

Public Communications Policy of the Department of Justice

Paper submitted by Canada

1. PURPOSE

The purpose of this policy is to outline the responsibilities of departmental spokespersons in communicating with the public, Members of Parliament and the Senate, and the news media. The roles of the Minister's Office, the Deputy Minister, Sector Heads, the Director General of Communications and Consultation, as well as spokespersons in the regions, and in Legal Services Units are set out here.

2. BACKGROUND

The Government Communications Policy (Chapter 480, Administrative Policy Manual, July 1988) states:

"4. Institutions are to take an assertive approach to communications, particularly with respect to media relations. Communications are expected to be assertive in the advice and support provided to ministers, deputy ministers and program managers.

12.7.2 Designated spokespersons are restricted to discussing matters of fact or already-approved government policy in an open on-the-record basis.

Off-the-record background briefings or interviews are only permitted in exceptional circumstances and are subject to prior ministerial approval. All speculation and questions on proposed policy should be referred to the Minister."

A directive from the Prime Minister in 1984 (see Addendum I) established policy guidelines for communications with the public.

These guidelines continue to apply, in particular, the directive that all discussions or interviews with the media are to be considered "on-the-record" (that is, intended for publication or broadcast) and are to be "for attribution" by name to the spokesperson. This includes background information given to journalists to enable them to prepare a future report.

In addition, information cannot be disclosed which is prohibited by law - for example, by the Privacy Act.

3. COMMUNICATIONS WITH THE MEDIA, PARLIAMENTARIANS AND PUBLIC

In order for the Department of Justice to provide the media and other members of the public with timely, complete and accurate information, the following is the department's policy:

- (a) Communications by designated spokespersons with the media and Parliamentarians must be reported to the Communications and Consultation Branch which works in close consultation with the Deputy Minister and Minister's Office. Others who receive questions must refer them to official spokespersons.
- (b) Information provided to the media and other publics must be clear, factual and consistent with government policies, and approved communications plans. There are special restrictions applying to commenting on cases before the courts to ensure that the fair trial of the accused is not prejudiced. This is known as the *sub judice* rule (see Criminal Law Branch policy).
- (c) All forms of media must receive equitable treatment in all parts of Canada; distribution systems must take into account not only mass media of both official languages, but also of specialised media, as justified, and regional media.
- (d) Communications with the media must take into account the operational exigencies of the media. Media and other public inquiries must receive quick and accurate responses.

4. ROLES AND RESPONSIBILITIES

Departmental Spokespersons

- 1. Spokespersons are officers designated in their specified areas of responsibility by the Deputy Minister, and on occasion, the Minister, to respond to enquiries from Parliamentarians, the public, the media.

The list of authorised spokespersons is maintained by the Communications and Consultation Branch and is updated regularly. A copy may be obtained from the Branch.

2. Spokespersons are appointed at headquarters and in the regions, either on a continuous basis to answer questions concerning a program activity, or on an ad hoc basis to deal with specific questions related to an announcement or court case.

3. All spokespersons are required to undergo training offered by the Communications and Consultation Branch. Upon being identified as a spokesperson, you will be contacted by the Director, Operations and Ministerial Services to arrange for this training.

4. When spokespersons are contacted by the media or Parliamentarians they are to advise the Communications and Consultation Branch of the contact. They must consult Communications and Consultation to obtain authorisation for and assistance in arranging media interviews (eg print media, radio or television). The Communications and Consultation Branch determines with the Minister's Office the interviews to be granted, bearing in mind that spokespersons who participate in such forums are speaking on behalf of the Minister.

5. In the event that a spokesperson has dealt with the news media or Parliamentarians without the involvement of the Communications and Consultation Branch, it is the responsibility of the spokesperson to advise the Head of Media Relations and/or the Director of Operations and Ministerial Services either orally or in writing as soon as possible.

6. It is not appropriate to discuss advice or recommendations tendered to the Minister or a client department, to speculate about policy decisions, to offer opinions on or to speculate about present or future cases, or to disclose privileged information.

7. For spokespersons who are members of legal services units, there are often additional reporting requirements established by your client department that must be observed.

8. Should officers of the Department who are not officially appointed as spokespersons receive calls from the media, they should ensure that calls are referred immediately to the Director, Operations and Ministerial Services, in Communications and Consultation. Calls would then be redirected to the appropriate spokesperson, or to the Minister's Press Secretary.

9. Officers moving into a new position who were designated as a spokesperson in their former position do not carry that designation with them.

Designated Regional Spokespersons

1. In most cases the regional spokesperson is the regional director; however, he or she may appoint litigation counsel as spokesperson for a particular case.

2. On occasion, it may be necessary to defer responding to media or other inquiries until additional information is available. In such situations, the designated

spokesperson in the regional office may wish to seek further information from their Sector at headquarters, or from Communications and Consultation. This, however, should be done as expeditiously as possible.

3. It may also be necessary in some cases to refer the caller directly to the headquarters spokesperson or, if it is a matter of advice or a political decision to be taken, to the Minister's Press Secretary. In this case the person to whom the caller has been referred must be advised immediately, or have been consulted beforehand.

4. On occasion, it may be necessary to consult with regional offices of client departments when the media inquiry concerns an opinion or case involving that client.

The Minister's Office

1. All requests for information of a political nature or involving future policy, legislation, or decisions of the Minister or Government, will be answered by the Minister's Office.

2. The Minister's Office will ensure that communications are coordinated with other departments and agencies of government at the Ministerial level.

3. No briefing sessions for the media or other publics or press conferences may be held without the approval of the Minister's Office. This is obtained via the Communications Branch.

