



United Nations  
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# Freedom of Expression and Public Order

## Training manual





# Freedom of Expression and Public Order

Training manual

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# Table of Contents

<b>Preface</b> .....	6
<b>Executive Summary</b> .....	7
<b>Module 1 – Journalism, Democracy and Freedom of Expression:...</b>	<b>11</b>
1.1 Introduction.....	13
1.2 Freedom of Expression: A Fundamental Right.....	16
1.3 Key Characteristics of Freedom of Expression.....	19
1.3.1 Eight Key Attributes of Freedom of Expression.....	19
1.3.2 Restrictions .....	22
1.3.3 Three Other Key Characteristics of Freedom of Expression.....	25
1.4 Journalism and Citizenship: Serving Democracy.....	29
1.5 Freedom of the Media: Legal Obligations.....	32
1.5.1 Who is a Journalist?.....	32
1.5.2 Regulation of the Media.....	36
1.5.3 Regulation of Content.....	40
1.6 Complaints Systems: Auto- and Co-regulation.....	44
1.7 The Rights and Duties of Journalists According to Professional Ethics.....	46
<b>Module 2 – Safety of Journalists.....</b>	<b>55</b>
2.1 Overview of the Problem.....	57
2.2 State Obligations.....	59
2.3 The Work of Intergovernmental and Non-Governmental Organisations.....	66
<b>Module 3 - A Toolbox for Journalists Covering Conflicts, Riots and Demonstrations.....</b>	<b>69</b>
3.1 How to Report on Conflicts.....	72
3.2 How to Report on Riots and Civil Unrest.....	75
3.3 Reporting on Organised Crime and Corruption.....	78

---

## **Module 4 - Security Forces: Ensuring Journalists can Access the Information they Need.....81**

4.1	Introduction.....	83
4.2	Some General Principles.....	88
4.3	Who Should Communicate?.....	93
4.4	Limits on the Provision of Information.....	97
4.4.1	Limits Justified by Reference to the Need to Maintain Order.....	97
4.4.1.1	General Rules.....	98
4.4.1.2	Specific Rules.....	99
4.4.2	Journalists' access and justified limits .....	103
4.5	Providing Information About People.....	110

---

## **Module 5 – Operational Safety Procedures When Dealing with the Media.....117**

OP-1:	Relations with the Media.....	121
OP-2:	Spokespersons.....	124
OP-3:	Media Perimeters.....	128
OP-4:	Demonstrations.....	130
OP-5:	Elections.....	133
OP-6:	Crime Scenes.....	135
OP-7:	Using Social Media.....	136

---

## **Module 6 – Coverage of Judicial Proceedings by the Media.....139**

6.1	General Principles.....	141
6.2	Media Presence in and Around Courtrooms.....	142
6.3	Major Trials.....	145

---

## **Module 7 – Communicating with the Media ...163**

7.1	Foreword.....	151
7.2	Communicating facts.....	153
7.2.1	Prepare Your Message.....	153
7.2.2	Using Clear Language.....	155

7.3	Media Relations in the Era of the Internet and Social Networks.....	157
7.4	Public Relations Tools.....	159
7.4.1	Press Release.....	159
7.4.2	Press Kit.....	161
7.4.3	Press Conference.....	163
7.4.4	Media Scrum.....	167
7.5	Being Interviewed by Journalists.....	169
7.5.1	Identifying the Journalist's Approach.....	169
7.5.2	Some Practical Details.....	170
7.5.3	Prepare Your Message.....	171
7.5.4	Interviews as Public Speaking.....	172
7.6	Managing Communication in a Crisis.....	176
7.6.1	Defining a Crisis.....	176
7.6.2	The Crisis Committee.....	177

# Preface

Since 2013, as part of its mandate to foster freedom of expression, UNESCO has been implementing jointly with the Tunisian Ministry of the Interior a programme of capacity reinforcement for security forces on human rights, freedom of expression and the safety of journalists.

This initiative is part of a wider effort to implement the UN Plan of Action on the Safety of Journalists and the Issue of Impunity, spearheaded by UNESCO and endorsed by the UN Chief Executives Board on 12 April 2012, which aims to coordinate the efforts of various actors in this area.

UNESCO's programme aims to improve the sometimes tense relations between security forces and journalists and to promote freedom of expression, particularly in the context of democratic transitions and post conflict situations. Supporting transparent security bodies, which respect freedom of expression and the right to information, promotes accountability and the rule of law, in the context of respect for human rights.

The manual "Freedom of Expression and Public Order", was originally developed as part of the programme training of security forces on human rights, freedom of expression and the safety of journalists, implemented in Tunisia. This manual provides legal references and tools for delivering training programmes to security forces with a view to promoting transparency, facilitating and improving relations between security forces and the media, and encouraging respect for the safety of journalists in the field. The manual can be used to conduct joint training programmes involving members of the security forces and journalists. It also provides advice for journalists on how to promote their own safety.

Balancing legitimate demands for access to public information with the equally legitimate but sometimes conflicting need to maintain law and order in society is a challenge for any democratic society. In general, promoting respect for freedom of expression does not lead to disorder and instability, but creates opportunities for constructive dialogue both between different sections of society and between citizens and public authorities. The right of citizens to receive and impart information and ideas is a fundamental right, and experience has shown that promoting respect for this right strengthens social dialogue and helps consolidate democratic institutions.

This training manual is a tool to help members of security forces and journalists better understand their rights and obligations. It aims to raise awareness among members of security forces about the right to freedom of expression, and to provide them with concrete answers and solutions as to how to perform their mission of maintaining order while also respecting freedom of expression and media freedom.

We hope that the material contained in this manual will be a source of inspiration for members of security forces about the important and positive role they can play in protecting the freedom of expression and the security of journalists in a democratic society.

# Executive Summary

The training manual “Freedom of Expression and Public Order” aims to provide security forces with both theoretical and practical tools to carry out their mission of maintaining order while respecting human rights, freedom of expression and the security of journalists. It elaborates on international standards on freedom of expression and the conditions in which this fundamental freedom can be restricted. It also highlights the important role of journalists in a democratic society and why safety of journalists has become a priority for organisations promoting freedom of expression. It is essential that journalists be able to access information of public interest, so that they can analyse and provide this information to the public.

Comprised of seven modules, each providing a different focus/entry point into the topic, this manual aims to raise the awareness of members of security forces regarding their duties and obligations in relation to freedom of expression, press freedom and the safety of journalists. It illustrates how their mission of maintaining public order is not incompatible with respect for freedom of expression and the work of journalists, and how, instead, that mission is often essential for their full realisation.

This manual helps security forces understand better the importance of freedom of expression and the central role that this right plays in democracy. It also highlights the specific role played by the press in a democracy, ensuring that members of the public are informed and can exercise their rights as citizens.

In terms of approach, some modules specifically target members of security forces, while others envisage joint training sessions for members of security forces and journalists. These joint sessions aim to promote greater mutual understanding of the reality and the needs of, respectively, members of security forces and journalists in a democracy.

## **Module 1 – Journalism, Democracy and Freedom of Expression:**

The first module outlines the international legal framework governing the right to freedom of expression, freedom of the press and the right to access information, as well as restrictions on those rights, as enshrined in international standards, in particular the International Covenant on Civil and Political Rights (ICCPR) and its Optional Protocols, and the decisions of the United Nations (UN) Human Rights Committee.

Security forces need to understand the centrality of freedom of expression, sometimes referred to as a “crossroads freedom”, and its relationship with other fundamental freedoms, as well as the role of journalists in making that freedom a reality, to be able to respect and protect freedom of expression and journalists’ safety. In a sense, freedom of expression is a guarantee and condition for the protection of all other freedoms. Security forces also need to gain a better understanding of the role of journalists in a democratic society. Who is a journalist in the era of the Internet and social media? What does their work consist of and how is their role essential in a democratic society. Security forces also need to understand the



threats and specific risks that journalists face in the line of duty. Finally, they must understand how the profession is regulated, namely self-regulation for the print media and, in most cases, regulation by an independent body for broadcasters. The manual also describes the ethical rules to which journalists must adhere and which, in many countries, govern the activities of the media.

## **Module 2 – Safety of Journalists:**

The media pay a heavy price every year for defending freedom of the press. Assaults against and murders of journalists are common and most go unpunished. Media outlets must be active stakeholders in risk prevention and support journalists in their efforts to mitigate these risks, especially where there may be problems for those working in the field. The government, in particular through security forces, is also responsible for protecting journalists. The UN, many intergovernmental organisations, professional associations, non-governmental organisations (NGOs) and other stakeholders play a very active role in this area, reporting on attacks against journalists, providing training and calling on States to investigate the killings of journalists.

The UN Plan of Action on the Safety of Journalists and the Issue of Impunity, adopted on 12 April 2012, aims to coordinate and harmonise the work of different stakeholders involved in protecting journalists against the threats they face.

