guilty of a crime (e.g. "police are looking for a man who last night *murdered* a security guard..." or "police are delighted to have caught the *perpetrator* of this terrible crime")
- refers to the psychological state of an alleged offender (including possible motive or absence of motive)
- discusses prior convictions or criminal record
- includes a photograph of the alleged offender unless there is a clear and overriding public interest in doing so, or police are certain and have obtained legal advice that either identity is not an issue in any proceedings or the photograph has been sufficiently pixelated so that there is no risk of contempt
- suggests that the alleged offender is being investigated for further possible offences
- says the alleged offender has or has not made confessions, statements or admissions (unless this is part of a court report)
- reveals a refusal to submit to examinations or tests (*except* breath tests for alcohol)
- attributes blame e.g. "the Holden travelled on the *wrong* side of the road and collided with an oncoming ute"
- lays blame on, belittles or criticises anyone (unless possessing legal advice that this is not in contempt and is defensible from a defamation perspective).

6.1.3 Victims

Never release any information that:

- quotes specific conversations with victims or gives a detailed account of the victim's version of events
- quotes or refers to assertions of guilt made by a victim or a victim's family
- may breach any statutory restriction on publication (see section 7) or may be in contempt (section 8). For example, by identifying a victim of a sexual crime or identifying a child who may be guilty of a crime or is a witness, or
- distresses victims of crime or their families unless there is an operational need or risk of harm to any person.

6.1.4 Internal Investigations (Part 8A)⁹

When the NSW Police Force investigates the actions of its employees in relation to a complaint under Part 8A of the *Police Act 1990*, any statements made by a police representative during the investigation may:

⁹ Section added to complement revised *Guidelines for the Management and Investigation of Critical Incidents* (review completed by Professional Standards Command in 2012) D/2012/158805 and D/2012/184694 relate.

- describe the very basic facts of the situation (date, time, location of incident, gender and age of persons) but must avoid comment on the specific circumstances of the incident under investigation
- address broad operational matters including Part 8A complaints in general, such as that an investigation into the incident is underway that is subject to independent scrutiny
- express concern regarding the welfare of the family of anyone seriously or fatally injured, or any Police Officers involved
- respond to community concerns or reassure the community about public safety.

Any statements made by a police representative must comply with section 6.1 and 3.2.2 (and section 12 for critical incidents).

For internal investigations involving employee misconduct, the status of the employee can be given e.g. suspended, suspended with or without pay, on non-operational duties (not working with the public). Depending on media interest a holding statement rather than a media release may be issued if the matter is still under investigation.

6.2 Information from Surveillance

Employees considering the release of information obtained from surveillance or stored communications (including Body Worn Video and audio recordings) must contact PMU.

All media requests for surveillance information must also be referred to PMU, who will assess the proposal and coordinate the approval process (including liaison with the Office of the General Counsel and the Commander, Forensic Evidence and Technical Services Command).

The *Telecommunications (Interception and Access) Act 1979* (Cth) prohibits any person from communicating, making use of or making a record of any lawfully or unlawfully intercepted telephone communication or stored communication accessed under that Act. These prohibitions are subject to specific exceptions.

The *Surveillance Devices Act 2007* (NSW) prohibits a person from knowingly installing, using or causing to be used, or maintaining a tracking, listening, optical or data surveillance device. The Act also prohibits the publishing or communicating of information obtained from the use of such devices. Exceptions exist and include:

- where the communication or publication is made for the purpose of investigating or prosecuting an offence under the Act.
- all relevant people consent
- in the execution of a search warrant or crime scene warrant
- the surveillance device is integrated into an issued Taser.

The *Surveillance Devices Act 2007* sets specific requirements on the use and disclosure of Body Worn Video. Advice must be obtained from PMU prior to any release.

6.3 Other Restrictions

6.3.1 Persons in Custody

Do not allow the media access to any person in custody, or parade people in custody before the media. If media have line of sight of a person in custody, ensure the individual is provided with the means to cover their face if they wish.

Do not tell the media of visits to crime scenes by accused people. If media personnel are present seek to dissuade them from photographing or filming in a way that would identify the accused people. Publishing photographs which identify the accused may constitute contempt of court and/or jeopardise court proceedings.

6.3.2 Drugs

Do not release details of the amount, weight or commercial value of stolen legal drugs – especially when the site of the theft is mentioned (for example a hospital or pharmacy). Use words like ‘a quantity of drugs was stolen’.

The estimated potential street value of illegal drugs may be released, as calculated in line with the current Australian Criminal Intelligence Commission’s Illicit Drug Data Report. Cannabis crops can also be described by the number of plants. Following an arrest, the wording of the charges laid may be used to describe the drugs (e.g. a commercial quantity).

6.3.3 Money

Do not disclose the amount of money stolen. Describe the amount in a non-specific way, such as ‘a sum of money was taken’. If investigators believe it may help a particular investigation, then the amount involved may be released with the consent of the victim.

6.3.4 Methodology & Tactics

Detailed methodology and tactics used by police, criminals or suicides must not be released. Similarly the technological capabilities of the NSW Police Force in monitoring criminals, especially covert monitoring,¹⁰ must not be divulged.

6.3.5 Triple Zero (000)/VKG

No recordings, transcripts or other documents relating to emergency calls to Triple Zero (000) or police radio operations (VKG) can be released without the express approval of the Commissioner or a Deputy Commissioner.

¹⁰ To do so means a future claim by the NSW Police Force for public interest immunity can never be made.

6.3.6 Government Policy or Legislation

When commenting or otherwise releasing information to the media or social media, do not criticise:

- existing or proposed police policy
- wider Government policy or legislation
- parliament
- a court decision, or
- any other Government department or agency.

7. PROHIBITIONS AND PROTECTIONS

7.1 Statutory Prohibitions on Publication

There are a number of statutory prohibitions in New South Wales including prohibitions on the publication of information which identifies or is likely to lead to the identification of individuals including children, victims of sexual assault, parties to Family Court proceedings, undercover law enforcement officers or jurors. There are also statutory prohibitions which prohibit publication of material which discloses information on spent convictions, adoptions, coronial proceedings and jury deliberations.

For a comprehensive list of statutory prohibitions on publication, refer to Appendix 3.

Identification of a person may occur not only through the disclosure of a person's name, but through other details which would enable people receiving the publication to identify the person, for example, disclosing the time and location of the person's next court appearance. It is necessary to consider the facts of each case to work out what is and is not likely to identify someone.

The publication of photographs will generally identify a person if the person's face is shown and not pixelated. A person may also be identified by a photograph that shows a distinctive physical mark, such as a tattoo. Publication of other information such as employment or address details or the name of a child's school may identify a person.

In some cases, information can be released with the consent of the Court or of the relevant party or a child's parent or guardian. Each statute has different exceptions (and some have none).

Contact PMU if you wish to publish information which may fall into one or more of the categories listed in Appendix 3 (e.g. children) to ensure that you may do so lawfully.

7.2 Protecting Witnesses, Victims of Crime and Children

7.2.1 Release of Information and Media Appearances

Trying to assist victims of crime and their families when confronted with intense media attention can be very difficult. Contact PMU for assistance to help families prepare statements and make media appearances. PMU staff can provide advice or attend the scene to help directly.

Information or images must not be released if they breach statutory restrictions. Do not release information that may:

- identify a victim of crime
- identify a witness
- embarrass or distress a victim (e.g. details of sexual assaults or wounds, or missing clothing), or
- reveal details of a crime that might be known only to the perpetrator.

In general, information can be released which may:

- identify a deceased person, or missing person who is presumed dead, *only* after next of kin have been informed and have provided their consent, and they have had reasonable time to tell other relatives and friends. Where next of kin cannot be located, or they refuse consent, the deceased person's name should not be disclosed unless there are significant operational reasons for the disclosure and there is no legal restriction
- identify a deceased person when no relatives can be found in Australia and police need to appeal for public information
- identify victims of crime (including companies and organisations) if this will help the investigation and the victim's permission has been given.

Releasing information about a victim of crime (including an institution or organisation) in connection with extortion-related threats or crime, must be released via PMU, following authorisation from the relevant Office of the Deputy Commissioner and the Office of the General Counsel.

7.2.2 Social Media and Victims of Crime

Reporters routinely check the social media sites of victims and friends of victims as a source of photographs and other personal information. Police should recommend to victims of crime with social media sites that they:

- remove images and personal information from the site, or
- put the site onto a non-public or friends-only status, and
- warn their friends that the media may try and make contact or check their social media sites.

Photographs of victims sourced by the media from social media sites may also be inappropriate. This situation may be improved by providing the media with a family

approved photograph. This gives the family a measure of control as downloaded images are often of poorer resolution, so media outlets will usually replace them with an approved, better quality photograph.

7.2.3 Children

The identity of children connected with criminal proceedings as defendants, witnesses or otherwise must never be published. This includes situations where the person was a child at the time of the offence (see section 7.1). There are very limited exceptions to this rule which are set out in the *Children (Criminal Proceedings) Act 1987*. Contact PMU should you wish to publish information relating to children.

