



**Te Tari Ture
o te Karauna**
Crown Law

Media

Te pāpāho

As at 1 January 2025

The Solicitor-General's Prosecution Guidelines
Te Aratohu Aru a te Rōia Mātāmua o te Karauna

Introduction | Ngā kupu whakataki

1. Open justice is in the public interest. It promotes public scrutiny of, and confidence in, the justice system. Accurate media reporting is a critical component of open justice, as few people have direct access to the courts. Prosecutors can foster open justice by providing accurate information and by correcting inaccurate reporting. In doing so, prosecutors must protect fair trial rights, respect legal restrictions on publication, be respectful of current court processes, and comply with their professional obligations.
2. This guideline sets out prosecutors' roles and responsibilities when making public statements. It applies to Crown prosecutors and New Zealand Police; other prosecuting agencies should take it into account when developing their own media policies.

Scope | Te korahi

3. This guideline sets out considerations for prosecutors when providing information and responding to requests from media.

Guideline | Te aratohu

4. Prosecutors may provide factual information about the nature and progress of proceedings, as long as the information is not suppressed or otherwise non-disclosable. Moreover, a clear explanation of how the criminal justice system works can enhance public confidence in the system by fostering accurate reporting.
5. The defendant's right to a fair trial will, however, always take precedence over media interests and freedom of expression. Prosecutors should not make public statements that prejudice that right. Prosecutors serve the public interest in open justice when they provide the facts.
6. Prosecutors should respect victims' privacy and be sensitive to their rights and needs. Personal information should never be disclosed without express consent. If a victim is considering speaking to the media, the prosecutor may wish to advise them of the potential consequences of making a public statement on the prosecution. Victims should be kept informed about proceedings in accordance with the Victims' Rights Act 2002 in a timely way, so they are not surprised by media reporting.

Crown Solicitors should have media policies

7. Crown Solicitors are expected to have media policies. These should set out, at a minimum, the employees who may speak to the media (and in what circumstances), along with a process for dealing with media requests that are urgent or relate to sensitive and high-profile cases.
8. Subject to these guidelines and the applicable Crown Solicitor policy, prosecutors may respond to media enquiries about cases for which they are responsible.

Crown Solicitors may explain prosecution decisions

9. A Crown Solicitor may, in a case of significant public interest, issue a statement giving broad reasons for a decision to prosecute, or a decision not to prosecute. They may also make a statement in relation to a decision that has brought a prosecution to an end (for example a stay of proceedings, or a decision to dismiss a charge under s 147 of the Criminal Procedure Act 2011). The Crown Solicitor may wish to consult the Deputy Solicitor-General (Criminal) before making any such statement.

Prosecutors may provide information

10. In general, prosecutors may provide information about the charges, the defendant, and the progress of proceedings. However, prosecutors should always consider whether there are any special reasons in a particular case that make it inappropriate to put the information in the public domain.
11. The prosecutor may generally provide the following information:
 - 11.1 The fact and location of the arrest and the general nature of the criminal charges.
 - 11.2 Once the defendant has appeared in court, the name, age and residence (town, city, or region only) of the defendant, unless any of those details are suppressed or their publication is prohibited for other reasons.
 - 11.3 The date and location of the next court appearance.
 - 11.4 Guidance on the nature of the hearing (first appearance, case review hearing, pre-trial callover, pre-trial application, appeal etc).
 - 11.5 The names of the prosecutor and the lawyer who appeared for the defendant at the hearing.
 - 11.6 Information about the outcome of the hearing (for example, the prosecution was discontinued, a charge was amended, the trial was adjourned, and so on).
12. In general, prosecutors should not publicise the fact that advice has been sought from internal legal counsel, a Crown Solicitor's office, or Crown Law. There will be rare cases in which it is appropriate for a prosecutor to inform the public, for example, that a charging decision in a high-profile case is being peer reviewed by a Crown Solicitor or by Crown Law. The prosecutor should consult the Deputy Solicitor-General (Criminal) before making any such statement. Prosecutors should never disclose legal advice to the media, the public, or any third party without an express waiver of privilege from the Attorney-General (to obtain a waiver, prosecutors should contact Crown Law's Criminal Team).
13. It is permissible to advise the media that a matter has been referred to the Solicitor-General or a Crown Solicitor for consideration of a possible appeal by the prosecution.
14. Crown Law may decide to issue a public statement in respect of a decision to bring, or not bring, an appeal. While the prosecuting agency will be consulted as to the content of any statement, the Solicitor-General will determine what, if anything, should be disclosed to the public.

Prosecutors may explain, but not offer opinions

15. Prosecutors may explain aspects of a case for the purpose of facilitating accurate, complete and fair reporting. Those matters include the law and procedure relevant to the prosecution or the wider proceeding, the prosecutor's submissions, and the effect of any judicial decision.
16. Prosecutors should not make any public statement expressing an opinion about a case (especially about the defendant's guilt or innocence), the progress of the trial or any hearing, or any judicial decision (including any sentencing decision).

Prosecutors may not disclose certain information

17. Prosecutors should not make any public comment or statement about the following:
 - 17.1 The defendant's previous convictions, unless they have been ruled admissible and referred to in open court.
 - 17.2 Personal information about witnesses and victims, including addresses and telephone numbers, unless there is express consent from the person concerned or the information is already in the public domain (for example, because evidence has been given about it in open court and it is material to the proceeding).
 - 17.3 Matters raised in chambers or in other hearings that are closed to the public, including information provided during bail hearings.
 - 17.4 Advice given to, or discussions held with, colleagues, foreign officials, or members of a prosecuting agency, whether or not such advice or discussions are privileged.
 - 17.5 Any other information prosecutors legally must not disclose, including but not limited to:
 - 17.5.1 personal details and evidence suppressed by statute or court order;
 - 17.5.2 privileged information, including information connected with plea discussions;
 - 17.5.3 information about a sentence indication, or a request for a sentence indication; and
 - 17.5.4 national security information subject to non-disclosure obligations.