## **Module 3 - A Toolbox for Journalists Covering Conflicts, Riots and Demonstrations:**

It is clearly not possible for journalists to avoid all risk when they cover conflicts, riots or demonstrations, but they can reduce the risk by anticipating the dangers. This module provides journalists with practical advice in this area. It also provides security forces with an overview of the threats and risks faced by journalists in the exercise of their profession, especially in conflict zones and when investigating organised crime. It also highlights the threat of sexual assaults against journalists, which is a serious problem in certain contexts.

## **Module 4 - Security Forces: Ensuring Journalists can Access the Information They Need:**

The important role of the media in ensuring the public can access the information it needs was described in earlier modules. Security forces have an obligation to provide the public with a range of information about matters that are dealt with by these forces. This module describes the different aspects of this and how information can be provided in practice. It also explains how to foster supportive action on the part of the police vis-à-vis the media and, in general, how to establish a relationship based on trust and partnership between the two parties.

In a number of countries, codes of conduct or operational procedures have been developed for security forces, which define very clearly how they should act towards journalists and the media in different situations, including during demonstrations and riots. These codes or procedures give clear instructions on how to manage the challenges arising from the presence of journalists at these events

and where journalists are embedded in security forces' units for purposes of monitoring an operation.

### **Module 5 – Operational Safety Procedures When Dealing with the Media:**

Providing the media with access to information of public interest does not need to come at the expense of maintaining order in society. By presenting model operational security procedures for dealing with the media, this module makes suggestions as to how to satisfy both needs. Following a number of principles helps promote effective communication between security forces and journalists, while respecting the needs of both parties. This module outlines the general principles which need to be respected for this relationship to work (the principle of maximum disclosure, promptness, respect for privacy, responding to inaccuracies, and the right of members of the security forces to protect their image).

By providing examples of operational procedures, it also suggests concrete actions that can be taken by security forces during demonstrations and elections, and at crime scenes, including by establishing a media perimeter. It explains who should communicate with the media and how to select spokespersons who are responsible for maintaining contact with the media and answering questions from journalists.

### **Module 6 – Coverage of Judicial Proceedings by the Media:**

Media coverage of judicial proceeding raises special issues given the need for the judiciary and courts to operate openly, as public bodies, the need to prevent media coverage from undermining their ability to provide fair and effective justice, and the need to protect the rights of participants in the judicial process, including their rights to privacy. Security forces which are responsible for ensuring security of proceedings in and around courthouses need to understand how best to discharge their mission while respecting the right to information and the public interest in judicial proceedings. This module describes how to manage the media during public trials, how to authorise or refuse sound or visual recordings during hearings and to accredit media representatives, and suggests measures to be taken to manage the media during major cases.

### **Module 7 – Communicating with the Media:**

This module provides security forces with the tools needed to improve their relations with the media: written briefs, press releases, press kits and press conferences. It outlines how to respond to a press scrum, and prepare and manage interviews depending on the subject and the type of media involved (press, radio, TV or Internet). It also addresses the challenges associated with managing media relations in the era of Internet and social networks, and provides possible solutions for this. This module also helps security forces to understand better the needs of journalists and to communicate more effectively with the media in both normal times and in times of crisis.

# Module 1

## Journalism, Democracy and Freedom of Expression



# Table of Contents

## **Module 1 – Journalism, Democracy and Freedom of Expression:...11**

1.1	Introduction.....	13
1.2	Freedom of Expression: A Fundamental Right.....	16
1.3	Key Characteristics of Freedom of Expression.....	19
1.3.1	Eight Key Attributes of Freedom of Expression.....	19
1.3.2	Restrictions .....	22
1.3.3	Three Other Key Characteristics of Freedom of Expression.....	25
1.4	Journalism and Citizenship: Serving Democracy.....	29
1.5	Freedom of the Media: Legal Obligations.....	32
1.5.1	Who is a Journalist?.....	32
1.5.2	Regulation of the Media.....	36
1.5.3	Regulation of Content.....	40
1.6	Complaints Systems: Auto- and Co-regulation.....	44
1.7	The Rights and Duties of Journalists According to Professional Ethics.....	46

## 1.1 Introduction

“Freedom of information is a fundamental human right and is the touchstone of all the freedoms to which the United Nations is consecrated.” (UN General Assembly Resolution 59, 1946)

This module looks at the role of freedom of expression and a free media in society. The idea is to provide a general framework, which sets out the way in which the interactions between security forces and the media should be adapted to respect freedom of expression. Although this module is based on principles, rather than directed at the specific ways in which security forces should operate, it is nevertheless important for security forces to have an understanding of the general context of freedom of expression and media activity, in order to be able to carry out their mission of maintaining public order while respecting democratic rules.

In general, it may be noted that security forces play a very important role in protecting and respecting freedom of expression in their relationships with journalists. Without a minimum level of public order, citizens and journalists cannot fully enjoy their right to free expression. Security forces must therefore protect journalists against attacks by others who seek to prevent them from doing their work, they must ensure that journalists can access areas and information about crimes and other matters of public interest, and they must ensure that their own communications with the media be transparent. This module lays out the theoretical basis for the operational matters that will be discussed in other chapters.



**Discussion: Why is freedom of expression important? Is it more important than other rights? Why or why not?**

Freedom of expression is at the same time a freedom, a right, and a cornerstone of democracy. Important in its own right, it is also an essential condition for the enjoyment of all other rights. This was recognised by the first General Assembly of the United Nations, specifically in the following excerpt from Resolution No. 59, adopted in 1946:

“Freedom of information is a fundamental human right and is the touchstone of all the freedoms to which the United Nations is consecrated.”

Freedom of expression is important directly, given its close relationship with human dignity. The inherent desire of humans to communicate freely can be seen in the actions of the youngest members of society – newborn babies – as well as in almost every social activity that is undertaken by human beings.

More important, however, are the social benefits of the right to freedom of expression. Commentators often refer to the importance of political speech. It is clear that freedom of expression is of fundamental importance in a democracy. Where information and ideas are not permitted to flow freely, other human rights, indeed

democracy itself, are under threat. Participatory mechanisms depend on the free flow of information and ideas, since citizen engagement can only be effective if people are informed and have the means to express themselves.

The UN Human Rights Committee, which is a group of experts with responsibility for monitoring and promoting implementation of the International Covenant on Civil and Political Rights (ICCPR), has stated:

*“The right to freedom of expression is of paramount importance in any democratic society.”*

[Tae-Hoon Park v. Republic of Korea, 20 October 1998, Communication No. 628/1995, para. 10.3]

Similar statements are found in the jurisprudence of both international and national courts from around the world. The Inter-American Court of Human Rights has stated:

*“Freedom of expression is a cornerstone upon which the very existence of a democratic society rests.”*

[Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism, Advisory Opinion OC-5/85 of 13 November 1985, Series A, No. 5, para. 70]

And the European Court of Human Rights has noted:

*“Freedom of expression constitutes one of the essential foundations of [a democratic] society, one of the basic conditions for its progress and for the development of every man.”*

[Handyside v. the United Kingdom, 7 December 1976, Application No. 5493/72, para. 49]

In a similar way, freedom of expression is central to the defence of a number of other social values. As the UN General Assembly quote above makes clear, freedom of expression is central to the defence of all human rights. This is in part because it is through knowing about and discussing rights that individuals can assert and defend their rights, and in part because the exposure of human rights abuses is an effective way of limiting such abuse.

Other social values – including good governance, public accountability and combating corruption – also depend on the respect for freedom of expression.



**Discussion: Do you think freedom of the media is different from freedom of expression? Is it more important? Why or why not?**

Freedom of the media is crucially important because, in most countries, the mass media as a whole remain the primary forum for public discussion. Although the Internet is starting to provide alternative fora for debate, the media remain crucially important in every country, and especially for the majority of the world's population who still do not have access to the Internet, estimated to be nearly two-thirds of the world's population (see <http://www.Internetworldstats.com/stats.htm>).

Given its prominence as a conduit for expression, the media play a particularly important role in realizing the right to freedom of expression which, in turn, has particular implications in terms of media freedom.

The UN Human Rights Committee has stressed the importance of free media to the political process:

*"[T]he free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion."*

[UN Human Rights Committee General Comment 25, 12 July 1996]

Similarly, in its Declaration of Principles on Freedom of Expression in Africa, adopted in 2003, the African Commission on Human and People's Rights similarly noted:

*"[T]he key role of the media and other means of communication in ensuring full respect for freedom of expression, in promoting the free flow of information and ideas, in assisting people to make informed decisions and in facilitating and strengthening democracy."*

[Adopted by the African Commission on Human and People's Rights at its 32nd Session, 17-23 October 2002]

It should be noted, however, that international law does not provide special protection for press or media freedom. The media enjoy the same protection under the right to freedom of expression as everyone else. However, because of their key role in disseminating information and ideas, international law does recognise certain special privileges for the media, along with others who disseminate information of public importance. We shall return to these ideas later in the chapter.

### A Little History

Freedom of expression was protected as early as 1789 in Article 11 of the Declaration of the Rights of Man and of the Citizen (France).

“The free communication of ideas and opinions is one of the most precious of the rights of man. Every citizen may, accordingly, speak, write, and print with freedom....”

It is also protected in the First Amendment of the Constitution of the United States of America (1791):

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble....”

