

<b>Title</b> External Communications About IIO Investigations	<b>Number</b> 3030
<b>Section</b> Corporate	<b>Original Effective Date</b> January 26, 2015
<b>Responsibility</b> Chief Civilian Director	<b>Last Revised Effective Date</b> February 13, 2024

## PURPOSE

A critical aspect of the Independent Investigations Office's (IIO) work is to ensure the public is appropriately informed of matters under investigation. Section 38.121 of the *Police Act* sets out the authority for the Chief Civilian Director (CCD) to provide information to the public. The IIO employs a practicable transparency model to determine the balance between the public and privacy interests associated with IIO investigations. The IIO commits to being as transparent as practicable while taking into account the particulars of each investigation.

## POLICY

### General

1. The IIO protects the privacy of individuals involved in investigations while fulfilling the need to maintain public confidence by reporting on issues of public concern.
2. The IIO treats all media outlets in a fair and equitable manner in the release of information.
3. The IIO makes it a priority to respond promptly to media requests.
4. IIO staff do not make comments or statements to the media or respond to media requests unless specifically delegated to do so. The CCD is the IIO's representative.
5. The IIO reports to the public whenever the mandate to investigate is clearly met, including when deploying resources into communities, concluding investigations and disposition of matters before the courts. In cases where the mandate to investigate is not immediately evident, i.e., if a connection between the serious harm/death and police actions/inactions cannot immediately be determined, or if the extent of injuries sustained is unknown, the public will be notified of the investigation once those factors have been confirmed.
6. The IIO reports to the public on a regular basis by providing information through the IIO website, including media releases and public reports. The IIO's social media channels (X, formerly Twitter, and Facebook) are used to provide notice of new information on the website. Releases and reports are augmented by media comments made by the CCD or delegate. The website also provides information related to the administration of the IIO, answers to frequently asked questions, and publications including the IIO's annual reports and strategic plan.
7. The IIO manages all public reporting through the Media & Communications Liaisons (MCL); the MCLs ensure that information on the website is reviewed and updated on a regular basis.

**Media Releases and Public Reports**

8. The CCD determines if and when the IIO will provide information to the public.
9. A media release is issued when an investigation is commenced, but usually only after both the connection to police actions and serious harm/death thresholds have been met. These will typically include information such as:
  - 9.1. the nature of the incident, including whether there were fatalities and/or serious injuries as defined by the *Police Act* s.76(1);
  - 9.2. the involved police agency or agencies;
  - 9.3. the time and location of the incident;
  - 9.4. the date and approximate time of IIO notification and assertion of jurisdiction; and
  - 9.5. the date and time IIO investigators were deployed, if applicable.
10. A media release may not be issued regarding matters of particular sensitivity (e.g., suicides) or if other circumstances exist such that issuing a statement could be detrimental to the investigation, affected person/family, or other party.
11. In other cases, a media release may be issued when the connection and/or serious harm thresholds have not been confirmed if:
  - 11.1. the matter has become public knowledge;
  - 11.2. occurred in a highly visible setting;
  - 11.3. if the police agency notifies the public that the IIO is involved;
  - 11.4. if it is determined public interest outweighs the privacy considerations of the involved parties;  
or
  - 11.5. in other circumstances where the CCD deems it appropriate.
12. The MCLs will discuss media release drafts with the command triangle, and get approval from the CCD and COI, Ops (or a delegate) before a release pertaining to an investigation is published.
13. The IIO discusses media releases with the involved police service's communications team to ensure neither the IIO nor police releases unduly impact the other's investigation. The IIO provides the police service with reasonable advance notice of media releases whenever possible (*MOU* Section 6.2).
14. After 60 days, the MCLs will connect with the command triangle of new investigations to determine if there is information that should be provided to the public in an update media release or if a witness appeal may be beneficial. Consideration will be given to whether an update release will negatively impact the AP, family, police, concurrent investigation, court proceedings related to the incident, or the IIO investigation. If there are no other compelling reasons an update would be detrimental, an update will generally be developed. This may include but is not limited to:
  - 14.1. identifying the weapon type, if any, that an AP may have had;
  - 14.2. providing an update, in general terms, on the status of the affected person (e.g., remains in hospital, recovering at home, etc.);
  - 14.3. the AP's gender identity and general age (e.g., 30s, 40s) if not previously identified;

- 14.4. which use of force options are confirmed to have been used by police during the incident, if not initially reported;
- 14.5. descriptions of involved vehicles where applicable;
- 14.6. the number of involved officers (broken down by subject or witness where appropriate);
- 14.7. information designed to correct misinformation that is public where failure to do so could negatively impact the public's faith in the IIO's investigation; or
- 14.8. general update on the investigative steps undertaken to date; i.e., solicitation of video evidence, canvassing of witnesses or interviews, forensic analysis, etc.