7.3 Protecting Police in Covert Operations

Commanders must ensure that police performing duties as undercover, street-level and surveillance operatives are protected from media and social media exposure.

Commanders need to put procedures in place so that the release of information including photographs, CCTV, police held or other footage does not release identifying or personal information about covert officers.

Undercover operatives who find they have appeared in the media should immediately contact the Duty Manager, PMU. Provide PMU with a copy or screenshot of the coverage and a list of media outlets that might have been present at a compromised location, so that the relevant media can be contacted and the images withdrawn from circulation.

8. DEFAMATION AND CONTEMPT

8.1 Defamation

A publication is "defamatory" if it would cause a person receiving it to think less of an identified individual, or to shun or avoid that individual. Any publication stating or alleging that a person is suspected of, has been charged with, or is guilty of a crime is likely to damage their reputation.

The public is presumed to be aware of the presumption of innocence. For that reason, a statement that a person is reasonably suspected by police, or has been arrested, will not (unless more is said) be found in defamation proceedings to mean that the person is guilty. However, it is likely to be found to mean that the person had engaged in conduct which gave the police a reasonable basis to suspect that person (or to arrest them, if arrest is mentioned).

Each person involved in publishing defamatory material can be liable for the publication.

To avoid defamation claims, great care must be taken to thoroughly check all facts to ensure that any defamatory statements made are either removed or defensible, before releasing a publication to the media (including publication on Police Eyewatch pages).

8.1.1 Steps to Ensure Defamatory Statements are Defensible

Prior to making any statement or releasing any information about a person or small company, you should consider the following issues:

- does the publication identify any person, or company with less than 10 employees? If this is the case, you should consider whether the reasonable reader would think less of or shun or avoid the person or company that the statement was made about. For this purpose, you should assume that readers can read between the lines and make inferences.
- are the identifying details correct? It is important to check names and photographs carefully, and to make sure that they are correct. Using the wrong name or photograph is a common mistake which can lead to defamation claims. Another common mistake is to include limited details such as calling someone "John Smith" in circumstances in which there is more than one person who meets that description. It is important to put in enough information so that only the person who police wish to identify is identified in the publication.
- if a statement has been made which would make the reader think less of, or avoid a person, defences may be available, such as the following:
 - where the defamatory meanings which a reader would take from the publication can be proved to be substantially true
 - where the statement that was made, was expressed as an honest opinion relating to a matter of public interest based on facts which are set out in the material, and which can be proved to be accurate
 - where the statement is in relation to a subject of public interest and the Courts' standards of reasonableness are met (this can be the basis of a statutory qualified privilege defence)
- where the statement gives a fair and balanced view of what has happened in court proceedings open to the public or in Parliament. To be balanced, both sides of any argument need to be given appropriate weight.

Defamation is a complex area of law. If there is any doubt about defamation issues associated with the release of information, or whether a defence may apply, advice must first be sought from PMU or the Office of the General Counsel.

8.1.2 Defamation and Social Media¹¹

The NSW Police Force may be held liable as a publisher for defamatory comments posted by third parties on any social media page administered and maintained by the police to represent the agency. This is the result of the High Court's decision in *Fairfax*

¹¹ Section added as per external legal advice, in response to the High Court's decision in *Fairfax Media Publications; Nationwide News; Australian News Channel v Voller (2021) D/2022/380121* relates.

Media Publications Pty Ltd; Nationwide News Pty Ltd; Australian News Channel Pty Ltd v Voller (2021) 392 ALR 540 (Voller).

The decision in *Voller* confirmed that the owner of a social media page may be liable as a publisher for defamatory third party comments posted to that page from the moment the comment was posted, and regardless of whether the page owner was aware of the comment.

In each case, the liability of the page owner for defamatory third party comments will be determined by the degree of involvement of the page owner in the dissemination of that material, and the steps taken after notification of the material.

The NSW Police Force may be at a higher risk of a defamation claim in respect of third party comments if police:

- are able to disable comments and choose not to
- invite comments on our pages and posts, or
- are notified of a defamatory comment and choose not to take it down.

The risk of defamation liability for third party comments posted on a NSW Police Force social media page may be managed with mitigation strategies such as:

- promptly considering complaints and take down requests, and
- using platform features such as disabling comments.

For more information on moderation of NSW Police Force social media pages, see section 6 of the *Official Use of Social Media Policy*.

8.2 Contempt of Court

8.2.1 Contempt of Court

Contempt of court is a common law crime. Each person who is a party to publication of material that is in contempt can be convicted of contempt. Subject to certain exceptions, the following may constitute contempt:

- breach of a court order, including a suppression order
- publishing material which has a real and definite tendency to prejudice proceedings
- making a publication which improperly places pressure on a party to proceedings, and
- making a publication which is calculated to bring a court or judge into contempt or to lower their authority.

8.2.2 Breach of a Court Order

Each person involved in publishing any material in breach of a suppression order can be found guilty of contempt of court. The NSW Police Force usually directs media

seeking information about proceedings to obtain this information directly from the Court, which means that police will not ordinarily be involved in providing information to the media once proceedings are under way. If, however, in any instance the police do provide such information, then it is important to make sure that any suppression orders are checked and complied with before making any statement or providing information.

Courts have powers under the *Court Suppression and Non Publication Orders Act 2010* (NSW) to make an order prohibiting or restricting publication. An order may be made if it is:

- necessary to prevent prejudice to the proper administration of justice
- necessary to prevent prejudice to the interests of the Commonwealth or a State or Territory in relation to national or international security
- necessary to protect the safety of any person
- necessary to avoid causing undue distress or embarrassment to a party to or witness in criminal proceedings involving an offence of a sexual nature (including an act of indecency), or
- necessary in the public interest for the order to be made and that public interest significantly outweighs the public interest in open justice.

As no information is generally provided to the media once a matter is before a court, it is the responsibility of the media representatives to attend court to check if any relevant order has been made if they intend to publish information relating to the case.

8.2.3 Sub Judice Contempt

Subject to exceptions, sub judice contempt prohibits publication of material which has *a real and definite tendency to prejudice or embarrass pending proceedings or to interfere with the due course of justice* in relation to a hearing.

Sub judice contempt may also be committed where there is a publication or comment through media organisations relating to proceedings currently before the court that has the potential to interfere with the proper running of the proceedings.¹²

Sub judice contempt does not affect what can be published after a person has been convicted (and all appeals have been exhausted). Nor does it affect what can be published before a warrant is issued for a person's arrest or before a person is arrested or charged.

Proceedings are pending from the time an accused person is arrested, charged or issued with a Court Attendance Notice. It is unclear whether they are pending when a warrant has been issued and an arrest has not occurred, but proceed on the basis that contempt rules do apply from the time a warrant has been issued. Contempt principles are also likely to apply from the time at which an extradition order is made. Questioning a suspect does not constitute sub judice contempt.

¹² https://www.judcom.nsw.gov.au/publications/benchbks/criminal/contempt_in_the_face_of_the_court.html

Contempt principles do not prevent statements to the public (e.g. prior to the first bail hearing) of the bare facts. For example, if a body has been located, the bare facts will include where, when and in what condition it was found. However, this is a matter for careful consideration in each case, as in some cases even the details above may be highly prejudicial. For example, if the accused led police to the body then publication of that fact would be highly prejudicial.

Whether or not material is in contempt is a question of fact in each case. When determining whether material is in contempt, the Court performs a balancing exercise which takes into account the circumstances of the publication and relevant public interest considerations.

The strength of the prosecution's case is irrelevant. Even where the evidence against an accused is strong (e.g. the offence was caught on film, or the accused has confessed), publication of prejudicial material may constitute sub judice contempt. Lack of intention to prejudice proceedings is also not relevant (though it is relevant to sentencing).

8.2.4 High Risk of Contempt

Categories of information which when released publicly create a high risk of contempt include:

- confessional material
- any statements and/or suggestion that the accused has prior convictions, or has been charged with or involved with criminal activity in relation to other offences
- witness statements (including informal interviews or quotes) and other evidence prior to trial
- any statements and/or suggestion that an alleged offender is guilty or innocent of a crime, or which are likely to incite sympathy or antipathy for the accused
- identifying photographs, sketches or other likenesses or a physical description of an accused person, and
- any publications which disclose facts that are not admissible in court, such as anything said in court during a trial in the absence of a jury.

Once an individual has been arrested, publishing a picture of the person is likely to be in contempt, as the identity of the criminal is often an issue before the Court when an alleged offender pleads not guilty.

In some cases, releasing material which may interfere with later court proceedings can be defended on the grounds of public interest. For example, when an alleged criminal has escaped custody and the public needs to be informed that the person is dangerous and should not be approached.

If there is any doubt about the release of material to the media (including social media) and the likely impact on court proceedings, the information must not be released until advice is obtained from PMU, the Office of the General Counsel or the Operational Advice Unit. You should also ask the team responsible for the relevant investigation or prosecution whether they consider there is a risk that publication will prejudice their investigation or any proceedings.