Sweden has adopted a fundamental law for the protection for freedom of the press since 1766.

<http://www.government.se/sb/d/2853/a/16199>

## 1.2 Freedom of Expression: A Fundamental Right

“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

[Article 19 of the Universal Declaration of Human Rights, adopted 10 December 1948]

The right to freedom of the press is universally guaranteed by international law, in particular in the Universal Declaration of Human Rights, adopted by the UN General Assembly on 10 December 1948. The rights to freedom of expression and of the media are also protected through many other international and all of the main regional human rights treaties (see below).

Almost every modern bill of rights provides protection for the right to freedom of expression, which is universally recognised as one of the most important rights. In some cases, as under international law, freedom of the press or media is not mentioned explicitly, but is included in the general guarantee of freedom of expression. In other cases protection for media freedom is recognised explicitly.

International human rights law stipulates the obligations that States must respect, such as freedom of expression. States that ratify international treaties on human rights undertake to take national measures and adopt national laws in compliance with their treaty obligations.





**Discussion: Can you think of ways in which international law on freedom of expression may be important for your country? Have you ever heard of it being used or referred to before?**

International law is applied in two ways. First, international law has its own systems of enforcement. Although weak compared to similar systems at the national level, especially in relation to human rights, international law is far from irrelevant. Most States will go to great lengths to avoid being criticised for human rights abuses before international bodies, and exposing problems at the international level can often lead to them being resolved. This is particularly true for countries which wish to be seen as good 'citizens' at the international level.

Different treaties establish different systems for implementing human rights. The ICCPR, for example (see below), establishes a body, the Human Rights Committee, to oversee implementation. States are required to report to the Committee every five years on what they have done to implement its provisions. Civil society groups can also present shadow reports indicating how they think the State has fared. The Committee will review all relevant information and will then produce a report highlighting areas of success, as well as areas where further improvement is needed.

For States which have ratified the (first) Optional Protocol to the ICCPR, individuals can lodge cases with the Committee where they believe that the State has failed to respect the rights it guarantees. The Committee will then consider these cases in a quasi-judicial procedure and issue a decision on the case. This procedure is available only after one has used up ('exhausted') all available remedies at the national level, which may include appealing the case through the local courts.



**Discussion: Has your country ratified the ICCPR? If yes, in what year? What changes in the area of freedom of expression does this imply for security forces?**

International Covenant on Civil and Political Rights (ICCPR)

Adopted 16 December 1966, entered into force 3 January 1976 and ratified by 168 States (as of August 2014).

Article 19 –

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
  - (a) For respect of the rights or reputations of others;
  - (b) For the protection of national security or of public order (ordre public), or

of public health or morals.

### **African Charter on Human and Peoples' Rights**

Adopted 12 July 1981, entered into force 21 October 1986, and ratified by 53 States, representing all of the States Members of the African Union with the exception of the newest State, South Sudan [as of August 2014].

#### **Article 9 –**

1. Every individual shall have the right to receive information.
2. Every individual shall have the right to express and disseminate his opinions within the law.

European Convention for the Protection of Human Rights and Fundamental Freedoms

Adopted 4 November 1950, entered into force 3 September 1953, and ratified by 47 European States [as of August 2014]

#### **Article 10 –**

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

### **American Convention on Human Rights**

Adopted 22 November 1969, entered into force 18 July 1978, and ratified by 25 American States [as of August 2014]

#### **Article 13 –**

1. Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice.
2. The exercise of the right provided for in the foregoing paragraph shall not be subject to prior censorship but shall be subject to subsequent imposition of liability, which shall be expressly established by law to the extent necessary to ensure:
  - a. respect for the rights or reputations of others; or
  - b. the protection of national security, public order, or public health or morals.
3. The right of expression may not be restricted by indirect methods or means,

such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions.

4. Notwithstanding the provisions of paragraph 2 above, public entertainments may be subject by law to prior censorship for the sole purpose of regulating access to them for the moral protection of childhood and adolescence.
5. Any propaganda for war and any advocacy of national, racial, or religious hatred that constitute incitements to lawless violence or to any other similar action against any person or group of persons on any grounds including those of race, colour, religion, language, or national origin shall be considered as offenses punishable by law.

### **ASEAN Human Rights Declaration, adopted November 2012**

There is no established regional human rights body for Asia. However, the ten countries of the Association of Southeast Asian Nations (ASEAN) formally established the ASEAN Intergovernmental Commission on Human Rights (AICHR) on 23 October 2009, during the 15th ASEAN Summit. The group also adopted a Human Rights Declaration, which guarantees freedom of expression as follows:

23. Every person has the right to freedom of opinion and expression, including freedom to hold opinions without interference and to seek, receive and impart information, whether orally, in writing or through any other medium of that person's choice.

## 1.3 Key Characteristics of Freedom of Expression

The right to freedom of expression is a complex right with many different characteristics.

### **1.3.1 Eight Key Attributes of Freedom of Expression**

The eight key attributes of the right to freedom of expression as guaranteed in the ICCPR are as follows:

#### **1. It is held against the State**

Like all human rights, the right to freedom of expression is held against the State. In other words, it is the State, rather than private individuals that is under an obligation to respect the right. However, there may be circumstances where the State has an obligation to take measures to ensure that individuals' right to freedom of expression is protected against private individuals. This is the case, for example, with defamation laws, which protect individuals' right to reputation against attacks by third parties or with privacy laws, which do the same for the right to privacy.

## 2. It has both negative and positive aspects

Most of us tend to think of the right to freedom of expression as preventing the State from interfering with freedom of expression, in the sense of stopping us speaking when we want to express ourselves. This aspect of the right, which is indeed an important part of the right, is called negative protection, in the sense that it prevents the State from acting.

The right goes beyond this, however, and also includes positive aspects. In this aspect, the right places a positive obligation on the State to do certain things to ensure the free flow of information and ideas in society. International law recognises that it is not enough for the State simply to let those who wish to speak to do so. In some cases, the State needs to take positive action to protect the right. For example, if left unregulated, media ownership in most countries tends to concentrate, which undermines the free flow of information and ideas in society.

Another key positive obligation on the State is to prevent and investigate attacks on journalists. In some cases, journalists may risk being attacked, for example because they are exposing wrongdoing or corruption, or because they are talking about difficult social issues which some people do not want to hear, such as violence against women. If journalists cannot do their job because they are fearful of such attacks, everyone in society is affected. To prevent this, the State has an obligation to protect them against such attacks. This is an issue to which we will return later on.

## 3. The right belongs to everyone

Although some constitutions only provide protection for the rights of citizens, under international law, the right belongs to everyone. This includes children and prisoners. It also includes foreigners, including foreign journalists.



**Discussion: Can security forces restrict access to certain information or to certain areas only to national journalists or foreign journalists? In general, do foreign journalists have the same rights as national journalists? Why or why not?**

## 4. The right includes the rights to seek and receive

When we think of the right to freedom of expression, we tend to think of our right to express ourselves, protected under international law as part of the right to 'impart' information and ideas. This is a key aspect of the right. However, the right goes beyond that, and also protects the right to 'seek and receive' information and ideas.

If we think of the main reasons why freedom of expression is important, it soon becomes clear that it is important to protect the rights of readers, listeners and viewers to receive information as well as of speakers to impart it. For individuals to be able to participate in decision-making in society, a key attribute of the right,

they need to be informed. Indeed, in many ways, the right to receive information is central to being an active citizen and participant in society. These values are protected by the right just as strongly as the right to impart information and ideas.

If the government closes down a newspaper, it interferes with the journalists' right to speak, but also the right of readers of the newspaper to seek and receive information. Looked at in this way, we can understand why media freedom is so important. It is not that journalists have a special right to express themselves or that their right to freedom of expression is, of itself, more important than the rights of everyone else. The particular importance of freedom of expression for journalists lies in the fact that they are serving the right of many people to receive information and ideas. This core role in ensuring the free flow of information and ideas in society generally is why we need to provide special protection for media freedom.

The right to seek information, which is also guaranteed under international law, is the key underpinning of the right of journalists and others to investigate and to find information. This is something that also comes up later in this manual, including in cases where the police and other security forces are obliged to facilitate this right of the media.

### **5. The right covers all kinds of information and ideas**

Under international law, all forms of expression are protected, subject to a limited regime of exceptions (see below). It does not matter how important the authorities consider certain forms of expression to be, they are all protected. This is true regardless of whether or not the expression is correct, and even if it is considered to be offensive by many people. Thus, the right covers comic books, advertising and commercial information, and even incorrect information. Unpopular and even crazy ideas are also protected. Indeed, to some extent it is more important to protect these sorts of ideas than popular ones, which do not need protection from the State.

### **6. The right to applies regardless of frontiers**

Freedom of expression does not recognise national borders. You have a right to import newspapers from other countries or to use the Internet to access content from around the world. As with all forms of expression, limited restrictions may be imposed on the right, but these must meet the standards of international law.

