



INFORMATION REPORT

TO: The Halifax Board of Police Commissioners

FROM: Chief Daniel Kinsella, Halifax Regional Police

DATE: June 20, 2022

SUBJECT: Halifax Regional Police Response to BoPC Motion 7.1, November 15, 2021: Communication Policy Where Police Complaint Investigation is Ongoing or Complaint is Reasonably Foreseeable

Background:

On November 15, 2021, the following motion was passed at the Halifax Board of Police Commissioners meeting:

THAT item 7.1 Drafting of HRP and RCMP Communication Policy Where Police Complaint Investigation is ongoing or a Complaint is Reasonably Foreseeable be deferred to the first quarter of 2022 pending a staff report that includes the following:

- 1. details from Halifax Regional Police and Halifax District Royal Canadian Mounted Police regarding existing departmental communications policies;*
- 2. timelines for the creation of proposed policy;*
- 3. provide responsibilities for drafting of proposed policy; and,*
- 4. advice regarding whether the proposed policy falls within the Board of Police Commissioners' jurisdiction.*

This report provides Halifax Regional Police's response to this item.

Discussion:

Halifax Regional Police maintains a consistent approach with respect to public communications in relation to all ongoing investigations, regardless of whether they related to members of the public or complaints or investigations related to officers. While ongoing investigations and potential complaints in and of themselves limit HRP's ability to release details, a certain level of transparency, information-sharing and accessibility is expected to be maintained in police communications. Therefore, a separate policy, as noted in the motion, designed to limit the release of information specific only to matters that may become subject to complaints against officers, would be contrary to that fundamental expectation. It is also not possible or responsible to pre-determine if an event or incident lead to a complaint or an investigation against HRP or an HRP officer.

However, HRP acknowledges the Board's desire for it to continually develop more robust, accountable and progressive policies in all areas, including communications of those matters that may be related to ongoing investigations and/or potential complaints. As such, as indicated in today's accompanying presentation on HRP's Policy Refresh, the Public Information and Strategic Communications policy has been identified for a refresh at the earliest feasible opportunity. A review of the current policies has already begun, which will be followed by a jurisdictional scan.

Our current approach is summarized below for the BoPC's information and awareness.

Current approach:

Given the nature of the work police does and the public expectation, the importance of accessibility, transparency and information sharing is a key guiding principle behind what we communicate. The specific guiding principles of information sharing at HRP are transparency, timeliness, accuracy, protection of the integrity of investigations and relevancy. Communicating matters related to public safety is often a key driving factor for our news releases and other communications.

When publicly releasing information, we evaluate every situation on a case-by-case basis and work to find a balance between public safety, privacy, wellbeing of victims/citizens and our employees, protecting operations and the integrity of investigative processes. In releasing public information, every effort is made to be consistent, impartial, accurate, and timely.

The public release of information by Halifax Regional Police is informed and governed by¹:

- Criminal Code of Canada (Section 298; Section 299; Section 539)
- Youth Criminal Justice Act (Section 110)
- Municipal Government Act (MGA) Part XX – Freedom of Information and Protection of Privacy
- Police Regulations made under subsection 97(1) of the Nova Scotia Police Act – Section 24 (5) (a)
- Appropriate HRP and HRM policies including the Media Relations and Strategic Communications policies

It is also worth noting that with the ongoing evolution and predominance of social media and online information sharing, the need and expectation for the official release of information through organizational channels is becoming even more critical. Without organizational comment, there is a real risk of broad speculation, misinformation and accompanying reputational damage that must be considered. For police services, it is of utmost importance to continue to be a source of proactive and accurate information sharing on matters related to the organization while protecting the integrity of investigative processes.

¹ The specific sections of the legislation are detailed in Appendix A: Legislation related to HRP Information Release Protocols

Appendix A: Legislation related to HRP Information Release Protocols

1. Criminal Code of Canada

- **298 (1)** A defamatory libel is matter published, without lawful justification or excuse, that is likely to injure the reputation of any person by exposing him to hatred, contempt or ridicule, or that is designed to insult the person of or concerning whom it is published.