9. DESCRIBING PEOPLE TO THE MEDIA

9.1 Guiding Principles

Words used to describe crime victims, witnesses, suspects and offenders can be highly contentious, especially when they refer to ethnic or racial origin.

When misused or misunderstood, descriptions can damage community harmony, police relations with various communities and hinder investigations, which often heavily depend on community support and information.

Criminal and anti-social behaviour should not be associated with any particular group or community.

There are three categories of approved descriptive terms available to build a useful overall description:

- physical descriptors
- ethnicity based descriptors, and
- nationality.

Make descriptions as precise as possible, emphasising physical features and avoiding discriminatory or offensive terms. The descriptive terms listed in this section are approved for use. All other descriptive terms must be avoided.

9.2 Physical Descriptors

The list of physical descriptors is set out below:

- build – e.g. large, athletic, obese
- height – estimate in centimetres
- complexion – e.g. fair or pale, olive, tanned
- hair colour – e.g. brown, ginger, white, grey, black
- hair length – e.g. shaved, short, medium, long
- hair style – e.g. straight, wavy, curly, spiky
- face shape – e.g. round, chiselled, heart shaped
- eye colour – e.g. brown, hazel, green, blue
- eye type – e.g. sleepy, bloodshot, crossed
- eyebrows – e.g. fine, bushy, plucked
- glasses – e.g. sunglasses, metal frame, half frame
- mouth – e.g. full, wide, cleft palate
- facial hair – e.g. moustache, beard, sideburns, goatee
- nose shape – e.g. thin, broad, flared
- other distinctive features - e.g. scars, tattoos, piercings, physical impairments (a limp etc).

Consult with PMU if you require further assistance with physical descriptors.

9.3 Ethnicity Based Descriptors

Great care must be taken when using ethnicity based descriptors. The effectiveness of ethnicity based descriptors is limited as they can be the result of emotional or prejudice driven responses from witnesses that may be wrong. Ethnicity based descriptors can also lead other members of a given community to feel they are unfairly under suspicion, creating hostility towards police from community groups.

However, ethnicity based descriptors can be valid and useful *if part of* an overall description that could lead to the arrest of an offender. The decision to use an ethnicity based descriptor must be justified on the basis that its inclusion will increase the likelihood of identifying the person of interest.

Ethnicity based descriptors can be legitimately used as long as the following principles are observed:

- ethnicity based descriptors can be used in the pre-arrest phase, when combined with a physical description
- ethnicity based descriptors must not be used once a person has been apprehended, and
- ethnicity based descriptors must only be used to describe people whose ethnicity is not known.

Use only: “The person is of...

- Aboriginal/Torres Strait Islander appearance
- African appearance
- Asian appearance
- Caucasian appearance
- Indian Sub-Continental appearance
- Mediterranean/Middle Eastern appearance
- Pacific Islander/Maori appearance, or
- South American appearance.”

Examples:

Pre-arrest phase: “Police wish to interview a person who may be able to assist with inquiries into an incident at (location). The person is described as being (male/female) of (build), (height), (complexion), (hair colour), etc., and of (ethnicity based descriptor). They were last seen at (street name or other location)”.

Post-arrest phase: “Police today arrested and charged a (age) year old (suburb if appropriate) man/woman in relation to an incident at (location) on (date). The person is due to appear at (location) Court on (date)”.

9.4 Nationality

A person's nationality has no bearing on their appearance, so it is irrelevant in a physical description. However, in situations where a person's nationality is relevant, the information can be released.

Reasons where it is acceptable to release a person's nationality include:

- when fears are held for the safety of a foreign national travelling in Australia, or
- when information about an offender, crime victim or missing person is needed from other people of the same nationality or language group.

10. CRIME SCENES AND SEARCH WARRANTS

10.1 Crime Scenes, Search Warrants and the Media

The media must never be allowed to enter a crime scene or premises being searched under a search warrant.

The Multimedia Unit can provide a controlled and secure in-house filming service for investigative purposes and make a record of relevant police activity (such as execution of a warrant). See section 2.5 for details of Multimedia Unit services.

10.1.1 Media Assembly Area

The media are a resource and must be suitably managed so that the resource is used effectively. If required, set up a designated and easily identifiable media vantage point/assembly area.

A media assembly area should:

- enable the media to report on the incident
- provide a line of sight to the incident, if safe to do so and if the incident is not a siege
- secure the safety of the media
- protect the crime scene
- ensure the media do not interfere with police action or restrict access to the crime scene by emergency services or other approved respondents.

Exactly where and how the media area is set up is a decision for the senior Police Officer at the scene. Consult with the Media Liaison Officer or PMU when practical.

Where the crime scene is on private premises, consider trespass and surveillance issues. The media assembly area can only be set up on private premises with the

express or implied consent of the owner or occupier, or if there is a Commonwealth law which authorises media to film on the land.

10.1.2 Establishing a Crime Scene and Exclusion Rights

Under section 91 of the *Law Enforcement (Powers and Responsibilities) Act 2002*, a Police Officer may establish a crime scene on premises in any way that is reasonably appropriate in the circumstances.

Once a crime scene is declared, a Police Officer must, if reasonably appropriate, give the public notice that the premises are a crime scene. Notice can be given by the use of crime scene tape or some other form of notice, such as Police Officers standing guard and verbally warning the public of the presence of the crime scene, its location and its boundaries.

Once a crime scene has been established, Police Officers have the power to:

- direct a person, including members of the media, to leave the crime scene or remove a vehicle, vessel or aircraft from the crime scene
- remove from the crime scene a member of the media who fails to comply with a direction to leave the crime scene
- remove from the crime scene a vehicle, vessel or aircraft if a member of the media fails to comply with a direction to remove it
- direct a member of the media not to enter the crime scene
- prevent a member of the media from entering the crime scene
- prevent a member of the media from removing evidence from or otherwise interfering with the crime scene or anything in it and, for that purpose, detain and search the person, and
- remove or cause to be removed an obstruction from the crime scene.

See section 95 of the *Law Enforcement (Powers and Responsibilities) Act* for the complete list of police powers at crime scenes.

Any action that Police Officers take should be reasonable and justified, and observe the need to preserve the integrity of the crime scene.

Common sense and discretion need to be exercised where the parameters of the crime scene may not be immediately clear. Generally speaking, the media is entitled to film or photograph at crime/accident scenes. In fact, media footage of an incident may subsequently assist in identifying offenders or help police when making public appeals for information.

If media personnel put their arms, boom microphones or cameras over the crime scene tape, but not their bodies, they have still entered the crime scene. However, in deciding how to react to this situation, Police Officers should assess what effect, if any, this has on the integrity of the crime scene, and whether it actually hinders police in performing their duties. If media actions do not affect the crime scene or police performance, there should be careful consideration of all the factors involved before any action is taken.

10.2 Media Filming Outside Crime Scenes

10.2.1 Media Rights to Film from Outside Crime Scenes

Police have no specific rights or powers to do anything to prevent the media taking photographs of or filming Police Officers or family members at crime scenes, if the media remain out of the crime scene itself and obey all other laws.

If the media are in a public place outside of the crime scene, they have a general right to film the crime scene and the persons within it. Reporters in a public location can only be requested to move on if there are legitimate safety or operational reasons that provide a legal power to do so.

The media can also take photographs or film crime scenes or searches from private property (other than the property subject to the crime scene or search warrant) if they have the permission of the owner/occupier. The property owner or occupier has the right to refuse access to the media.

Camera footage taken from a public place, or a privately owned place with the consent of the owner/occupier, does not contravene the *Surveillance Devices Act 2007*. The footage can be taken in these circumstances even if the crime scene or activity itself is not in a public place.

It is not the job of Police Officers at crime scenes to decide on whether legally obtained media footage or photographs are insensitive or in poor taste. What the media may publish is governed by various broadcasting laws and codes of conduct.

If Police Officers have genuine concerns about the ethics or behaviour of media representatives, seek advice from PMU.

Conversations held openly in public places, where the parties to the conversation should reasonably expect that it might be overheard by someone else, are generally not considered to be 'private conversations' and so are not protected by the *Surveillance Devices Act 2007*. Journalists and camerapersons may make recordings of events and record, monitor and listen to conversations which are not defined as private conversations.

10.2.2 Interfering with Media Personnel

Unless Police Officers have a lawful right to interfere with or use force against media personnel, police should not physically grab or cover cameras or media equipment (for example, by placing something over or very close to the lens).

If Police Officers try to grab or cover cameras or interfere with media personnel, this action will become the focus of the media story and the officers may be liable for prosecution for assault or trespass to the person concerned.

At a reasonable distance from the media, Police Officers can shield themselves or other persons (including victims) or objects from the view of the media or their cameras.

However, discretion should be exercised regarding the benefits of this action, as it may then become the focus of the story.

Generally, Police Officers are not authorised to confiscate media tape/footage. Only if the actual taking of photographs or footage constitutes an offence, do police have the power to arrest the person who committed the offence. Police may then have the power to seize the tape, photographs and footage as evidence of the crime.