### **7. The right includes all means of disseminating expressive content**

Freedom of expression applies regardless of how someone seeks to express themselves. This is captured by the term "any other media of his choice" in Article 19 of the ICCPR. Examples of protected forms of dissemination of information include newspapers, magazines, pamphlets, radio, television, Internet, mobile telephones, public meetings, house-to-house canvassing, paintings, sculptures, cartoons, smoke signals, Morse code, face-to-face conversations, and sometimes even clothing style (for example, in some countries certain colours of clothing denote support for a certain political party).

## 8. The right protects against both direct and indirect limitations

Any measures the State takes which limit freedom of expression, either directly or indirectly, are prima facie interferences with the right. Some common examples of indirect attempts to restrict freedom of expression are where a government imposes special taxes on the media to make it difficult for them to operate, or only places advertisements in media which support the government or which refrain from criticising it.

### 1.3.2 Restrictions

It is universally accepted that not all expressive activity is legitimate. Everyone agrees that it is legitimate for States to prohibit such acts as inciting others to crime, exposing others' private lives or making false and defamatory statements about others.

The approach taken under international law is to start with an extremely broad prima facie guarantee of freedom of expression, which covers any form of communication of information or ideas among people, including the examples given above. But it then allows States to restrict freedom of expression in certain cases.

International law does not, however, give States a free hand in deciding how they restrict freedom of expression. That would render international protection for this right meaningless, because every government could impose any limitations it pleased on freedom of expression and there would be no meaning to the right.

Instead, international law establishes a strict test which any restrictions on freedom of expression must meet, which is found in Article 19(3) of the ICCPR as follows:

- a. the restriction must be provided by law
- b. the aim of the restriction must be to protect one of the interests listed in paras. (a) or (b) of Article 19(3)
- c. the restriction must be necessary to protect that interest

Provided by law:

**There are a number of rationales for the rule that any restriction must be provided by law:**

- Importance: Only elected representatives, working through parliament, should have the power to impose restrictions on a right which is as important as freedom of expression; individual ministers, individual policemen or judges do not have the power to impose restrictions.
- Accountability: Requiring restrictions to be set out in law provides for a strong degree of accountability and citizen oversight of those restrictions.
- Fairness: Individuals should know in advance what they can and cannot say.
- Chilling effect: If you don't know in advance what is allowed, you will exercise

excessive caution to make sure you do not fall foul of the rules.

- Abuse: If restriction may be prescribed by other actors, there is a greater risk that they will be applied selectively for private political or commercial reasons.

To give effect to these rationales, the rule goes beyond just requiring there to be a law:

- The law must be clear; ambiguity in the law effectively gives discretion to officials in terms of application, and so voids the idea that only parliament can impose restrictions.
- The law must also be accessible; if the law is secret or hidden, it will not serve the rationales noted above.
- The law also cannot allocate too much discretion to officials, because this also effectively takes the power to develop the restriction away from parliament and gives it to officials.

For the security forces, these rules are important because they define the ways in which these forces must treat freedom of expression. In effect, security forces may act in ways which limit freedom of expression – for example by refusing to let journalists enter premises where a crime is being investigated – but they may only do so where they act in accordance with a clearly law that permits them to do so.

### Legitimate Aim

Only restrictions which aim to protect one of the legitimate interests listed in Article 19(3) of the ICCPR are legitimate. This list is exclusive: restrictions which protect other interests are not acceptable. The interests are:

- a. respect of the rights or reputations of others
- b. national security or public order
- c. public health or morals



**Discussion: What are the limitations to freedom of expression provided under the ICCPR in terms of national security and public order? What conditions does international law provide for these limitations?**

The main reasons for this list are as follows:

- Freedom of expression is a fundamental right and only very important interests can override it.
- If there is not a limited list along these lines, governments will make all sorts of claims about the need to limit freedom of expression which may not be valid.

It may be noted that certain interests are not included in the list found at Article 19(3), including:

- Fear or confusion among the public: International law does not accept this type of paternalistic thinking. Freedom of debate, and not control by the government,

is the best way to address confusion or fears.

- **Protection of the economy:** In some cases, governments have claimed that they need to restrict freedom of expression to protect the economy. Once again, international law does not accept this argument (although freedom of expression may be limited to protect public order). A strong economy is best promoted by open discussion and debate rather than limitations on free speech.

For security forces, the most important legitimate aim will be public order, perhaps along with national security in some extreme cases. This means that laws which allow security forces to limit free speech to protect public order may be legitimate (as long as they comply with the other parts of the test).

## Necessity

The third part of the test is that restrictions must be necessary to protect the legitimate interest. This seems obvious: if it is not necessary to restrict this fundamental right, how could that be justified; in practice, however, this part of the test is the most complex, and the vast majority of international cases are decided on this part of the test.

The term 'necessary' includes a number of specific requirements:

- **Pressing need:** Minor threats to protected interests do not pass a threshold test for restricting freedom of expression; there must be a pressing need to protect the interest.
- **Least intrusive:** The government should choose the measures that are most conducive to freedom of expression achieving its goals. For example, licensing of newspapers would prevent undue concentration of ownership but this objective can be achieved in ways that are far less harmful to freedom of expression.
- **Not overbroad:** Only the harmful expression should be caught by the restriction, and not also legitimate expression. For example, a law which prohibited criticism of officials would protect reputation, but would be overbroad because a narrower law could achieve the same effect.
- **Proportionate:** Limitations should not be proportionate in the sense of not causing more harm than good. Sometimes discussion of a certain subject poses risks to society, but the discussion is so important that it should take place anyway. This also applies to sanctions, which may be disproportionate even if some sanction is warranted.

## State of Emergency

Beyond these limited restrictions on freedom of expression, States also have a limited power to derogate from rights in case of emergencies. This power is set out in Article 4 of the ICCPR. Article 4 places a number of conditions, both substantive and procedural, on the imposition of emergency derogations, as follows:

- derogations may only be entertained in times of emergency which threaten the life of the nation;
- derogations must be officially proclaimed;



- derogations may only limit rights to the extent strictly required and may never lead to discrimination;
- no derogation is possible from certain key rights, including the rights to life, to be free of torture and slavery, not to be imprisoned for a contractual obligation, not to be tried or sentenced for something which was not a crime at the time of commission, to recognition as a person before the law, and to freedom of thought, conscience and religion;
- States imposing derogations must inform other State Parties of the rights to be limited and the reasons for such limitation; and
- derogating States must inform other State Parties of the termination of any derogations.

The case-law of the Human Rights Committee indicates a great reluctance to recognise as legitimate states of emergency which are declared in peacetime. As the Committee noted in its General Comment on Article 4:

“If States parties consider invoking article 4 in other situations than an armed conflict, they should carefully consider the justification and why such a measure is necessary and legitimate in the circumstances.”

[General Comment No. 29: States of Emergency (Article 4), 24 July 2001]

Among other things, it is clear that any application of emergency laws derogating from rights must be limited in time. The Human Rights Committee specifically stressed this in its General Comment on Article 4 stating:

“Measures derogating from the provisions of the Covenant must be of an exceptional and temporary nature.”

### 1.3.3 Three Other Key Characteristics of Freedom of Expression

#### Independence

Bodies which regulate the media should be independent in the sense of being protected against political or commercial interference. The reasons for this are fairly obvious. If such protection is absent, the decisions of these bodies will be influenced by political or commercial considerations, rather than freedom of expression and the public interest. This is a serious problem in many countries.

In its Declaration of Principles on Freedom of Expression in Africa, the African Commission on Human and People's Rights noted:

“Any public authority that exercises powers in the areas of broadcast or telecommunications regulation should be independent and adequately protected against interference, particularly of a political or economic nature.”

Guaranteeing independence of regulatory bodies in practice is difficult, and the way in which this is done must be tailored to the local political and institutional context. Involving a greater range of players – including the legislature and civil society – in the process of appointing the governing members of such bodies helps

to bolster independence. Protection for the tenure of members against removal is also important.

For security forces, including the police, this rule means that staff must be scrupulously politically objective in the way they carry out their tasks. The fact that a particular journalist or newspaper is critical of the government, or even of the police themselves, is not a reason to treat that journalist or newspaper any differently at an operational level.



**Discussion: Do you think it would be difficult to treat journalists from all media outlets in the same way? What would you do if you came under pressure to “make life difficult” for certain media outlets?**

## Diversity

A very important aspect of the right to ‘seek and receive’ information and ideas, noted above, is the right of listeners and viewers to have access to a wide range of sources of information and ideas. Promoting a diverse media is one of the most important ways of realising this aspect of the right in practice.

Once again, there is strong international authority for this idea. For example, the Declaration of Principles on Freedom of Expression in Africa states:

*“Freedom of expression imposes an obligation on the authorities to take positive measures to promote diversity, which include among other things:*

- *availability and promotion of a range of information and ideas to the public;*
- *pluralistic access to the media and other means of communication, including by vulnerable or marginalised groups, such as women, children and refugees, as well as linguistic and cultural groups;*
- *the promotion and protection of African voices, including through media in local languages; and*
- *the promotion of the use of local languages in public affairs, including in the courts.”*

As with independence, promoting diversity in practice can be difficult. There are a number of ways of doing this. Many countries have rules limiting concentration of media ownership, recognising that one of the attributes of diversity is having different owners so that the same view is not found in all media. Another way of doing this is to ensure that all three types of broadcasters – public service, commercial and community – are legally allowed and are licensed in fact. Each type of broadcaster serves a different information need in society, so diversity requires all three to be part of the broadcasting system.

