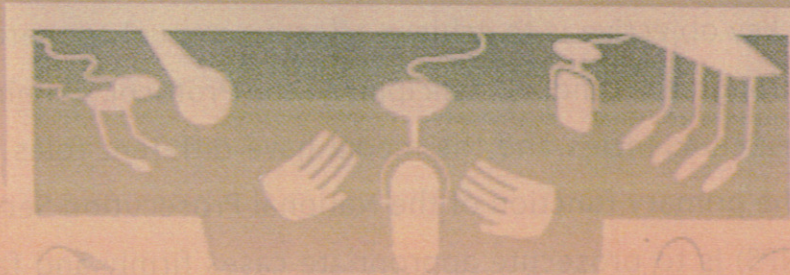


# National Prosecution Service of Saint Vincent and the Grenadines Media Protocol



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## 1. INTRODUCTION

- 1.1 The overriding objective of this protocol is to provide guiding principles for an open and accountable investigation and prosecution process, by ensuring the media have access to relevant material at the earliest appropriate opportunity.
- 1.2 The Code for Prosecutors gives a commitment to treat victims and witnesses with respect and sensitivity and to take all practicable steps to help them through the often difficult experience of becoming involved in the criminal justice system. In the interests of the administration of justice, the views of victims, witnesses and other people directly affected by a case, such as family members, will be given particular consideration when making any decision to reveal or to provide investigation or prosecution material to the media. Inevitably this will lead to decisions being made in the context of the individual circumstances of each case.
- 1.3 A key objective is to achieve effective mutual cooperation through the guiding principles in the Protocol. Criminal justice agencies and the media have different roles to fulfill. The primary function of the National Prosecution Service (NPS) is to prosecute appropriate cases firmly and fairly. The media have a responsibility to provide the public with accurate information whilst ensuring that investigations are

not obstructed and all legal rules that govern criminal prosecutions are observed

- 1.4 The NPS appreciate the need for speedy decisions about releasing material. Expediting media access to information about prosecutions is an important element of the NPS role.

## 2. DEFINITIONS

2.1 **Public Information:** Information that may be of interest to the general public regarding policy, procedures or events involving the NPS or other newsworthy information that is not legally protected, does not unduly interfere upon the rights of a defendant or compromise the legitimate safety and privacy interests of officers, victims, witnesses or others.

2.2 **Accredited Members of the Media:** Those individuals who are directly employed by media houses of the electronic or print media such as radio, television and newspapers.

## 3. PURPOSE

3.1 It is the purpose of this policy to establish guidelines for release and dissemination of public information to media houses and/or their accredited members by the NPS.

3.2 The aim of the NPS is to ensure that the principle of open justice is maintained, that justice is done and seen to be done, while at the same time balancing the rights of defendants to a fair trial with any likely consequences for victims or their families and witnesses occasioned by the release of public information to Accredited Members of the Media.

3.3 Although each case will inevitably have its own unique set of circumstances, the following Protocol will allow Accredited Members of the Media and NPS to work collectively to maintain open justice that is fair and responsible to all. Reference can also be made to the Code for Prosecutors at paragraph 19 for further guidance.

#### 4. GUIDING PRINCIPLES

4.1 When communicating with the public through the media, Prosecutors are guided by five principles. These are:

- 4.1.1 Avoiding prejudice to fair trial interests;
- 4.1.2 Supporting the administration of justice and the integrity of the criminal justice system;
- 4.1.3 Respecting the principle of open justice;
- 4.1.4 Recognising the public interest in receiving accurate information about the criminal justice system and criminal prosecutions; and
- 4.1.5 Treating victims of crime with courtesy and compassion, and respecting their dignity and privacy.

#### 5. NATIONAL MEDIA INTEREST

5.1 In cases where the crime itself and the investigation have already attracted or are likely to attract widespread media attention, the DPP will lead contact with the media.

#### 6. MEDIA CONSIDERATIONS PRE-CHARGE

6.1 Comment by Prosecutors prior to charges being laid will rarely be appropriate. Any comment will be limited to

providing an explanation of the general issues raised and will not address the particular case or its circumstances.

## 7. ANNOUNCING A CHARGING DECISION

7.1 The NPS should always consider announcing a charging decision in a high profile case or one of major interest in the locality where advice has been sought by the Police Force from the NPS. This announcement can be made jointly with the Police Force or in manner considered to be the most appropriate in the circumstances.

7.2 Once charges have been laid the obligation to avoid prejudice to a fair trial becomes acute. At this stage (including bail hearings) it is usually appropriate for the NPS to provide information about the charges, the defendant and the progress of proceedings. In particular, the media will be informed of:

7.2.1 The fact and location of the arrest, the general nature of the criminal charges, the section under which the accused is charged and the legislated penalty;

7.2.2 Once the defendant has appeared in court, the name, age and residence (town or city or region only) of the defendant (subject always to reporting restrictions or other rules);

7.2.3 Date and location of next court appearance;

7.2.4 Guidance on the type of hearing: Remand, committal, preliminary inquiry etc;

7.2.5 Names of prosecution and defence representatives /counsel who have appeared in court;

7.2.6 Information about what has happened procedurally with the case e.g. whether case has been discontinued, charges reduced etc.