10.3 Unofficial Recordings – Members of the Public

There is widespread ability amongst members of the public to capture photographs and video images on mobile phones, tablets and other recording devices. Police Officers should expect that their behaviour will be recorded while in public places.

When in public places, particularly at the scene of an incident or operation, be aware that people other than official media representatives may record the presence, actions and words of Police Officers for unofficial purposes.

Comments or the behaviour of Police Officers, whether exemplary, controversial or inappropriate may be streamed live or recorded and later posted onto social media and/or broadcast on mainstream media channels. Off hand comments made to a passer-by may be recorded and later repackaged by the media as an official police statement, especially if it is controversial or discloses confidential operational information.

Members of the public have the right to take photographs of or film Police Officers, and incidents involving Police Officers, which are observable from a public space, or from a privately owned property with the consent of the owner/occupier.

Generally speaking, if a person takes photographs or videos Police Officers, operations or incidents from a public space, police *do not* have the power to:

- prevent the person from taking photographs or filming
- confiscate photographic or filming equipment
- delete images or recordings, or
- request or order a person to delete images or recordings.

If Police Officers try to confiscate equipment or interfere with members of the public to delete images or recordings, the officers may be liable for prosecution for assault or trespass to the person concerned.

Police may have powers to prevent a member of the public from taking photographs or filming, or confiscate equipment or delete images in certain limited circumstances such as:

- where they have been given special powers under anti-terrorism legislation, or
- where taking photographs or filming images amounts to offensive conduct under the *Summary Offences Act 1988*.

10.4 Media 'Blackouts'

During a crisis it may be appropriate to ask all media to temporarily refrain from reporting an incident, for example, a siege where hostages' lives are directly threatened and the offender is known to be watching media coverage.

A request for a media blackout can only be made in the most exceptional circumstances, usually due to a risk to life. A media blackout request must be made by the Assistant Commissioner, Counter Terrorism and Special Tactics Command, the appropriate Region Commander, other Assistant Commissioners or in the event of a siege, the operational commander or senior police negotiator.

10.5 Temporary Restricted Air Space

If the presence of a media helicopter over a scene could hamper police operations or endanger the safety of persons or the environment:

- contact the State Coordination Unit (SCU) to have the air space declared a Temporary Restricted Area (TRA), and
- inform PMU who will liaise with the relevant newsroom to arrange a satisfactory outcome.

The SCU can request the Civil Aviation Safety Authority (CASA) to temporarily restrict pilots and aircraft from certain air space.

Personal annoyance at media interest in a particular incident or investigation is not grounds to request a TRA.

11. MAJOR CRIMES, INCIDENTS, ACCIDENTS AND PUBLIC DISTURBANCE

11.1 Public Information Management & Major Incidents

The Public Affairs Branch will manage media advisory services and the coordination of public information for any event that may lead to a prolonged or intense level of media interest.

If a major incident arises and/or the media presence at an incident is significant, advise PMU immediately. A Media Liaison Officer will be assigned to assist commanders in managing public information in response to a major incident or public disturbance.

Until the arrival of a Media Liaison Officer, the commander at the scene must set aside a safe media assembly area in accordance with section 10.1.1.

On arrival at the scene, the Media Liaison Officer must be thoroughly briefed by the commander. The Media Liaison Officer will:

- work with the on-site commander
- work with other emergency service personnel if applicable, and
- develop a media and communications strategy (see section 2.2).

Interviews can be given by either the Commander at the scene or the designated spokesperson. For critical incidents see section 12.

Briefings to the media should, when required, alert the media to any need for sensitive reporting for the duration of the incident. Advise the media of any potential problems in the coverage that could place lives at risk, such as reporting of:

- the apparent emotional state of offenders or hostages
- any demands made, or
- the number, type and deployment of police resources.

Be mindful that journalists may seek to engage officers at incidents in conversation. Always assume a camera or microphone is on and that your comments will be used. Refer any request for official comment to an authorised officer or Media Liaison Officer.

In prolonged situations, the media should be briefed at regular intervals to avoid them seeking information from other, potentially uninformed, sources. Equally, the absence of information often leads to misinformed media speculation. There are advantages in providing ongoing basic facts, particularly to correct misinformation before it spreads.

For road-related incidents, the Media Liaison Officer or Officer in Charge of the scene can broadly confirm what occurred, where it occurred and whether there is an appeal for witnesses. Do not speculate on the cause of the crash, or of a death. Once confirmed, the number of people killed or injured can be given, as well as the hospitals to which casualties have been taken (if this does not create a security risk) and how they were taken (e.g. by road or air). Consideration should be given as to whether next of kin have been informed of any deaths (see section 12.1.1).

For details on authorisation for issuing media releases at major incidents, see Appendix 2 section 11. For media management and authorisation to release information during sieges, see Appendix 2 section 17.

11.1.1 Where an Incident Command and Control System is in Place

As part of the Incident Command and Control System (ICCS), the Public Affairs Branch will assign a dedicated Media Liaison Officer to the Police Commander's command team. A detailed media and communications strategy must be developed in conjunction with the Police Commander (see section 2.2 for further details).

11.1.2 Where the Incident Command and Control System is not Required

For major situations that do not require an ICCS (e.g. crimes, fires, major road accidents, chemical spills and industrial incidents), a Media Liaison Officer can be deployed to the scene on request.

11.1.3 Emergency and Terrorist Incidents

In the event of an emergency or terrorist incident, the Public Information Functional Area Coordinator (PIFAC), Public Affairs Branch, has the responsibility to coordinate media resources, provide for the controlled release of public safety and/or warning messages and public information, and to coordinate the interaction between all agencies.

11.2 When a Strike Force is Formed

When a Strike Force which is likely to attract a high level of public interest is formed, the Public Affairs Branch can assign a Media Liaison Officer to develop a detailed media and communications strategy in conjunction with the Commander of the Strike Force (see section 2.2 for further details).

PMU will assume responsibility for media management issues throughout the life of the incident or Strike Force in consultation with the relevant Strike Force Commander, Corporate Sponsor or Commander of the area who has carriage of the investigation.

A Strike Force is defined as a team of people formed to investigate serious, major or organised crime or conduct inquiries into the outcomes of investigations. A Strike Force's operations are governed by investigation agreements and terms of reference.

12. CRITICAL INCIDENTS AND DEATHS¹³

A critical incident may arise where a person dies or is seriously injured in an incident involving a level of police interaction. This includes:

- shootings – both by police and when a Police Officer is shot
- fatal or serious accidents involving police e.g. pursuits
- deaths or serious injuries in custody
- self-harm or attempted suicides in custody
- deaths or serious injuries during police operations.

A critical incident is independently investigated by specialist police from external commands and is subject to independent review.

¹³ Section added to complement revised *Guidelines for the Management and Investigation of Critical Incidents* (review completed by Professional Standards Command in 2012) D/2012/158805 and D/2012/184694 relate.

12.1 Critical Incident Media Release

As there is likely to be significant media interest in a matter where police are being investigated, PMU may provide the media with the basic approved facts including the time, date and general nature of the incident. A media release should be released as soon as practicable¹⁴ unless there are extenuating circumstances that justify not doing so, for example, the incident only involves an act of self-harm and the release of information is not in the public interest.

The media release must be in accordance with the following critical incident template¹⁵:

A critical incident investigation has been launched following the [death/critical injury] of a [man/woman] at [suburb].

Police were called to [location] about [time, date] following reports of [basic information regarding why police were there].

On arrival, police [basic summary of incident, hospital details to be included if relevant]

A critical incident team from the [Squad] will now investigate the circumstances surrounding the incident.

The investigation will be subject to independent review.

[All information will be provided to the Coroner who will determine the cause of death and make any findings about the events leading to the man's/woman's death.] (if relevant).

No further details are available at this time, however, police are appealing for witnesses to come forward. Anyone who can assist police should contact Crime Stoppers on 1800 333 000 or online at nsw.crimestoppers.com.au

The Region Commander may also request for a Media Liaison Officer to attend to manage media interest at the scene.

For authorisation to release information on critical incidents, see Appendix 2 section 7.

12.1.1 Next of Kin

Never release the names of people who have died until next of kin have been informed and provide their consent, and have had time to tell other family members. Where next of kin cannot be located, or refuse consent, the deceased person's name should not be disclosed unless there are significant operational reasons for disclosure.

¹⁴ Timing of media release clarified as recommended following a critical incident on 26 December 2012. D/2013/4612 relates.

¹⁵ Template included in policy as per recommendation from *Inquest Lessons Learnt Working Group Report* following Deputy Coroner's findings for the Inquest into the death of Adam Salter in November 2009. D/2012/158805 and D/2012/184694 relate.

12.2 Public Comment: Critical Incident Investigations

12.2.1 Making and Approving Public Comments

Following a critical incident, the appropriate Region Commander or equivalent is responsible for authorising any public statements and for conducting any media interviews as appropriate.

The Region Commander or equivalent is expected to make all public comments unless exceptional circumstances exist that make the Region Commander unavailable. If exceptional circumstances occur, this role can be delegated to the most appropriate Superintendent, with the approval of the relevant Deputy Commissioner.