### New Media: Community Media, Alternative Media

In the last few decades, new forms of media have appeared to supplement traditional media, both public and private (print, radio, television and online), and to respond to citizens' needs. These include community media and alternative media.

The term community media refers to media which are linked to a community, whether this is a community of interest or a geographical community. Key elements in the definition of community media are that the outlet is non-profit, that it serves the particular community in terms of its content and programming, and that it is, at least to some extent, owned, controlled and run by the community, including in terms of the production of content.

The most common type of community media is community radio, given the low costs of setting one up, and the natural format of programming. The latter have become very popular as a means of giving voice and serving the information needs of smaller communities, which cannot of themselves support more commercial forms of broadcasting.

Many countries around the world have put in place specific regulatory regimes to recognise, license and fund community radios. The key elements of these regimes are a clear definition what constitutes a community radio, special reservation of frequencies for these radios (because they cannot compete openly with commercial radios for frequencies), special licensing systems for these radios (again, because they cannot normally manage to go through the complex process that often applies to the licensing of commercial radio), and often funding schemes to support these radios, because they have limited sources of revenue that they can draw on.

The second category, alternative media, refers to another approach to new media, although some community media also belong to this category.

The term "alternative" signifies that these media provide different types of information from what is disseminated through the private, public, government or commercial media.

Alternative media outlets are not owned by major media houses and have a very different editorial line. The information they disseminate often runs counter to that found in the mainstream media and is not characterised by "group think". Sometimes, they even oppose the mainstream mass media.

They often espouse different ideas from those discussed in more conventional political circles. These alternative media represent very different philosophical currents: social and solidarity economy, the far left, the far right, and so on.

The very nature of the alternative media means that it relies on a different financial model, with a particular focus on preserving its independence. Some of these media refuse all advertisements and subsidies. Others accept advertising, grants or donations from foundations or others, but only where this does not affect their editorial freedom.

Alternative media may take the form of periodicals or radio (although rarely television for financial reasons), but they increasingly take the form of online journals,

webzines and blogs, among others.

They appeared in the 1970s, most notably in the form of community radios, and were given a boost with the growth of the Internet, which allowed them to expand, thanks to streaming technology, in terms of the means they use to disseminate information: text, audio or video recordings.

## The right to information

The right to 'seek and receive' information also includes a right to access information held by public bodies. This has been clearly recognised under international law. As the Declaration of Principles on Freedom of Expression in Africa states:

*"Public bodies hold information not for themselves but as custodians of the public good and everyone has a right to access this information, subject only to clearly defined rules established by law."*

There are two main ways for this right to be implemented: through the proactive disclosure of information which is of public importance, and through establishing a system for making and responding to requests for information. It is accepted that these systems must be implemented through legislation which must, among other things, set out clearly the process by which requests may be made and set clear timelines and other rules for responding to requests. Importantly, a good right to information law will also put in place an independent administrative appeals mechanism, a sort of information commission, to which individuals whose requests for information have been refused may appeal.



**Discussion: Have you ever heard of the right to information? Do you think it seems reasonable as an obligation on security forces? What might some of the benefits and problems with this right be?**

The Declaration of Principles on Freedom of Expression in Africa sets out in some detail the rules which should be found in right to information laws:

"The right to information shall be guaranteed by law in accordance with the following principles:

- *everyone has the right to access information held by public bodies;*
- *everyone has the right to access information held by private bodies which is necessary for the exercise or protection of any right;*
- *any refusal to disclose information shall be subject to appeal to an independent body and/or the courts;*
- *public bodies shall be required, even in the absence of a request, actively to publish important information of significant public interest;*
- *no one shall be subject to any sanction for releasing in good faith information on wrongdoing, or that which would disclose a serious threat to health, safety or the environment save where the imposition of sanctions serves a legitimate*

*interest and is necessary in a democratic society; and*

- *secrecy laws shall be amended as necessary to comply with freedom of information principles.”*

# 1.4 Journalism and Citizenship: Serving Democracy

This was stressed by Loïc Hervouet, journalist and former President of the School of Journalism of Lille, in his article, “Journalism and Citizenship: The twins of democracy” (Cahiers du Journalisme, No. 2, 1996).

“The legitimacy of the work of the journalist is derived from the citizen and it is the cornerstone of our ability to reason. This, of course, is obvious in a democracy, because it is information that makes the subject a citizen and allows him or her to exercise rights effectively. But it is also true, perhaps even more so, in totalitarian countries, because information is the basis for the liberation of the citizens.”

According to Aurélien Leclerc (L'entreprise de presse et le Journaliste, University of Quebec Press, 1991), in a liberal media environment the press contributes to strengthening democracy in at least six ways:

- information (keeping abreast of events);
- information (practical information for everyone);
- taking a position (editorials, notes, letters to the editor...);
- entertainment (crosswords and various games, cartoons, soap operas...);
- mobilisation (a sense of belonging to a community...); and
- education (provides ongoing education after the citizen has left school).



**Discussion: What do you think are some of the main roles that journalists play in society? Can these functions be fulfilled by other actors? What sorts of ways do journalists interact with security forces?**

Hervouet recounts three fundamental freedoms on which freedom of information depends:

- That of the citizen, whom access to information allows to progress from ignorance to knowledge, thereby constituting the first human right. “Without free citizens, there is no freedom of information.”
- That of the media, which is an economic underpinning of democracy, as it allows for the practical exercise of freedom of the citizen. The media must be able to develop in a positive economic and legal environment. “It is through the presence of the media that citizens can realise their right to information. Wit-

hout a viable media, there is no freedom of information.”

- That of the journalist, who is the human instrument of democracy. He or she must never forget that he or she serves the public and its media. “Without freedom for journalists, there is no freedom of information.”

The citizen has three, albeit limited, tools to control the work of journalists and the media:

- The ‘citizen as consumer’ (citizen reader, listener, viewer or Internet user) who chooses whether or not to consume (purchase) the information provided by the media.

- The ‘citizen as voter’, and therefore legislator. It is in his name that the regulatory, economic and social conditions for the exercise of the right to information are set.

- The ‘citizen as free thinker’ who can rebel against those who try to dominate journalists and the media, whether this is through political or economical means.

### **From Information Journalism to Providing Information of “Added Value”**

“Journalism and democracy are interdependent institutions; they change through the interplay between their internal contradictions and as a result of changes to the conditions in which they are practised. The contract between journalism and democracy is, therefore, also in constant state of renewal....”

The communications sociologist, Jean Charron (*Journalisme et démocratie*, University of Laval Press, Quebec, 2004) has noted far-reaching changes in recent practices of media professionals. We have gone from information journalism to providing information of ‘added value’.

An equally important development was the advent of the partisan press in the nineteenth century (as distinguished from the periodicals of the eighteenth century), which, in turn, has been succeeded in the twentieth century by the news media.

Jean Charron has stated: “The media are trying to bring about profound changes to the terms of the contract between journalism and democracy, by redefining the way in which they exercise their function of mediating the public space.”

According to him, information journalism can be described as resting on five key principles:

- Objectivity: “The professional journalist is someone who knows how to set aside his or her personal preferences and beliefs; someone who applies his or her expertise to the facts, which are accorded absolute pre-eminence.”

- Public interest: information serves to inform citizens and shape public opinion.

- Universality: objective information is provided to all citizens.

- Public service “as a result of which the function of providing information should

be free of commercial interference” even though the media operate as commercial entities which are financed through advertising.

- The specific characteristics of journalistic discourse, which separate it from other forms of media discourse, such as advertising, propaganda, fiction or entertainment.

In recent years, the growth in the number of media services has meant that the reader, listener, viewer and Internet user are being targeted as consumers, based on their personal or professional interests.

Furthermore, there has been a decline in advertising, which alone can no longer bear the cost of the growth in media services, and this has benefitted, among others, “paying customers”.

Finally, “consolidation between communications giants has led to an unprecedented level of concentration of ownership.”

All these factors have led to the emergence of a new type of journalism, ‘value-added journalism’, in which:

- Social and political factors play less and less of a role in the strategic choices of the shareholders.

- The crisis of advertising and audience fragmentation require managers to align information policies more closely with commercial imperatives. Media managers have broken down the wall that traditionally divided the editorial and commercial branches of media outlets.

- The system of funding has created tension between media owners and managers, on the one hand, and editorial teams, on the other, with the latter seeing their power over editorial policy progressively declining.

- We are witnessing a period of commercialisation of information. The media and journalists rely less and less on information per se, and more on ‘value added’ information in terms of analysis, the angle of the story, putting information into perspective, personalisation of information, humour ... all tools which introduce more subjectivity into the process.

- The distinction between information provider and consumer is increasingly blurred. Consumers are increasingly serving as providers, through SMS, Internet forums, use of amateur footage, phone in programmes.