Mode of expression

(2) A defamatory libel may be expressed directly or by insinuation or irony

- **(a)** in words legibly marked on any substance; or
 - **(b)** by any object signifying a defamatory libel otherwise than by words.
- **299** A person publishes a libel when he
 - exhibits it in public;
 - causes it to be read or seen; or
 - shows or delivers it, or causes it to be shown or delivered, with intent that it should be read or seen by any person other than the person whom it defames.
 - **539 (1)** Prior to the commencement of the taking of evidence at a preliminary inquiry, the justice holding the inquiry
 - **(a)** may, if application therefor is made by the prosecutor, and
 - **(b)** shall, if application therefor is made by any of the accused,make an order directing that the evidence taken at the inquiry shall not be published in any document or broadcast or transmitted in any way before such time as, in respect of each of the accused,
 - **(c)** he or she is discharged, or
 - **(d)** if he or she is ordered to stand trial, the trial is ended.

2. Youth Criminal Justice Act

PART 6

Publication, Records and Information Protection of Privacy of Young Persons

Identity of offender not to be published

- **110 (1)** Subject to this section, no person shall publish the name of a young person, or any other information related to a young person, if it would identify the young person as a young person dealt with under this Act.
- **Limitation**
 - (2)** Subsection (1) does not apply

- **(a)** in a case where the information relates to a young person who has received an adult sentence; or
 - **(b)** [Repealed, 2019, c. 25, s. 379]
 - **(c)** in a case where the publication of information is made in the course of the administration of justice, if it is not the purpose of the publication to make the information known in the community.
- **Exception**

(3) A young person referred to in subsection (1) may, after he or she attains the age of eighteen years, publish or cause to be published information that would identify him or her as having been dealt with under this Act or the [Young Offenders Act](#), chapter Y-1 of the Revised Statutes of Canada, 1985, provided that he or she is not in custody pursuant to either Act at the time of the publication.
 - **Ex parte application for leave to publish**

(4) A youth justice court judge shall, on the *ex parte* application of a peace officer, make an order permitting any person to publish information that identifies a young person as having committed or allegedly committed an indictable offence, if the judge is satisfied that

 - **(a)** there is reason to believe that the young person is a danger to others; and
 - **(b)** publication of the information is necessary to assist in apprehending the young person.
 - **Order ceases to have effect**

(5) An order made under subsection (4) ceases to have effect five days after it is made.
 - **Application for leave to publish**

(6) The youth justice court may, on the application of a young person referred to in subsection (1), make an order permitting the young person to publish information that would identify him or her as having been dealt with under this Act or the [Young Offenders Act](#), chapter Y-1 of the Revised Statutes of Canada, 1985, if the court is satisfied that the publication would not be contrary to the young person's best interests or the public interest.

1. **Identity of victim or witness not to be published**

111 (1) Subject to this section, no person shall publish the name of a child or young person, or any other information related to a child or a young person, if it would identify the child or young person as having been a victim of, or as having appeared as a witness in connection with, an offence committed or alleged to have been committed by a young person.

- **Exception**

(2) Information that would serve to identify a child or young person referred to in subsection (1) as having been a victim or a witness may be published, or caused to be published, by

 - **(a)** that child or young person after he or she attains the age of eighteen years or before that age with the consent of his or her parents; or
 - **(b)** the parents of that child or young person if he or she is deceased.

- **Application for leave to publish**

(3) The youth justice court may, on the application of a child or a young person referred to in subsection (1), make an order permitting the child or young person to publish information that would identify him or her as having been a victim or a witness if the court is satisfied that the publication would not be contrary to his or her best interests or the public interest.

- **Non-application**

112 Once information is published under subsection 110(3) or (6) or 111(2) or (3), subsection 110(1) (identity of offender not to be published) or 111(1) (identity of victim or witness not to be published), as the case may be, no longer applies in respect of the information.

3. Nova Scotia Municipal Governance Act Part XX – Freedom of Information and Protection of Privacy

Visit: <https://nslegislature.ca/sites/default/files/legc/statutes/municipal%20government.pdf>

4. Police Regulations made under subsection 97(1) of the Police Act

a. Code of Conduct and Disciplinary Defaults

24 (5) A member who improperly discloses information in any of the following ways commits a disciplinary default:

- (a) communicating information that the member has as a member of a police department without proper authority;
- (b) making an anonymous communication to any member of a police department;
- (c) signing or circulating a petition or statement in respect of a matter concerning the police department as a representative of a certified police union, association or federation, except through the proper official channel of correspondence or established grievance procedure or in the *bona fide* performance of the member's duties as a member.