The delegate should be the Superintendent of the PAC/PD (or equivalent) conducting the critical incident investigation. If they are unavailable, the delegate should be the Superintendent of an adjoining PAC/PD or a Region Operations Manager in Metropolitan areas.

The delegated officer must be sufficiently independent of the staff involved in the critical incident. The commander of the officers involved in a critical incident, such as the PAC/PD Commander, must not make public comment on the critical incident.

If the incident relates to the homicide of a Police Officer, the death of a person through the use of a police firearm or police appointments (e.g. OC spray, Taser, baton), any public statement must be approved by the Commander, Homicide Squad, State Crime Command. If the critical incident involves a death, the authorisation of the Coroner is also required (see section 12.2.3).

12.2.2 Public Comment Content

Any public comment made must only provide a level of detail consistent with the critical incident media release template at section 12.1.

Any public statements made must also strictly comply with sections 6.1.4 and 3.2.2.

In particular, any statements made must not prejudice the investigation by providing comments of support for the employees involved, by speculating about the possible guilt or innocence or motives or actions of the employees or others present, or about the cause of the incident. For example, *do not* use phrases that may suggest the Police Officers involved:

- were threatened
- had no other option, or
- were forced to defend themselves.

12.2.3 Deaths, Likely Deaths and the Coroner

During the investigation of critical incidents involving deaths, no public comment is to be given without express authorisation as set out at section 12.2.1 *as well as* the authorisation of the Coroner.

Where the nature of injuries are such that death is likely, discuss any proposed public comment with the NSW Coroner's Court before any statement is made.

Police media statements should never speculate about cause of death, which is a matter for the Coroner to determine. Any media inquiries on cause of death should be referred to the NSW Coroner's Court.

Should false information about a death circulate, contact PMU who will notify the Coroner and seek permission to correct it. Any clarifying statement must be approved by the NSW Coroner's Court. For further information on the Coroner's role, including authorisation, see Appendix 2 section 5.

12.2.4 Apparent and Suspected Suicides

You may release brief details of non-suspicious deaths, but police media statements should never speculate about cause of death, which is a matter for the Coroner to determine. If unsure, consult the NSW Coroner's Court.

If releasing information about an apparent or suspected suicide, do not indicate, infer or confirm suicide or apparent or suspected suicide. Refer to the death as 'non-suspicious'. Do not indicate the existence of a suicide note or other similar writings, or disclose their content. Never reveal suicide methodology.

13. AMBER ALERTS

13.1 Activating an Amber Alert

Amber Alerts assist in the safe return of an abducted child. Amber Alerts are issued to the media and other external organisations to immediately saturate the vicinity of the incident with details of the abduction, so that the community can help locate the child.

Amber Alerts can only be issued by PMU. An AmberAlert is requested by a PAC/PD Commander in accordance with the *Standard Operating Procedures for Issuing Amber Alerts* .

If there are potential kidnapping or ransom issues, or the person is over 16 years of age, then an Amber Alert will not be issued and other means of seeking community assistance may be implemented as appropriate, such as general media releases and appeals for assistance. Contact PMU for more information.

For full details, refer to the *Standard Operating Procedures for Issuing Amber Alerts*

14. PRIVACY

14.1 Legislated Rights to Privacy

Section 27 of the *Privacy and Personal Information Protection Act 1998* (the PPIP Act) states that the NSW Police Force is not required to comply with the Information Protection Principles set out in the Act, except when exercising educational and administrative functions.

Generally, information may be released to the media in order to further the mission and functions of the NSW Police Force, as set out at section 6 of the *Police Act 1990*.

Despite the broad exemption for operational purposes, the following privacy policies do apply to all media disclosures by the NSW Police Force.

14.1.1 Information Must be Accurate and Reliable

Personal information released in accordance with this policy must be accurate and reliable, with facts clearly differentiated from opinion or suspicions.

If personal information is not confirmed as factual, but is deemed appropriate to disclose for operational reasons, then the nature of the information must be clearly conveyed to the recipient along with the rationale for disclosing unsubstantiated information.

14.1.2 Disclosed Information Should be Proportionate to the Purpose of the Disclosure

Personal information that is disclosed about an individual should be limited to that information which is reasonably necessary to achieve the operational purpose of the disclosure.

For the purposes of this section, personal information includes information about an individual apart from information that is contained in a publicly available publication, or information about an individual who has been dead for over 30 years. Particular care must be taken with information relating to an individual's political opinion, religious or philosophical beliefs, ethnic or racial origin, trade union membership, health or sexual activity. Such information must not be disclosed unless there is an operational need or a risk of harm of any person.

14.2 Information for Non-Operational Purposes

In almost all circumstances, the NSW Police Force collects information for operational purposes. Nonetheless, there may be rare occasions when the NSW Police Force can assist victims of crime and their families by obtaining personal information for release to the media. In such circumstances, informed consent to collect and release the information must be obtained from the individual or their next of kin.

For example, taking a photo from the home of a murder victim and releasing it to media without family permission could be intensely distressing to relatives and may constitute a violation of their privacy.

However, discussing the media interest in such a photo with a family, assisting them to prepare a statement for media, identifying a suitable family representative to be interviewed and acting as intermediary between the family and the media could be a valuable service, as it can shield the family from further intrusion and distress. While there is no obligation on the NSW Police Force to fulfil this role, it should be duly considered in discussion with PMU.

15. PERSONAL OPINION

15.1 Personal Opinions & Political Activity of Employees

Employees may express an opinion in public debates, letters to the editor, calls to talkback radio, on social media etc. Employees can also join political parties and hold and express political views as any other NSW citizen.

However, personal opinions and political activities must be expressed or undertaken in the capacity of a private citizen and not as a NSW Police Force employee. Any comments made must not be seen to represent the official view of the NSW Police Force, or compromise your ability to serve the Government of the day in a politically neutral manner.

Do not refer to your position in the NSW Police Force when expressing an opinion or participating in public debates in a private capacity. Do not wear a police uniform when expressing private opinions. When expressing a private opinion on policing issues on social media, do not do so from social media sites where you have identified yourself, directly or indirectly, as a police employee.¹⁶

In situations when public comment, although made in a private capacity, may appear to be an official comment on behalf of the NSW Police Force, employees should state that the comments are made in a private or union capacity and do not represent the official view of the NSW Police Force.

In expressing opinions or undertaking political activities in a private capacity, employees must also ensure that there is no conflict of interest with their role as a NSW Police Force employee.

For further information, see the *Code of Conduct and Ethics*, the *Procedures for Managing Conflicts of Interest* and the *Political Affiliations Guidelines*.

¹⁶ *Personal Use of Social Media Policy*, section 2.1.3

15.2 Industrial Associations

If a NSW Police Force employee liaises with the media on behalf of a union or industrial association, ensure that your appearance, status and comments are not misinterpreted as representing official NSW Police Force views or policies.

When speaking as an industrial representative:

- identify yourself by name and position in the union or association, not by position in the NSW Police Force
- do not wear a police uniform or other police insignia
- make sure your comments are recognised as being made on behalf of the union, not the NSW Police Force.

If you are unsure about these requirements contact PMU.

15.3 Secondary Employment

NSW Police Force employees must not engage in secondary employment without the approval of the Commissioner of Police or delegate.

Employees working within the media industry on approved secondary employment must not:

- provide advice on policing issues, operations, practices or procedures
- arrange access to NSW Police Force staff, equipment or resources (including COPS or any other database), or
- engage in conduct that may constitute a conflict of interest with the employee's police duties and/or impinge on the integrity of the NSW Police Force within the community.

Refer to the *Secondary Employment Policy and Procedures* and the *Procedures for Managing Conflicts of Interest* for further information.

16. POLICE VIDEOS

16.1 Music Copyright¹⁷

16.1.1 Police Videos and Copyright

The Public Affairs Branch produces a variety of short videos for internal and external viewing. Other police commands also produce videos, especially for internal training and promotion purposes.

The NSW Police Force must obtain copyright permission to use commercial music on these types of videos.

Any member of the NSW Police Force who uses commercial music without obtaining the relevant permission or licence exposes themselves and the organisation to the risk of breaching copyright legislation and/or legal action (even if the music is for internal use only).

In exceptional circumstances, the rights for commercial music can be purchased but only with the approval of the Executive Director, Public Affairs Branch. A rights fee will then be negotiated with the copyright owner or owners.

16.1.2 Production Music

To minimise costs, any member of the NSW Police Force needing music for their videos should use “production music” which is available by contacting the Multimedia Unit.

Production music, also known as stock music or library music, refers to music produced and owned by production music libraries and licensed to customers for use in film, television, radio and other media.

The Multimedia Unit has access to a number of production tracks and can advise you in relation to a track to suit your needs.

The Multimedia Unit can be contacted via email at -M-MDL-MMURA or via the PMU on E/N 45101 or (02) 8263 6101.

¹⁷ Section 16 added to policy to minimise risk of NSWPF employees breaching copyright law. D/2011/95953 relates.