7.3 In general, the following information should not be provided or comment should not be made to the media:

7.3.1 Any previous convictions of the defendant whether directly or indirectly unless these have been ruled admissible and referred to in open court. For example, public comment that the defendant was at the time of the offence on bail could constitute contempt of court;

7.3.2 Personal information, address or telephone number of witnesses and victims unless there is express consent;

7.3.3 Information concerning chambers/*in camera* hearings including information provided during bail hearings;

7.3.4 Personal opinions in relation to a particular case, especially about the outcome of a hearing, an individual's guilt or innocence, or a sentencing outcome;

7.3.5 Details of a *voire dire*

## 8. MEDIA CONSIDERATIONS POST-CHARGE

8.1 Where media interest is high and/or when there are complex legal issues involved in a case, a media pre-trial briefing by the NPS may be necessary. A pre-trial briefing will serve to assist the media in reporting the trial accurately and knowledgeably. The DPP will lead in facilitating any pre-trial briefing involving the media.

## 9. MEDIA CONSIDERATIONS POST-CONVICTION OR ACQUITTAL

9.1 Release of any further information to the media by the DPP should be on a case-by-case basis. It should always be remembered that there is a right of appeal and personal comments will not be made about the conviction, acquittal, the sentence, or the merits of any decision made by a jury, judge or magistrate, by the NPS.

## 10. RESPONDING TO INACCURATE INFORMATION

10.1 From time to time Prosecutors may be aware that inaccurate information about the proceedings has been published. Subject to the principles outlined above in paragraph 4 and any reporting restrictions, it may be appropriate to offer the media factual explanations of the relevant law or procedure to correct errors and ensure accurate reporting.

## 11. INFORMATION ON THE INTERNET

11.1 The enduring nature of information on the internet means that Prosecutors may need to take steps more frequently and at an earlier stage of the proceedings to seek reporting restrictions. In addition, historical information on the internet may raise issues of contempt in the face of current proceedings, even though it did not raise such concerns when posted. One example is information concerning prior convictions.

11.2 Where a Prosecutor becomes aware of the existence on the internet of information which may amount to

contempt the Prosecutor will be required to draw this to the attention of the court and the DPP.

## 12. RELEASE OF PROSECUTION MATERIAL

12.1 Prosecution material which has been relied upon in court and which should normally be released to the media, includes:

- 12.1.1 Maps/photographs (including custody photos of defendants)/diagrams and other documents produced in court;
- 12.1.2 Videos showing scenes of crime as recorded by police after the event;
- 12.1.3 Videos of property seized (e.g. weapons, clothing as shown to jury in court, drug hauls or stolen goods);
- 12.1.4 Sections of transcripts of interviews/statements as read out (and therefore reportable, subject to any orders) in court;
- 12.1.5 CCTV footage of the defendant, subject to any copyright issues.

12.2 Prosecution material which may be released after consideration by the NPS in consultation with the Police Force and relevant victims, witnesses and family members includes:

- 12.2.1 CCTV footage or photographs showing the defendant and victim, or the victim alone, that has been viewed by jury and public in court, subject to any copyright issues;
- 12.2.2 Video and audio tapes of police interviews



with defendants, victims and witnesses;

#### 12.2.3 Victim and witness statements.

12.3 Where a guilty plea is accepted and the case does not proceed to trial, then all the foregoing principles apply. But to ensure that only material informing the decision of the court is published, material released to the media must reflect the prosecution case and must have been read out, or shown in open court, or placed before the sentencing judge.

### 13. REPORTING RESTRICTIONS

13.1 The general rule is that the administration of justice must be done in public. The prime concern is the interests of justice and this will be for the court to decide.

13.2 The NPS may apply for reporting restrictions or postponement of publications where that is necessary to avoid a substantial risk of harm to witnesses and or victims or prejudice could occur to the administration of justice in those or other proceedings.

13.3 Where the court has a discretion, the NPS will have to establish that the power for the requested departure from the open justice principle is in the interests of justice.

13.4 Automatic restrictions upon reporting might already apply, or there may be restrictions on reporting imposed by the media's codes, or as a result of an agreed approach.

13.5 The NPS must always consider if there are any less

restrictive alternatives available and if restrictions are necessary how far should they go. Also the NPS may oppose reporting restrictions applications, where appropriate.

#### 14. CONTEMPT

14.1 Where there is pre-trial publicity adverse to the fairness of the proceedings or a breach of reporting restrictions the DPP will decide if contempt proceedings should commence. When carrying out this function the focus is on conduct that is corrosive of the criminal justice system as a whole.