This form of journalism is less closely aligned with the values of public interest and universality, and is more focused on diversity, uniqueness and market forces.

Is democracy under threat as a result? Jean Charron concludes: “From the point of view of democracy, emerging forms of journalism contain both the best and worst, as is the case with traditional news journalism and as was the case with opinion journalism in the nineteenth century. However, there is a difference inasmuch as, in the current media system, due to the overabundance and diversification of information, it is easier to express the best and the worst and both are more easily accessible to the citizen.”

## 1.5 Freedom of the Media: Legal Obligations

As noted above, international law allows States to impose certain restrictions on freedom of expression, and freedom of the press, but only where they conform to the standards noted above regarding freedom of expression, including in relation to restrictions. By the same token, international law rules out certain types of restrictions, on the basis that they do not conform to the standards. In this section of the manual, we outline some of the key international standards, along, in some cases with better international practice, which are relevant to the media. These are in addition to the more general characteristics that have already been noted above, such as the need to adopt a right to information law giving individuals the right to access information held by public bodies.

### 1.5.1 Who is a Journalist?

*Journalists are defined according to their functions and the nature of their activity. According to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, “[Journalists] are individuals who observe and describe events, document and analyse events, statements, policies, and any propositions that can affect society, with the purpose of systematizing such information and gathering of facts and analyses to inform sectors of society or society as a whole. Such a definition of journalists includes all media workers and support staff, as well as community media workers and so-called “citizen journalists” when they momentarily play that role.” (4 June 2012 – A/HRC/20/17)*

The UN Human Rights Committee has also adopted a functional definition of the profession of journalist. Under international law, not every scheme of licensing or registering journalists is legitimate. The Committee has clarified as follows:

“Journalism is a function shared by a wide range of actors, including professional full-time reporters and analysts, as well as bloggers and others who engage in forms of self-publication in print, on the Internet or elsewhere, and general State systems of registration or licensing of journalists are incompatible with paragraph 3 [of Article 19 of the ICCPR].”

[General Comment No. 34, 12 September 2011]

This issue was explored in detail in a 1985 opinion of the Inter-American Court of Human Rights, in a case looking at the legitimacy of a scheme whereby journalists were required to belong to a specific association and where conditions – for example as to age and education – were placed on them. The government in question (Costa Rica) argued that the requirement that journalists belong to the association was legitimate for three reasons:

- First, it was the ‘normal’ way to regulate professions.
- Second, it sought to promote higher professional and ethical standards, which



would benefit society at large and ensure the right of the public to receive full and truthful information.

- Third, the licensing scheme would guarantee the independence of journalists in relation to their employers. All three grounds could be justified as necessary to protect public order, understood broadly as “the conditions that assure the normal and harmonious functioning of institutions based on a coherent system of values and principles.

The Court noted that public order would benefit much more by protecting the free flow of information and ideas than by controlling access to journalism:

“Freedom of expression constitutes the primary and basic element of the public order of a democratic society, which is not conceivable without free debate and the possibility that dissenting voices be fully heard ... It is also in the interest of the democratic public order inherent in the American Convention that the right of each individual to express himself freely and that of society as a whole to receive information be scrupulously respected.”

[Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism, Advisory Opinion OC-5/85 of 13 November 1985, Series A, No. 5]

Examining the first argument, the Court distinguished between journalism and other professions, noting:

“The profession of journalism – the thing journalists do – involves, precisely, the seeking, receiving and imparting of information. The practice of journalism consequently requires a person to engage in activities that define or embrace the freedom of expression which the Convention guarantees. ... This is not true of the practice of law or medicine, for example. Unlike journalism, the practice of law and medicine – that is to say, the things that lawyers or physicians do – is not an activity specifically guaranteed by the Convention. ... The Court concludes, therefore, that reasons of public order that may be valid to justify compulsory licensing of other professions cannot be invoked in the case of journalism because they would have the effect of permanently depriving those who are not members of the right to make full use of [the right to freedom of expression].”

The Court also dismissed the argument that licensing schemes are necessary to ensure the public’s right to be informed, by screening out poor journalists and promoting professional standards, among other things because of the potential for abuse of such a system. Instead, the Court focused on the need for the greatest possible amount of information, rather than control over it.

The Court then turned to the argument that a licensing scheme would bolster the association and thereby strengthen the profession and help protect journalists defend their rights as against their employers. The Court found that this goal could be accomplished through less intrusive means and hence failed to meet the necessity part of the test for restrictions on freedom of expression.

The same reasoning means that it is not legitimate for the State to define who is a journalist (which would by definition rule out certain individuals as not being journalists, contrary to the very principles established by the Court). At the same

time, it may be necessary to recognise certain individuals as journalists for special purposes, for example to ensure that they can have access to crowded courtrooms or the parliament, for purposes of a press conference or to use them to provide information to the public, for example on a criminal case.

The way this problem is addressed in many democracies is through a system of accreditation, whereby certain journalists' associations are recognised as being legitimate and then the individual members are accredited through recognition of the press cards issued by those associations to their members. There are different systems for determining which associations are legitimate. In the United Kingdom, for example, the different associations have come together in a sort of self-recognition process, which is then recognised by the police. In other cases, it is the police that recognise different associations. In this case, it is very important that the police undertake this task in a fair and objective way, so as not to discriminate against certain associations. This allows journalists freedom to organise themselves, and yet also ensures that the authorities can protect the flow of information to those journalists who are able to carry that information to the public.



**Discussion: What do you think of the decision of the Court? Do you agree with it in for your country?**

In certain cases, for example parliament or the courts, there may be special accreditation systems in place to ensure that those journalists who regularly report on events there can access those venues. In some countries, parliament provides facilities such as Internet access and even office space to accredited journalists. It should be noted that the purpose of these systems is not to recognise special rights or benefits for certain members of society (i.e. journalists), but to ensure a flow of information to the public. In other words, what is being protected here is the flow of information from these important venues to the public, and not some special rights for journalists.

Even accreditation schemes must meet certain standards, however. As the UN Human Rights Committee has stated:

“Limited accreditation schemes are permissible only where necessary to provide journalists with privileged access to certain places and/or events. Such schemes should be applied in a manner that is non-discriminatory and compatible with article 19 and other provisions of the Covenant, based on objective criteria and taking into account that journalism is a function shared by a wide range of actors.”

[General Comment No. 34, 12 September 2011]

One example of good practice is the United States, where oversight of the system of accreditation to the legislature is vested in a Standing Committee of Correspondents which, in turn, is elected from among those who are already accredited members. Members serve for two years and anyone seeking accreditation must apply to the Committee. There are three types of House and Senate press passes: (1) Day Pass; (2) Temporary Pass; and (3) Permanent Pass.

In some countries, in an approach which can be described as poor practice, the process is overseen by officials from the accreditation bodies, which can lead to retribution against journalists who carry out their job of being critical. In some countries, the rules even allow for accreditation to be withdrawn for critical reporting, which clearly defeats the whole idea.

### The Right to Gather Information and to Protect Sources

As noted above, the right to freedom of expression protects not only the right to 'impart' but also the right to 'seek' information. This means that, subject only to legitimate restrictions imposed in accordance with the three-part test for restrictions, everyone, including journalists, has the right to investigate, and to seek and collect information relating to those investigations. Indeed, this aspect of the right is as strongly protected under international law as the right to express oneself. This will be explored in more detail later in the manual in the specific contexts of police investigations and judicial hearings.

International law provides strong protection for the right of journalists and others who provide the public with information of public interest to refuse to divulge their confidential sources of information. This is recognised as being an important component of the protection of the free flow of information and ideas in society. This is because if journalists are not able to offer real protection for confidentiality for those who seek it, those individuals are unlikely to approach journalists in the first place. The information they relay would therefore not be made publicly available. The real interest being protected here is, therefore, the right of the public to seek and receive information and ideas.

In many countries, this right to protect sources is nearly absolute, while in others, it may be overridden in certain special circumstances. These were set out clearly in the Declaration of Principles on Freedom of Expression in Africa as follows:

"Media practitioners shall not be required to reveal confidential sources of information or to disclose other material held for journalistic purposes except in accordance with the following principles:

- the identity of the source is necessary for the investigation or prosecution of a serious crime, or the defence of a person accused of a criminal offence;
- the information or similar information leading to the same result cannot be obtained elsewhere;
- the public interest in disclosure outweighs the harm to freedom of expression; and
- disclosure has been ordered by a court, after a full hearing."



**Discussion:** Have you ever come across the idea of protecting journalists' sources? What implications might there be for security forces flowing from this idea?

## Protection for the Physical Integrity of Journalists

As noted above, international law places a positive obligation on States to protect the ability of journalists to do their work of informing the public. This is based on the right of everyone to security of the person, but for journalists it goes beyond that and is part of the right to “seek, receive and impart” information and ideas, at least insofar as they are being targeted for their work. This is addressed in more detail in the following chapter.

### 1.5.2 Regulation of the Media

#### Regulation of the Print Media

International law distinguishes between licensing systems for the media – which require the prior authorisation of a regulatory authority or the government, which might be withheld – and registration requirements, which oblige those who wish to start a media outlet to provide certain information to a regulator or official body before they begin.