Appendix 1: Release of Static Images

Section 5 allows for static images relating to summary offences and Table 2 offences to be posted on official NSW Police Force social media sites, such as Eyewatch sites, and/or released to local media, without PMU and legal vetting.

PACs/PDs must ensure the release of static images does not give rise to legal issues including contempt and breaching statutory restrictions (see sections 6 to 8). If uncertain, seek advice from PMU.

This Appendix assists with the identification of summary offences and Table 2 offences.

There are four broad categories of criminal offences in New South Wales that are relevant to section 5:

1. “Strictly” summary offences, where persons are ordinarily entitled only to be dealt with in a Local Court. For example, possess prohibited drug and offensive behaviour.
2. Table 2 indictable offences are to be dealt with summarily in a Local Court unless the prosecutor elects to have the matter dealt with in the District Court.

The complete list of this second category of offences is found in Table 2 in Schedule 1 to the *Criminal Procedure Act 1986*. Table 2 offences are generally less serious than Table 1 offences. Table 2 offences include:

- common assault, assault occasioning actual bodily harm
- assault police, indecent assault
- larceny etc or receiving for under \$5,000
- malicious damage under \$5,000
- possession of an implement
- take and drive motor vehicle
- drug offences under the small quantity.

3. Table 1 indictable offences are to be dealt with summarily in a Local Court unless the prosecutor or the defendant elects to have the matter dealt with in the District Court.

The complete list of this third category of offences is found in Table 1 in Schedule 1 to the *Criminal Procedure Act 1986*. Table 1 offences are generally more serious than Table 2 offences. Table 1 offences include:

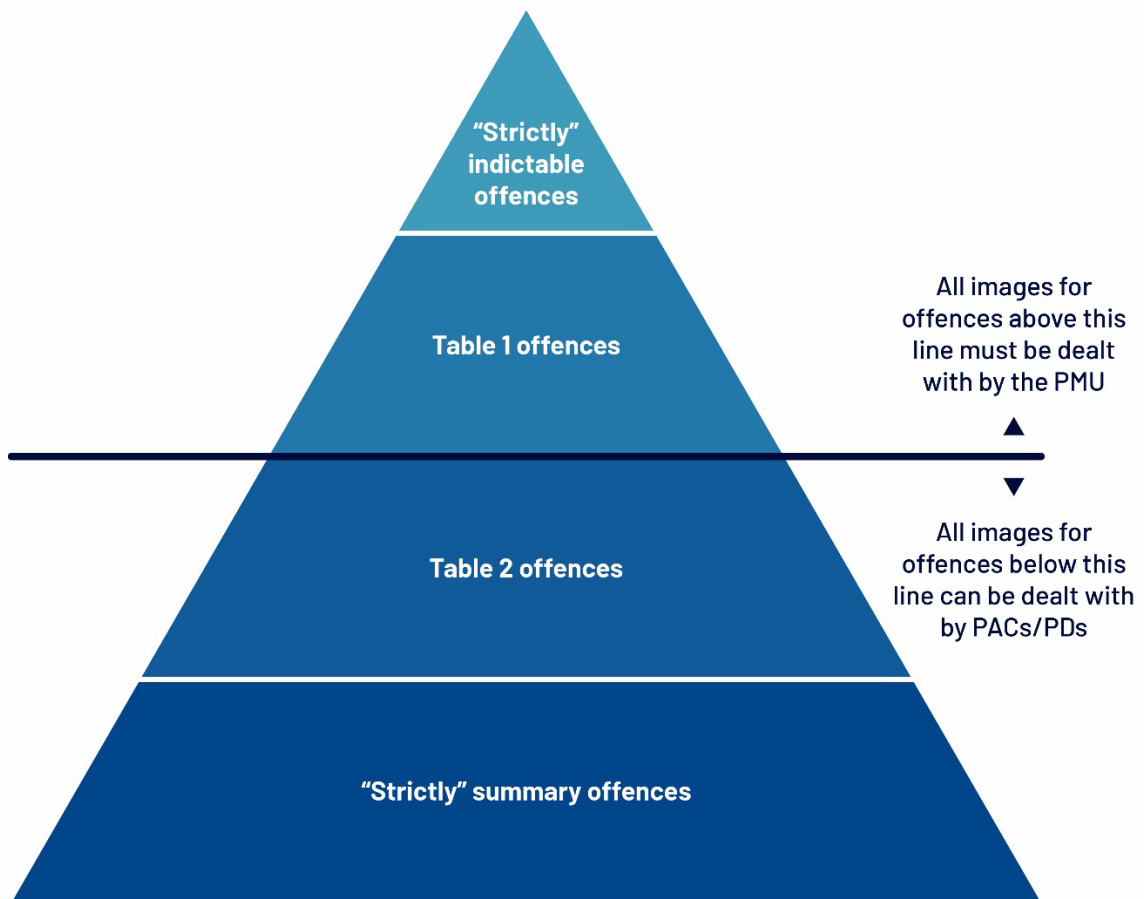
- reckless wounding or inflict grievous bodily harm
- aggravated indecent assault
- culpable driving where death does not result
- larceny or receiving over \$5,000
- break and enter offences under \$15,000
- other dishonesty offences

- steal motor vehicle
- public order offences
- escape and other prison offences
- drug offences between the small and the indictable quantity (less than commercial quantity for cannabis).

Most Table 1 and Table 2 offences are dealt with in the Local Court.

4. “Strictly” indictable offences, which can only be dealt with on indictment in the District Court or the Supreme Court. For example, robbery whilst armed.

A diagram illustrating the policy is as follows:



Appendix 2: Authority to Release Information

The authority to comment on particular aspects of police operations is detailed in the following table.

1. Abduction, extortion and product contamination
2. Bomb threats and suspicious objects
3. Charging of Police Officers or police employees
4. Child Sex Offences & Registrable Persons
5. Coronial matters
6. Crime statistics
7. Critical incidents
8. Department of Family and Community Services cases
9. Emergencies – (where police are not the prime responding agency)
10. Escapees
11. Major crimes, incidents, accidents and public disturbances
12. Marches, rallies and demonstrations
13. Missing Persons
14. Policies and procedures
15. Ride Alongs
16. Routine police operations or investigations
17. Sieges
18. State Crime Command squads
19. State Disaster Plan
20. Terrorism and Counter Terrorism

The relevant Corporate Sponsor may provide or authorise the release of information in their area of responsibility where it does not involve current operational incidents.

Operational area of interest	Authority	Comment
1. Abduction, extortion and product contamination.	The commanding officer after consultation with PMU or State Crime Command Media Liaison Officer, as relevant.	<p>Information about an abduction, extortion or product contamination in progress must never be released unless authorised by the commanding officer after consultation with PMU and the people or organisations concerned.</p> <p>Key stakeholders will develop a strategic media plan in liaison with PMU to manage such instances.</p> <p>It is crucial to manage public information during this type of incident. Mishandling the release of information can cause major commercial damage, public danger or anxiety and even loss of life.</p>
2. Bomb threats and suspicious objects	<p>PMU to manage flow of information to media.</p> <p>The level of detail to be publicly released about any device is determined by the:</p> <ul style="list-style-type: none"> • Operational Commander, • Assistant Commissioner, Counter Terrorism and Special Tactics Command, and the • Bomb Disposal Unit. 	<p>PMU must be advised of any explicit threat or suspicious package requiring a police response.</p> <p>PMU will manage the flow of information to the media in cooperation with other Government and external organisations and after consultation with the Operational Commander, Assistant Commissioner, Counter Terrorism and Special Tactics Command and the Bomb Disposal Unit.</p> <p>Media must not be allowed to film bomb squad officers or their vehicles and must not be given close access to, or detailed descriptions of, explosives or other devices – whether real or not.</p> <p>The name of a person or organisation targeted must not be released without formal consent from the affected party.</p>

3. Charging of Police Officers or police employees.

The appropriate Assistant Commissioner/Executive Director, or the Deputy Commissioners or Commissioner.

In the case of a Law Enforcement Conduct Commission (LECC) inquiry, no public comment is to be made unless authorised by the Commissioner.

The Commissioner has authorised PMU to issue a media release if a police employee is charged with an offence, no matter how 'minor' the offence.

Comment about the charging of Police Officers or other employees is restricted to the appropriate Assistant Commissioner/Executive Director, or higher.

Upon the arrest or charging, the relevant PAC/PD or specialist unit must advise the appropriate Assistant Commissioner or Executive Director. The relevant Deputy Commissioner must also be informed.

If the police employee is seconded to another organisation (e.g. the Federal Police) the NSW Police Force must consult with the other agency before issuing the information. See section 4.2.4.

Consult the Duty Manager, PMU to assess the level of interest the incident is likely to attract, and on the content of the media release.

4. Child Sex Offences & Registrable Persons

PMU

The Commander, Child Abuse and Sex Crimes Squad or the Commander, State Crime Command.

The *Registrable Persons – Child Protection Registry Information Disclosure Policy* governs the release of information about registrable persons who have provided personal information as required under the *Child Protection (Offenders Registration) Act 2000*.