The Deputy Minister

1. The Deputy Minister is responsible for designating managers and specialists within the Department, at headquarters, in regional offices and in legal services units to serve as primary spokespersons.

2. The Deputy Minister, together with the Communications Branch, ensures that the list of designated spokespersons provides a capability for communicating in both official languages.

Associate or Assistant Deputy Ministers and Chief Policy Counsels(Sector Heads)

1. News releases and other information materials prepared by communications officers require the approval of the Sector(s) responsible for the said policies or programs prior to submission to the Deputy Minister and Minister.

2. Sectors are required to discuss, with Communications and Consultation, requirements for adequate communication in both official languages. This is a requirement of the Government Communications Policy of July 1988 and of the Official Languages Act.

3. Sector Heads should ensure that officers designated by the Deputy Minister as spokespersons are prepared to discuss frankly and on-the-record the information within their area of responsibility.

4. Spokespersons in the Litigation and Legal Services Sectors and in the Regions will advise the Communi-

cations and Consultation Branch in advance of any court motions, appeals, hearings, pending decisions which are liable to be of interest to the news media so that arrangements can be made to prepare the necessary communications material, and to advise central agencies (PCO, PMO) where necessary.

Litigation and Regional Counsel

1. In both civil and criminal proceedings, litigation counsel act on the instructions of a client. Whether the "client" is the Minister of Justice or another Minister, department or agency, it is the client, not counsel who is responsible and accountable for committing the Government to a particular course of action. Consequently, where information is requested in respect of matters on which the client has not issued instructions, the spokesperson should check with the client in advance of providing information.
2. Matters of opinion or speculation are not the proper subject of discussion by civil or criminal litigation counsel. This would include (but would not be limited to) conjecture about whether the Crown might institute proceedings or launch an appeal etc.
3. Since the actual conduct of an action is entrusted to counsel, it will be incumbent upon counsel, if designated as a Spokesperson, to provide requested factual information which relates to that particular action, together with any contextual information that may be necessary. However, decisions and the considerations made by the client are not the responsibility of counsel and inquiries about them must be referred to the client department.
4. Should a situation arise in which it is difficult to determine whether a response to an inquiry might entail discussion of a client department's policy, counsel should seek the advice of his or her superior and/or the client.
5. Steps should be taken to make certain it is understood that this policy applies equally to departmental personnel and to standing and special legal agents. Specific instructions to this effect should be provided to standing and special legal agents.
6. See the Criminal Law Deskbook Policy on "Relations with the Media".

Counsel in Legal Services Units

1. Communications with the public, Parliamentarians and media about a client's business are the responsibility of client departments, not of legal counsel.
2. On occasion, the client department may request counsel to respond to media inquiries where legal issues are involved.
3. See the Legal Services Sector Deskbook Policy on "Relations with the Media" now being developed.

Director General, Communications and Consultation

The Director General, Communications and Consultation, has operational responsibility for the Department's program of relations with the media, Parliamentarians and the public. These responsibilities are shared with the Director, Operations and Ministerial Services and the Head, Media Relations.

The Director, Operations and Ministerial Services and Head Media Relations will:

- Ensure that calls from the media, Parliamentarians and the public are responded to as soon as possible, responding themselves to routine requests and undertaking the necessary liaison and research with spokespersons, and other officials.
- Respond to calls directed to the Minister's Office, at the request of the Press Secretary or other Ministerial assistants.
- Provide training, advice and counselling to spokespersons who deal with the news media, and to the Minister's Press Secretary.
- Communications and Consultation notifies the Press Secretary daily of any media contacts or requests and notifies the Policy Adviser of any requests from or contacts with Parliamentarians. Spokespersons must provide information concerning inquiries to Communications to make this possible.
- Regularly advise the Minister's Office and the Deputy Minister's Office of subjects of media interest which are not of a routine nature.
- Regularly advise the Privy Council Office, Deputy Prime Minister's Office and Prime Minister's Office of any subjects of public or media interest; advise counterparts in other Departments and agencies of issues which may involve them or their Minister.
- Be prepared to report to the Deputy Minister or Minister's Office the number and type of requests received on any subject. Sectors must keep a record of calls from the media or Parliamentarians and forward them to Communications and Consultation, either orally or in writing.
- Organise all news conferences, media lock-ups and other events.
- Maintain, produce and circulate a list of current departmental spokespersons twice a year or more as required. This list is available to all departmental employees.

5. MEDIA SPOKESPERSON TRAINING

Communications and Consultation will arrange for training for all departmental spokespersons. Such training is funded by the departmental central training budget and is mandatory for all spokespersons. Refresher courses are available.

For more information, contact:

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ADDENDUM I

A directive of the Prime Minister, issued November 23, 1984, provides policy guidelines for communications with the public by public servants. The directive states:

1. Communications with the public, including particularly Members of Parliament and news media representatives, are a part of the duties and responsibilities of managers in the public service. A staff function in support of this management role is performed by information officers in all departments.
2. Public servants should be prepared to openly provide factual information to the public and the media within their areas of responsibility that describes or explains programs and policies that have been announced or implemented by the government. To contribute to open government, such interviews shall be

on-the-record and for attribution by name. Off-the-record background briefings will only be permitted in exceptional circumstances and must have prior Ministerial approval.

3. Public servants should not go beyond this discussion of factual information. It is not appropriate to discuss advice or recommendations tendered to Ministers, or to speculate about policy deliberations or future policy decisions.

4. These guidelines cannot and do not authorise the disclosure of information which is specifically prohibited by law. Public employees acting in good faith under these guidelines will not be considered having violated oaths of secrecy.

(Version française disponible)