It is clear that, under international law, licensing regimes for newspapers are not legitimate. International law is even suspicious of registration regimes for the print media, on the basis that they are not necessary. Unlike broadcasting, there are no natural shortages for the print media (i.e. like the limited airwaves needed for broadcasting) and no other reasons to license (i.e. control access) to this medium.

There are four special international mandates on freedom of expression: the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, the OAS Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples’ Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. Each year, these mandates work together to adopt a Joint Declaration a freedom of expression issue. As they stated in their 2003 Joint Declaration:

“Imposing special registration requirements on the print media is unnecessary and may be abused and should be avoided. Registration systems which allow for discretion to refuse registration, which impose substantive conditions on the print media or which are overseen by bodies which are not independent of government are particularly problematical.”

Various authoritative statements and cases make it clear that while a technical registration system is not per se a breach of the right to freedom of expression, it will become a breach if it is either applied too broadly or if substantive conditions are attached to it. As the Declaration of Principles on Freedom of Expression in Africa states:

“Any registration system for the print media shall not impose substantive restrictions on the right to freedom of expression.”

As a general rule, international law does not support the imposition of special penalties on publication of material in the print media. If material is harmful, it should be prohibited regardless of how it is published. This is becoming even more true today, when the distinction between media and other forms of disseminating information, such as blogging or social media sites, is getting more blurred.

However, it is recognised that dissemination of material through the media may cause more harm than dissemination in other ways. In recognition of this, in many countries, special systems of redress are available for harms perpetrated via the media. These have different aims, including to provide accessible redress to people who have been harmed by something published in the media but who cannot afford to go to court. These systems are examined in more detail in the next section.

The power of the media to do more harm through the publication of certain types of material, such as defamatory material may in some cases justify harsher penalties, based on the degree of harm done. It may also justify different penalties, including penalties that are only available for the media, and specifically the rights of correction and reply.

In many countries, these remedies are set out in law and are mandatory. However, there is some question as to whether this is appropriate. As the UN Special Rapporteur on Freedom of Opinion and Expression has cautioned against a legally regulated-mandated right of reply, and stated that the right should in any case be limited to allegedly false facts:

“The Special Rapporteur is of the view that if a right of reply system is to exist, it should ideally be part of the industry’s self-regulated system, and in any case can only feasibly apply to facts and not to opinions.”

The ‘right of correction’ is limited to a right to point out erroneous information; the media outlet’s editors are required to correct the mistake, but may do so in their own words. Instead of a correction, a media outlet may also publish a ‘retraction’ – essentially saying they withdraw a particular statement. A correction and a retraction undoubtedly constitute an interference with the editorial freedom of the media outlet against which they are invoked – but the interference is relatively minor.

The ‘right of reply’ requires media outlets to give up space in their publication to allow the wronged party to express themselves in their own words. As such, it is a greater interference with the right to freedom of expression than a right of correction. On the other hand, it enables the right to freedom of expression of the person exercising the reply; their right to freedom of expression is enhanced.

Deciding when a right of reply is appropriate and when a right of correction will suffice can be complex. Regardless of this issue, international law allows for a right of reply only where it can be justified in accordance with the three-part test for restrictions on freedom of expression. To provide guidance on this issue, the Committee of Ministers of the Council of Europe (the leading human rights body in Europe) adopted a resolution on the right of reply in 1974. It recommends that the right should be recognised, but only for factually incorrect statements, and with the following exceptions:

- a. if the request for publication of the reply is not addressed to the medium within a reasonably short time;
- b. if the length of the reply exceeds what is necessary to correct the information containing the facts claimed to be inaccurate;
- c. if the reply is not limited to a correction of the facts challenged;

- d. if it constitutes a punishable offence;
- e. if it is considered contrary to the legally protected interests of a third party;
- f. if the individual concerned cannot show the existence of a legitimate interest.

[Resolution (74)26 on the right of reply – position of the individual in relation to the press, 2 July 1974]

Some other conditions are usually associated with a right of reply, including that the reply does not exceed the length of the original article. The reply should be published for free, on a mandatory basis by the periodical and within a short period of time, as established by law. The reply should be inserted in the same place, using the same type of characters, and should be the same length as the original article.



**Discussion: Has anyone here ever used the right of reply? What sort of situations do you think might justify a right of reply? Can you see yourself using one?**

## Regulation of Broadcasters

There is a significant difference in the ways that the print and broadcast media are regulated in most countries, in part because of the very different ways in which these media are distributed. An important consideration here is that distribution of broadcast signals has traditionally relied on a limited public resource, namely the airwaves. Regulation has thus been justified on the basis both that it is necessary to prevent disorder in the airwaves and that it is legitimate to regulate the exclusive grant of a right to use a public resource. These rationales have been used to justify two common forms of broadcast regulation, namely licensing and regulation of content.

As noted above, it is essential that licensing processes be conducted by a body that is independent of government, for otherwise the process will not promote the overall public interest but, instead, the interests of the government of the day. The licensing process is a key way of promoting diversity in the airwaves, and contributing to diversity should be an explicit goal of the licensing process. It can do this, for example, by examining the type of content that an applicant for a broadcasting licence is proposing to provide, and only granting the licence if that content contributes to diversity.

Beyond the goals of independence and diversity, however, it is important that licensing be done in a democratic manner, so as to ensure that the process is fair and gives everyone an equal opportunity to obtain a licence. In addition, it should not be unduly onerous, especially for community broadcasters. As the UN Human Rights Committee has stated:

*“States parties must avoid imposing onerous licensing conditions and fees on the broadcast media, including on community and commercial stations. The criteria for the application of such conditions and licence fees should be reasonable*

*and objective, clear, transparent, non-discriminatory and otherwise in compliance with the Covenant. Licensing regimes for broadcasting via media with limited capacity, such as audiovisual terrestrial and satellite services should provide for an equitable allocation of access and frequencies between public, commercial and community broadcasters.”*

[General Comment No. 34, 12 September 2011]

In most countries, the regulatory authority also has the power to regulate broadcasting content. This is in part based on the idea that if one is using a public resource – namely the airwaves – one must use it in a responsible manner, and in part on the idea that broadcasting is a powerful medium which comes right into our living rooms, and that special content rules therefore need to be imposed to protect against harm, including with respect to children.

### Public Service Broadcasting

Broadcasters which are publicly owned exist in most countries around the world. Historically, in many countries, these broadcasters have often been subject to government control. The idea of public service broadcasting posits another approach: publicly owned broadcasters which operate independently of government control, and which serve the wider public interest, complementing and extending the services offered by commercial broadcasters, and thereby contributing to diversity in the media.

The main reason why independence is so important for public broadcasters has been elaborated on eloquently by the Supreme Court of Ghana:

*“The state-owned media are national assets: they belong to the entire community, not to the abstraction known as the state; nor to the government in office, or to its party. If such national assets were to become the mouth-piece of any one or combination of the parties vying for power, democracy would be no more than a sham.”*

[New Patriotic Party v. Ghana Broadcasting Corp., 30 November 1993, Writ No. 1/93]

This vision of independent public broadcasting is clearly supported by international law, as is clear from the following quote from the UN Human Rights Committee:

*States parties should ensure that public broadcasting services operate in an independent manner. In this regard, States parties should guarantee their independence and editorial freedom. They should provide funding in a manner that does not undermine their independence.”*

[General Comment No. 34, 12 September 2011]

## 1.5.3 Regulation of Content

### Civil Law Restrictions

In most countries, there are both civil and criminal law restrictions on what may be published or broadcast. A key international principle here is that where the civil law will provide adequate protection, it is unnecessary to resort to the criminal law to protect the interest. Key examples of civil law rules are the rules on defamation and protection of privacy.

Otherwise, this is a complex area and there is some difference between countries as to the specific type of restrictions that are imposed. Some of the leading international standards for two types of restrictions on freedom of expression – namely to protect reputation (defamation laws) and privacy – are outlined below.

#### **Defamation:**

Every country has some sort of restriction on freedom of expression to protect reputations, otherwise known as defamation laws. The protection of reputation through defamation laws is one area where it is unnecessary to use the criminal law, although criminal defamation laws remain in place in many countries. As the UN Human Rights Committee has put it:

*“The penalization of a media outlet, publishers or journalist solely for being critical of the government or the political social system espoused by the government can never be considered to be a necessary restriction of freedom of expression....*

*States parties should consider the decriminalization of defamation and, in any case, the application of the criminal law should only be countenanced in the most serious of cases and imprisonment is never an appropriate penalty.”*

[General Comment No. 34, 12 September 2011]

While it is legitimate to protect reputation, it is also important that these laws do not go too far, or they will also prevent legitimate criticism. Criticism of politicians and officials, including security officials, is a core responsibility of the media, and an important way of holding the government to accountable. If defamation laws are too harsh, the media will not be able to fulfil its role as the fourth estate.