The information provided in an update media release is subject to privacy and other considerations, including whether witness interviews have been completed, and whether the CCD determines that there is sufficient public interest to release more information.

Subsequent follow ups to consider additional update media releases will take place quarterly (every three months).

- 15. The IIO issues a public report upon the conclusion of an investigation when the CCD concludes that the file will not be referred to Crown Counsel for consideration of charges, if it is in the public interest to do so. Public reports outline the evidence, narrative of the incident, legal considerations, and rationale for the decision.
- 16. If the CCD determines it is not in the public interest to issue a public report, they may instead determine to conclude a matter by issuing a media release, or close without further public reporting based on the balance of privacy and public interests.
- 17. A courtesy copy of all IIO media releases and public reports will be circulated to government stakeholders.

**Limits on the release of information**

- 18. Restrictions on IIO release of information by law:
  - 18.1. personal information about an identifiable person collected during an IIO investigation, except to the extent that disclosure is necessary to prosecute a violation of law or to continue the investigation as per the *Freedom of Information and Protection of Privacy Act* (FOIPPA), or if the CCD determines that the public interest in disclosure outweighs the privacy interests of the person per *Police Act* s.38.121(4)(b);
  - 18.2. the name or any other information related to a young person, if it would identify them as a young person dealt with under the *Youth Criminal Justice Act*;
  - 18.3. information restricted by publication bans or other court orders that may be in effect;
  - 18.4. information subject to legal privilege, including solicitor-client, public interest and confidential informant privilege;
  - 18.5. defamatory statements;
  - 18.6. third party personal information;
  - 18.7. information that would reveal the identity of a victim of sexual misconduct; and
  - 18.8. the IIO does not release information that would reveal the identity of a confidential source of information.

## Annual Report

19. Pursuant to section 38.12 of the *Police Act*, the IIO will produce an annual report and provide a copy to the Attorney General by May 31 of each year. The annual report will include statistical information related to investigations and other administrative and operational matters, as specified within section 38.12.
20. The IIO may produce other public reports including an aggregate analysis of a specific type of investigation.

## Responding to Media Inquiries

21. In speaking with media personnel, IIO investigation staff members remain professional and courteous and:
  - 21.1. state that they are not in a position to answer media requests;
  - 21.2. request contact information and explain that an IIO spokesperson will respond as quickly as possible;
  - 21.3. direct media to the dedicated media phone line (778 988 1041) or email address ([info@iiobc.ca](mailto:info@iiobc.ca)), advising that requests are answered as soon as possible; and
  - 21.4. assume that anything said is “on the record”.

## PROCEDURES

### Responsibility

22. The CCD is the primary individual to make public statements pertaining to operational incidents, policy, funding, and all other aspects of the IIO.
23. IIO media relations are carried out by the MCLs.
24. The MCLs take the lead for media requests and are primarily responsible for preparing and releasing information bulletins, responding to routine inquiries, administration of the IIO website, and scheduling interviews for the CCD with external stakeholders like the media in consultation with the Executive Coordinator.
25. Staff are to direct all media requests to the MCLs.
26. The MCLs ensure that all media requests are addressed as soon as practical. MCLs respond to media requests via email and the dedicated telephone line.
27. The MCLs are responsible for:
  - 27.1. ensuring timely and effective posting of information bulletins to the IIO website and social media;
  - 27.2. ensuring that all police services receive copies of all IIO information bulletins issued relating to their agency;

- 27.3. ensuring that all appropriate government services receive copies of all IIO information bulletins issued; and
  - 27.4. arranging appropriate contact between media outlets and the CCD.
28. The MCLs consult with the CCD, COI, Ops, and/or TD when there is any doubt whether the release of specific information would be outside legal or policy limits. The MCLs release such information only with the approval of the CCD.
29. When the IIO and the involved police agency are conducting concurrent investigations, the MCLs consult with the assigned command triangle and the involved police agency about information to be released in or withheld from IIO information bulletins. The CCD, COI, Ops, TD and/or MCLs are consulted as required.