Sections 4.4 to 4.6 of the policy provides for the public release of information about registered persons in the following situations:

- to comment on information already in the public domain
- to issue general warnings where there is a risk to the community, and
- to investigate an offence or to locate an offender for law enforcement purposes.

This information should only be publicly disclosed with the approval of the delegates to the Commissioner under the *Child Protection (Offenders Registration) Act 2000*, these being the Commander, Child Abuse and Sex Crimes Squad and the Manager, Child Protection Register Unit.

The release of personal information in relation to a registrable person to members of the public or a non-Government agency should only be disclosed with the approval of the delegates listed above. This is outlined in Section 5 of the *Child Protection Registry Information Disclosure Policy*.

As explained in section 7 of the *Media Policy*, there are statutory restrictions on publication in relation to victims and children and it is important to ensure these are complied with.

If in doubt on any aspect of the *Child Protection Registry Information Disclosure Policy*, contact the Child Protection Registry at #CPR or E/N 28677 or (02) 8835 8677.

5. Coronial matters:

- **Role of the NSW Coroner's Court**
- **Likely fatal injuries**
- **Formal identification**
- **Cause of death**
- **Next of kin**
- **Suicide**
- **Death of well-known persons**

PMU or NSW Coroner's Court

During investigations involving deaths, no public comment should be made without the authorisation of the relevant Region Commander or specialist Commander equivalent *and* the Coroner, following consultation with PMU. See section 12.2.

Role of the NSW Coroner's Court: Police media statements should never speculate about cause of death. It is legally a matter for the Coroner to determine and media inquiries should be referred to the NSW Coroner's Court.

The roles and functions of the State Coroner and Deputy State Coroner include:

- ensuring that all deaths, suspected deaths, fires and explosions are properly investigated
- holding an inquest/inquiry where desirable, and
- presiding over mandatory inquests into deaths in custody and/or as a result of a police operation.

Public speculation or commentary about matters before the Coroner could jeopardise coronial proceedings.

Should false information about a death circulate, contact PMU, which will notify the Coroner and seek permission to correct it. Any clarifying statement must be approved by the NSW Coroner's Court.

Where injuries are highly likely to be fatal: If a person's injuries are such that death is highly likely, also refer any proposed media comment to the NSW Coroner's Court for authorisation.

Formal identification: If the condition of victims is such that visual identification is unreliable, names should only be released once formal identification of a body has been effected and next of kin have given consent. If the media release is urgent for investigative reasons, the Coroner must approve the release.

Post mortem examinations results: The release of post mortem examination results must only occur after careful consideration, with the authorisation of the NSW Coroner's Court. Refer to the Coroner and PMU.

Supply only brief details to the media, simply indicating the probable cause of death and/or whether further forensic tests are needed. Do not release detailed descriptions of injuries recorded during an examination.

Cause or manner of death: The Coroner should approve any release of details about the cause or manner of a death. Cause of death may only be published after the Coronial post-mortem examination is complete. Media inquiries should be referred to PMU or the NSW Coroner's Court.

Coronial matters (cont):

Next of kin: Never release the names of people who have died until next of kin have been informed and provided their consent, and have had time to tell other family members. If next of kin cannot be located or refuse consent, the deceased person's name should not be disclosed unless significant operational reasons for disclosure exist.

Suicide: Suicide should never be stated or implied by police media statements. It is for the Coroner to decide if suicide has occurred. The death can be referred to as 'non-suspicious'.

Never reveal or confirm the existence of suicide notes or their contents. Do not reveal suicide methodology.

If it is operationally necessary to confirm suicide, you must get the Coroner's permission. PMU can assist with this process.

Death of a well-known person: Advise PMU, which will advise the Coroner, as soon as you learn of the death of a well-known person or celebrity.

Only information that the Coroner approves should be released.

6. Crime statistics

Relevant Commander

If an issue is likely to extend beyond your area of responsibility, refer a decision on release of any information to the appropriate person in your chain of command.

You may only release crime statistics relating to your area of responsibility. See section 3.1.2. Prior to making public comment on crime statistics:

- the Statistical Services Team, State Intelligence Command, must be consulted for advice on the search criteria used to obtain the statistics, and
- PMU must also be consulted prior to the release of statistics.

Statistics are complex, open to interpretation and can be influenced by many factors including collection methodology, reporting procedures and seasonal fluctuations.

Comparing different sets of statistics (e.g. interstate figures) may be invalid or prone to error.

The Bureau of Crime Statistics and Research (BOCSAR) is responsible for collecting, analysing, releasing and commenting on state-wide figures and trends.

The Statistical Services Team can be contacted via email at #STATS.

7. Critical incidents

The Region Commander or specialist Commander equivalent and, where relevant, the Coroner.

As there is likely to be significant media interest in a matter where police are being investigated, PMU may provide the media with *the basic approved facts* including the time, date and general nature of the incident. *A media release should be released as soon as practicable unless there are extenuating circumstances that justify not doing so.* The release must be in accordance with the template at section 12.1.

During the investigation phase, the appropriate Region Commander or equivalent is responsible for authorising any public statements and for conducting any media interviews unless *exceptional circumstances* exist that make them unavailable. If exceptional circumstances occur, this role can be delegated to the next most appropriate Superintendent, with the approval of the relevant Deputy Commissioner.

The officer delegated to speak instead of the Assistant Commissioner must be sufficiently independent of the staff involved in the critical incident, such as the Superintendent of the PAC/PD conducting the investigation, the Superintendent of an adjoining PAC/PD, or a Region Operations Manager. The Commander of the officers involved in a critical incident, such as the Police Area Commander, must not make public comment on the critical incident.

Any statements made during the investigation must only provide a level of detail consistent with the critical incident media release template at section 12.1. Any public statements must also strictly comply with section 6.1.4 and 3.2.2.

If the incident relates to the homicide of a Police Officer, the death of a person through the use of a police firearm or appointments (e.g. OC spray, Taser, baton), any public statement must also be approved by the Commander, Homicide Squad, State Crime Command.

Any public comment about a critical incident involving a death must also be authorised by the Coroner's Office (see section 12.2.3).

8. Department of Family and Community Services cases

Jointly by the media units of the NSW Police Force and the Department of Family and Community Services.

Care must also be exercised where the nature of injuries are such that death may be likely. In these cases, discuss any proposed public comment with the NSW Coroner's Court before any statement is made.

The Department of Family and Community Services and the NSW Police Force work together to detect, protect and rescue children who are victims of violence or abuse or at risk of such abuse. It is unlawful to reveal the identity of children who are clients of the Department of Family and Community Services.

The release of information about cases involving the Department of Family and Community Services must be approved by both agencies.

9. Emergencies – (where police are not the prime responding agency); e.g. major fires).

Relevant PAC/PD or nominee after consultation with PMU.

For incidents primarily involving the work of other agencies, NSW Police Force comment must be restricted to the police role at the scene, e.g. alternate traffic arrangements, crowd control.

Fire: specifics about likely cause, contents of a building, damage to surrounding premises, number of fire fighters etc must be left to Fire and Rescue NSW to provide comment.

Example: “At 10am this morning, emergency services were called to reports of a fire at a home in Smithtown. There were no reported injuries and at this stage the fire is not believed to be suspicious. Access to George Street will be blocked until 1pm with traffic being diverted via Jones Street”. Refer callers to Fire and Rescue NSW for further detail.

Ambulance: comments about ambulance response times, the number of units in attendance and the nature of injuries or people treated, must be made by representatives of the NSW Ambulance Service. Consider holding a joint media briefing – consult PMU for advice.

10. Escapees

PMU in consultation with the Department of Corrective Services.

Information released to the media must be prepared in consultation with Corrective Services NSW.

Escapees may be identified by name with a photograph released to the media. The release is to be coordinated through PMU.

If the escapee is considered dangerous an appropriate public warning should be released requesting members of the public not to approach the person but to report any sighting to police or Crime Stoppers.

If an escapee has been convicted of a serious crime such as murder or sexual assault, all effort should be made to notify any victims and their families before the media report the escape.

11. Major crimes, incidents, accidents, public disturbances

The Commanding Officer/PMU – until arrival of a Media Liaison Officer (if relevant).

PMU will assume responsibility for media management issues over the life of the incident.

A Media Liaison Officer may be assigned to the Police Commander’s Command Team (in accordance with the Incident Command & Control System) or deployed to the scene of a major crime, incident or accident for example large public disturbance, fires, floods, storms, major road accidents, plane crashes, chemical spills and industrial accidents. For details see section 11.

A media and communications strategy will be implemented to support the operation (see section 2.2).

Depending on the situation, the Public Information Functional Area Coordinator (PIFAC) may need to coordinate the public information response on behalf of responding agencies. See section 11.1.3.

12. Marches, rallies and demonstrations

PMU

PMU may deploy a Media Liaison Officer to work closely with the Operation Commander in the POC or Forward Commander at the scene, depending on the size of the demonstration.

The PMU representative will advise on time, place and content of any media interviews that are needed.

13. Missing Persons

PMU, Missing Persons Registry or relevant commander.