Prosecutors may correct inaccuracies

18. Prosecutors may become aware that inaccurate information about a proceeding has been published. Prosecutors should consider whether to offer factual explanations of the relevant law or procedure to correct errors and encourage accurate reporting.

Prosecutors may not comment on potential charges against identified individuals

19. The media may seek to confirm that a named person is under investigation or that charge(s) are being considered, or will be filed, against that person. As a general rule, prosecutors should not comment on those matters.

20. Prosecutors should be extremely cautious in making any comment prior to charges being filed. Any statement should be at a very general level, related to process, and should not provide any specific information about charges (if any) being considered or any identifiable individual being investigated.

Commentary

By way of example, prosecutors may indicate that an investigation into an event or incident is ongoing and state that it is not appropriate to comment further at this stage.

Prosecutors should be familiar with the civil and criminal regimes relating to public statements, and access to court documents

Contempt of court

21. Prosecutors should be familiar with the law of contempt and ways in which publication contempts can be committed. If a prosecutor becomes aware of information in the public domain that may amount to an offence or contempt, they should consider drawing the information to the attention of the court, Police (if the conduct involves possible breach of a statutory suppression provision), or the Solicitor-General. If the impact of public coverage of a trial is formally raised in court, prosecutors should consider advising the Solicitor-General.
22. Prosecutors should be mindful that actions short of an offence under the Contempt of Court Act 2019 or contempt may raise grounds for appeal post-trial, adjournment of the trial, or a stay of the prosecution.

Defamation

23. Prosecutors should be familiar with the law relating to defamation. Prosecutors should be mindful that defamatory remarks to media outside of court may result in personal liability for such remarks, as well as putting the prosecution at risk (for example, a defamatory statement that jeopardises the fairness of the trial may result in the court staying the prosecution).

Official Information Act

24. Media may request information about a criminal proceeding under the Official Information Act 1982 (OIA). Government prosecutors in public prosecuting agencies should be familiar with the OIA and any legally privileged advice from Crown Law about responding to OIA requests that relate to criminal proceedings.

Rules of court

25. Prosecutors should be familiar with the role of the judiciary in making decisions about the release of information held by the courts, including any rules of court and media guidelines.

Requests for court documents

26. The timing of a media request is important. If a proceeding is ongoing, or a particular document has not been dealt with in open court, it will generally not be appropriate, and may be discourteous to the court's control of its own proceedings, for the prosecution to provide court documents to the media. The situation may be different once a proceeding, or relevant part of a proceeding, is complete.

27. The media commonly request copies of submissions or summaries of fact. Prosecutors should be particularly cautious about media requests for summaries of fact as these remain allegations unless and until they are accepted. They should not be provided to media before the prosecution has presented its sentencing submissions in open court. They should not be made available when an objection has been raised and is unresolved, or when an objection is reasonably anticipated.
28. When dealing with a media request for submissions, prosecutors should consider the nature of the proceeding and the content of the submissions. In general, if submissions have been filed and used in open court, they may be released to the media unless there are orders preventing release, or such orders are reasonably anticipated. Sometimes, it may also be appropriate to provide copies of submissions to media at the start of a hearing, so that media can more readily follow the legal argument. If a prosecutor has any doubt about this course, it is safer to check with the court.
29. In some cases, prosecutors may instead refer media to the applicable rules of court and suggest they request documents under that process.

Requests for further orders

30. Prosecutors should consider whether the existence of information on the internet requires the making of any orders, including suppression orders under the Criminal Procedure Act or take-down orders under that Act or the Contempt of Court Act.

Crown prosecutors, media, and Police

31. If Police instruct a Crown prosecutor prior to the Solicitor-General assuming responsibility for a prosecution, the Crown prosecutor should assist Police to deal with the media in a way that protects fair trial rights.
32. The Crown prosecutor is likely to be held responsible for any public comments by the prosecution or Police from the time the Solicitor-General assumes responsibility for a Crown prosecution. Police and the Crown prosecutor should therefore consult each other about any media queries and decide who should respond. Police and the Crown prosecutor should manage these situations on a case-by-case basis, guided by the nature of the inquiry and the type of information sought.
33. Police should act in accordance with this guideline and the “Dealing with the Media” chapter of the Police Manual. In relation to prosecutions, this includes:
 - 33.1 Avoiding making comment on an investigation or operation during pre arrest interactions with the media that could later be construed as being prejudicial to the case when it goes to court.
 - 33.2 Not commenting on matters (other than procedural matters) that are still in the court process. This includes post conviction, pre sentencing and post sentencing until any appeals have been completed. Where matters are in the hands of Crown Solicitors, Police should consult with the Crown Solicitor (if possible) before comments are made.
 - 33.3 Avoiding any comment that could be construed as criticism of a judicial decision.

Comments on justice issues generally

34. Occasionally prosecutors may be asked to comment to the media or in a public forum on matters relating to the criminal justice system generally. Prosecutors should take care before making any comment. Prosecutors should always make clear they are providing their own views, rather than speaking for the Government, Crown Law, or the Crown.
35. In situations that are likely to attract significant public attention, such as a television interview, prosecutors should consider consulting with the Solicitor-General before agreeing to participate.

Other relevant guidelines | Ētahi atu aratohu e whai pānga ana

Victims | Ngā pāturenga

Decisions to prosecute | Te whakatau ki te aru

Sentencing | Te whiu

The relationship between prosecutors and investigators | Te hononga i waenga i te kaiaru me te kaitūhura

Appeals | Ngā pīra