### Public Reports

30. The CCD will designate the IIO's General Counsel or Legal Counsel, or other member of the IIO, to prepare a public report in cases where it is determined to be necessary and the CCD has found no reasonable grounds to believe any officer has committed an offence under any Act, or if the CCD chooses to exercise their discretion not to refer a matter to Crown Counsel for consideration of charges.
31. IIO public reports outline the findings arising from the investigation, as well as the CCD's rationale for the final decision. They will take into consideration individual privacy rights in determining what information is appropriate for public release. Prior to the release of any IIO public report, a draft copy is submitted for review by the Office of the Information and Privacy Commissioner (OIPC) as required by the *Police Act*. The MCLs facilitate this process by requesting review of every draft once the CCD has approved the final version. Upon receipt of any comments or recommendations from the OIPC, consideration is given to such recommendations and the draft report is edited accordingly by General Counsel/Legal Counsel/MCLs in consultation with the CCD.
32. The timing for release of a public report can vary depending on the circumstances. If there are concurrent court proceedings underway, this could be a factor in determining whether information is released through a public report and/or the amount of information released. However, that factor must be balanced with the importance of maintaining public confidence in the oversight of police by ensuring the public is fully informed about a matter where police action or inaction has led to serious harm or death.

In general, police agency command, the LO/SO, and AP/family will be notified and provided an embargoed copy of the report 48 hours before a public report is to be published. Police agency communications, other oversight communications (the Office of the Police Complaints Commissioner (OPCC) or the Civilian Review of Complaints Commission for the RCMP (CRCC)), and government stakeholders will be notified and provided a copy 24 hours in advance.

At law, the relevant test is whether the release of the report presents a "a real and substantial risk of prejudice to the integrity of the administration of justice" (*R. v. Edmonton Sun*, 2000 ABQB 283, upheld on this enunciation of the test, 2003 ABCA 3). Generally, however, the decision not to release a report may be made even if the risk of prejudice falls short of this test.

In any case, where there is a possibility of concurrent or related court proceedings, the MCLs will consult with Crown Counsel communications prior to releasing information publicly to receive their opinions regarding whether a concurrent or anticipated prosecution may be impacted by the release of a public report.


Factors the CCD will consider when deciding to release information publicly will include:

- 32.1. the seriousness of the charges;
  - 32.2. whether the mode of trial presents a greater potential for risk of prejudice, such as a jury trial as opposed to a trial by judge alone;
  - 32.3. the extent of public information about the matter which may make linking the anonymous report to the accused in the concurrent proceedings more likely;
  - 32.4. the amount of public information about the incident already in existence through other sources;
  - 32.5. the public interest in releasing information regarding IIO decisions at the earliest opportunity;
  - 32.6. whether the public interest can be satisfied with an interim media release with limited information until a public report can be published;
  - 32.7. opinions expressed by Crown Counsel regarding the potential impact of the release of public information about the IIO decision upon any pending or extant prosecution; and
  - 32.8. any other relevant information.
33. Public reports are released in accordance with established communications protocols, including the distribution of embargoed copies, posting to the IIO website and an announcement via social media as outlined in [SOP 2018-003](#). Similarly, referral media releases will be published in accordance with the guidelines set out in SOP [2018-013](#).
34. Once a file is closed by a public report, the CCD sends a letter informing the SO(s) and the police agency that the file is closed and that there is no further action to be taken.

#### **Referrals to Crown Counsel or Training/Policy Issues**


35. The CCD may make a report to Crown Counsel when there are reasonable grounds to believe that a police officer may have committed an offence under any enactment.
36. In those circumstances where the CCD identifies issues related to training, policy or standards, information may be provided to the OPCC and the CRCC, as well as the Director of Police Services and the involved police agency. The CCD may report on training/policy/standards issues in a public report if such reporting is necessary in order to ensure public confidence in police accountability. This will include situations where those issues are relevant to a conclusion about criminal liability, and also where it is important to assure the public that questions surrounding such matters were appropriately considered in the decision-making process. When doing so, the report will avoid stating conclusions about those issues unless necessary to the decisions about criminal liability. In addition, the report will clarify that the OPCC and CRCC make decisions that utilize different processes and standards of proof where appropriate.

**POLICY**

Approved by:   
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Ronald J. MacDonald, KC, Chief Civilian Director

Date Approved: February 13, 2024

**PROCEDURES**

Approved by:   
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Ronald J. MacDonald, KC, Chief Civilian Director

February 13, 2024