Always get permission from next of kin before releasing identifying information about missing persons. If permission cannot be secured and there is a pressing concern for the person’s safety or welfare, release:

- a photograph along with name, age, town or suburb and physical description
- information about the disappearance, and
- any relevant medical information.

For high-risk missing persons, consideration can be given to issuing a geo-targeted SMS.

14. Policies and procedures¹⁸

- Commissioner
- Deputy Commissioners
- Executive Directors/Assistant Commissioners at Region Command level or equivalent
- Relevant Corporate Sponsor/Head of Discipline

The Corporate Sponsor should be consulted prior to commenting on police policies and procedures in their area of responsibility.

When possible, the corporate Sponsor should address the media where comment on a specific policy or procedure is required.

15. Ride Alongs

Duty Manager, PMU, or Executive Director, Public Affairs Branch.

Contact PMU if approached by media organisations seeking to accompany police on operations. All 'ride alongs' must be approved by the Duty Manager, PMU, or the Executive Director, Public Affairs Branch. Participating media representatives must sign a *Deed of Confidentiality and Indemnity* (available from PMU) prior to participating in a 'ride along'. See section 3.4.2.

16. Routine police operations or investigations

The Officer in Charge of the operation or investigation (Duty Officer, Investigations Manager, Crime Manager etc) or relevant PAC/PD Commander or specialist equivalent, or their appointed delegate.

Routine police operations or investigations including deployment of resources and tactics used for operations under the direct command of that officer. See section 3.1.1.

If the issue has implications for other commands, obtain the approval of the relevant senior commander and inform PMU before commenting.

¹⁸ For the purposes of this policy, "policies and procedures" include those NSW Police Force policies, procedures, standard operating procedures, codes of best practice or guidelines which have been corporately endorsed and adopted on a state-wide or regional basis.

17. Sieges

The Commanding Officer in Advise PMU at the earliest opportunity of a siege situation so that a consultation with PMU. media strategy can be developed (see section 2.2).

Request the attendance of a Media Liaison Officer to manage media at the scene.

Until the arrival of a PMU representative, the Commander at the scene must set aside a safe media assembly area which is not in sight of the POI and which will not interfere with the integrity of police action or restrict access to the scene.

Exercise care when making any public comment as the POI may have access to TV, radio or social media. Media may be briefed on the basic nature of the situation, but information and access will be entirely at the discretion of the Operational Commander and senior police negotiator.

Media must also be warned of the dangers that their reporting could have on the outcome.

Unless authorised by the operational commander and senior police negotiator, the media must not be briefed about:

- police strategies
- demands of the POI
- identity of POIs or any hostages
- type and number of police attending
- emotional or psychological state of the POI or any hostages.

Media representatives should be asked to notify police immediately if they or their organisations receive any contact from a person involved in the siege.

The media must also be advised not to contact anyone inside the besieged premises, as such a move may jeopardise police actions and endanger the public, any hostages and the POI.

18. State Crime Command squads:

- Child Abuse & Sex Crimes Squad
- Criminal Groups Squad
- Cybercrime Squad
- Drug & Firearms Squad
- Financial Crimes Squad
- Homicide Squad
- Organised Crime Squad
- Raptor Squad
- Robbery & Serious Crime Squad
- Missing Persons Registry
- Operation Phobetor
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19. NSW State Emergency Management Plan (EMPLAN)

The relevant State Crime Command Commander, Manager or delegate.

For major incidents and investigations, or where a Strike Force is formed, PMU will develop a media and communications strategy in conjunction with the Squad or Strike Force Commander and the Commander, Organised Crime, State Crime Command (see sections 2.2 and 11 for details).

Public Information Functional Area Coordinator – Counter Terrorism and Emergency Management

Any media enquiries relating to State Crime Command must be referred to the State Crime Command Media Team at (02) 8835 8339 (E/N 28339).

The Public Information Functional Area Coordinator (PIFAC), Public Affairs Branch, in their capacity under the NSW State Emergency Management Plan (EMPLAN). Contact PMU on E/N 45101 for details

20. Terrorism and Counter Terrorism

- Commissioner
- Deputy Commissioners
- Assistant Commissioner, Counter Terrorism and Special Tactics; or
- officers specifically delegated by one of the above.

Any requests for comment received by officers other than those listed, must be referred to the PMU Duty Manager or Executive Director, Public Affairs Branch, via the PMU (E/N 45101).

Appendix 3: Statutory Prohibitions on Publication

There are numerous statutory prohibitions in New South Wales including prohibitions on the publication of information which identifies or is likely to lead to the identification of:

- a person who was a **child** when an offence or other relevant event occurred and where criminal proceedings relate to the person, or the person appears as a witness or is in any other way involved or mentioned in any criminal proceedings (this applies whether or not the person is dead or is an adult at the time of publication)
- a **brother or a sister of a victim** of an offence where the person and the victim were **both children** when the offence was committed
- a **child or young person** (under 18) who appears or is reasonably likely to appear, as a **witness**, or who is otherwise involved or mentioned in or who is the subject of Children's Court proceedings or any aspect of care proceedings not before the Court, such as counselling, a dispute resolution conference or other alternative dispute resolution conference
- a **child** who is intended to be protected by an apprehended violence order, or who is a witness in or who is reasonably likely to be mentioned or otherwise involved in any **apprehended violence order proceedings**, before the proceedings are disposed of. Apprehended violence orders include apprehended domestic violence orders and apprehended personal violence orders
- a person affected by an adoption application or otherwise involved in adoption proceedings (including the child, the applicant and the mother, father or person with parental responsibility)
- a child as a **ward of the state**
- a person who has or may be about to give evidence before a private hearing of a **special inquiry** under the *Advocate for Children and Young People Act 2014*
- a party to **Family Court proceedings** or a person related to, or associated with a party to such proceedings, or is or is alleged to be, a person in any other way concerned in the matter to which such proceedings relate, or a witness
- a **victim or complainant of a sexual crime** whether a child or an adult (unless a victim over 14 years of age consents, or the publication is made after the victim's death and the person was not a child at the relevant time, or a Court has made an order permitting publication)
- a **juror, or a former juror** without the consent of the former juror
- a person who is a witness in NCAT proceedings, to whom NCAT proceedings relate, or who is otherwise mentioned or involved in NCAT proceedings, if those NCAT proceedings are in the Guardianship Division, or related to a decision made under community welfare legislation
- a person the subject of, or a witness in, or in any other way involved or mentioned in a **Mental Health Tribunal hearing**
- a person in a way that states or implies that that person may be a current **ASIO employee or affiliate**, or in any way associated with an **ASIO** employee or affiliate.
- an **undercover police officer**
- a person whose name or identity is subject to a **suppression or non-publication order**

- an **acquitted person** who is the subject of an investigation, application or order for a **retrial**
- a **suspect on whom a forensic procedure is carried out** or proposed to be carried out in relation to an offence.
- a person who is a **prohibited associate** of an accused person (a person is a prohibited associate where a bail condition restricts the accused person from associating with the person).

There are also statutory prohibitions in NSW which prohibit publication of material which:

- discloses information regarding a **spent conviction**
- indicates that a person wishes to have a child adopted, wishes to adopt a child, or that a person is willing to make arrangements with a view to **adoption**
- discloses the following matters arising in **coronial proceedings** (without the express permission of the Coroner):
- any **question asked of a witness** that the Coroner has forbidden or disallowed
- any **warning given by the Coroner to a witness** that he or she is not compelled to answer a question
- any **objection made by a witness** to giving evidence on the ground that the evidence may tend to prove that the witness has committed an offence
- any **submissions and comments made concerning whether an inquest or inquiry should be suspended** under section 78 of the *Coroners Act 2009* (NSW)
- discloses the **deliberations of a jury** during a trial (for a fee, gain or reward)
- is derived from an **interview with a prisoner**, without authorisation of prison officials
- discloses information about a **registrable person** obtained in connection with administration or execution of the *Child Protection (Offenders Registration) Act 2000* (NSW) (unless an exception applies, such as where consent of the person is given, or where the consent of the Commissioner is given for the purpose of ensuring the safety or protection of a child or children)
- discloses an application for a **covert search warrant** or related documents, unless an exception applies
- discloses the identity of a **complainant** who makes a complaint against a member of the NSW Police Force unless the complainant consents, the disclosure is for the purpose of legal proceedings, is in accordance with the requirements of legislation, or is in accordance with guidelines established by the Commissioner (this restriction on disclosure applies to officers of the Law Enforcement Conduct Commission and members of the NSW Police Force specifically)
- discloses material obtained by way of surveillance, unless an exception applies (see section 6.2)
- relates to stored communications accessed under the *Telecommunications (Interception and Access) Act 1979* (Cth) (see section 6.2)
- in certain circumstances, discloses certain information about applications for or the grant of surveillance and stored communication access warrants
- **unlawfully offends, insults, humiliates or intimidates** a person or group of people because of their **race, colour or national or ethnic origin**
- discloses **official secrets**
- discloses a **question that has been disallowed** in proceedings.