The 2000 Joint Declaration by the special international mandates on freedom of expression contains the most detailed statement on standards for defamation laws, as follows:

*“At a minimum, defamation laws should comply with the following standards:*

- *the repeal of criminal defamation laws in favour of civil laws should be considered, in accordance with relevant international standards;*
- *the State, objects such as flags or symbols, government bodies, and public authorities of all kinds should be prevented from bringing defamation actions;*
- *defamation laws should reflect the importance of open debate about matters of public concern and the principle that public figures are required to accept a greater degree of criticism than private citizens; in particular, laws which*



*provide special protection for public figures, such as desecration laws, should be repealed;*

- *the plaintiff should bear the burden of proving the falsity of any statements of fact on matters of public concern;*
- *no one should be liable under defamation law for the expression of an opinion;*
- *it should be a defence, in relation to a statement on a matter of public concern, to show that publication was reasonable in all the circumstances; and*
- *civil sanctions for defamation should not be so large as to exert a chilling effect on freedom of expression and should be designed to restore the reputation harmed, not to compensate the plaintiff or to punish the defendant; in particular, pecuniary awards should be strictly proportionate to the actual harm caused and the law should prioritise the use of a range of non-pecuniary remedies.”*

### Privacy

Privacy, like reputation, is protected in most countries. Again, for the most part, civil law protection is deemed sufficient, although certain types of privacy breach, such as tapping of telephones, are usually criminal in nature.

Two international standards are of particular relevance for privacy. First, the concept must be defined in a clear manner. International courts have often avoided attempts to define the concept. For example, the European Court of Human Rights has stated: “The Court does not consider it possible or necessary to attempt an exhaustive definition of the notion of ‘private life’.”

[Niemietz v. Germany, 16 December 1992, Application no. 13710/88]

However, it should be defined narrowly when it comes into conflict with the freedom of expression rights of third parties. For example, many right to information laws expressly exclude information concerning the work-relating functions of an individual from their exceptions for privacy.

Second, and even more important, when the right to freedom of expression comes into conflict with privacy, decision-makers, including courts, should assess the overall public interest in protecting privacy against the interest in allowing the expression. This is reflected in the Declaration of Principles on Freedom of Expression in Africa, which states:

“Privacy laws shall not inhibit the dissemination of information of public interest.”

### Criminal Restrictions on Content

Given the very serious sanctions associated with criminal proscriptions on speech, care must be taken to ensure that they are not applied in a manner which unduly restricts freedom of expression. A particular risk here is that, to avoid any possibility of receiving a serious criminal sanction, individuals will steer well clear of the zone of prohibition, avoiding even protected speech, so as to make sure they will not be heavily sanctioned, a phenomenon mentioned above and referred to as the chilling effect.

At the same time, certain expressions pose such a serious risk of harm to the general public interest that they may be the subject of criminal proscriptions. It is generally accepted that States may limit speech to protect such interests as equality, security and public order and public morals, among others.



**Discussion: What sort of restrictions do you think are important enough to warrant being covered by the criminal law? Are there some restrictions that are criminal that should be civil?**

## Hate Speech

The protection of equality through prohibiting hate speech is seen as being so important under international law that Article 20(2) of the ICCPR actually requires States to ban it, stating:

“Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.”

While international law requires States to ban hate speech, there is always a risk that restrictions on freedom of expression may be abused. To avoid this, international courts have interpreted the scope of this restriction narrowly. The term ‘advocacy’ in Article 20(2) means that the person acted with the intent of inciting hatred, while the term ‘incitement’ requires a close nexus between the speech and the prohibited outcome. Only incitement to discrimination, violence and hostility may be prohibited.

In a 2001 Joint Statement on Racism and the Media, the special international mandates on freedom of expression set out a number of conditions which hate speech laws should respect:

- *no one should be penalised for statements which are true;*
- *no one should be penalised for the dissemination of hate speech unless it has been shown that they did so with the intention of inciting discrimination, hostility or violence;*
- *the right of journalists to decide how best to communicate information and ideas to the public should be respected, particularly when they are reporting on racism and intolerance;*
- *no one should be subject to prior censorship; and*
- *any imposition of sanctions by courts should be in strict conformity with the principle of proportionality.*

## Protecting Security and Public Order:

It is incumbent on States to safeguard national security and public order, failing which they would not be in a position to protect human rights or democracy itself. At the same time, abuse of this duty has been rife in many States around the world.

International courts and leading commentators have applied three main measures

to prevent abuse of national security and public order rules. First, they have insisted that these concepts, and national security in particular, not be defined in an unduly broad manner. The UN Human Rights Committee, for example, stated in its 2011 General Comment:

*“Extreme care must be taken by States parties to ensure that treason laws and similar provisions relating to national security, whether described as official secrets or sedition laws or otherwise, are crafted and applied in a manner that conforms to the strict requirements of paragraph 3....*

Such offences as “encouragement of terrorism” and “extremist activity” as well as offences of “praising”, “glorifying”, or “justifying” terrorism, should be clearly defined to ensure that they do not lead to unnecessary or disproportionate interference with freedom of expression.”

Paragraph 3 of Article 19 sets out the test for restrictions on freedom of expression, described in some detail above (provided by law, serves a legitimate aim and is necessary).

Second, they have insisted on a clear intent requirement, consistently with basic criminal law principles. The European Court of Human Rights has, for example, stated in a case involving a conviction for publishing a poem:

*“Even though some of the passages from the poems seem very aggressive in tone and to call for the use of violence, the Court considers that the fact that they were artistic in nature and of limited impact made them less a call to an uprising than an expression of deep distress in the face of a difficult political situation.”*

[Karataş v. Turkey, 8 July 1999, Application no. 23168/94]

Third, they have insisted on a very close causal relationship, or close nexus, between the expression and the risk of harm. In this regard, the Declaration of Principles on Freedom of Expression in Africa states:

*“Freedom of expression should not be restricted on public order or national security grounds unless there is a real risk of harm to a legitimate interest and there is a close causal link between the risk of harm and the expression.”*

### Protection of Morals:

Most States have in place certain restrictions on freedom of expression to protect public morals, such as rules on obscenity. While it is accepted that what constitutes an appropriate limitation on freedom of expression to protect morals does vary from society to society, there are also limits to this. As the UN Human Rights Committee stated in its 2011 General Comment:

*“The Committee observed in general comment No. 22, that “the concept of morals derives from many social, philosophical and religious traditions; consequently, limitations... for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition”. Any such limitations must be understood in the light of universality of human rights and the principle of non-discrimination.”*

A particular issue here is the legitimate scope of laws which aim to protect the religious sensitivities of believers. Many democracies no longer have blasphemy laws on the books and in others these laws have not been used for many years. It is becoming increasingly clear that while international law does provide protection to believers against incitement to hatred against them as individuals, in accordance with Article 20(2) of the ICCPR, it is not legitimate to protect religions as such. Perhaps the clearest statement on this is found in the 2011 General Comment adopted by the UN Human Rights Committee:

*“Prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant, except in the specific circumstances envisaged in article 20, paragraph 2, of the Covenant. Such prohibitions must also comply with the strict requirements of article 19, paragraph 3, as well as such articles as 2, 5, 17, 18 and 26. Thus, for instance, it would be impermissible for any such laws to discriminate in favour of or against one or certain religions or belief systems, or their adherents over another, or religious believers over non-believers. Nor would it be permissible for such prohibitions to be used to prevent or punish criticism of religious leaders or commentary on religious doctrine and tenets of faith.”*

## 1.6 Complaints Systems: Auto- and Co-regulation

The very nature of the media, which includes an obligation to provide the public with timely information on matters of public interest, means that even the very best journalists will sometimes make mistakes. Furthermore, the pressure of competition for stories and audience share can sometimes lead to unprofessional behaviour. These problems are significantly exacerbated in transitional contexts, where the media sector is often expanding rapidly and where not all journalists have received adequate professional training and/or have extensive experience in journalism.

It is widely recognised that members of the public should be able to lodge complaints where they are of the view that the media has not acted in a professional manner. Different systems have evolved to meet this need. There are two basic approaches to this issue.

The first system is self-regulation, by which it is meant systems that lack any statutory basis and which are established by the media on a voluntary basis. These systems are in place in many countries. Many international commentators have expressed a preference for self-regulatory systems. As the Declaration of Principles on Freedom of Expression in Africa states:

*“Effective self-regulation is the best system for promoting high standards in the media.”*

In other countries, co-regulatory systems have been put into place. These normally have a statutory basis, but the media and/or journalists play a dominant or at least very significant role in how the system is run.

The specific details of these systems vary, but the vast majority involve two main components. First, there is a code of conduct or some other set of pre-established standards, against which media behaviour is assessed. In many cases, this code is developed by leading members of the media sector to which the system applies (e.g. print media or broadcasters). In other cases, the code is developed by the complaints body).

The second main component of these systems is the establishment of a council or other oversight body to receive and decide on complaints. The composition of this body, and how members are appointed, vary depending on the system. However, in most cases, whether self- or co-regulatory, the body often includes not only members of the media, but also representatives of the public as a whole.

Complaints systems vary somewhat in terms of whether they apply to individual journalists or to media outlets (i.e. newspapers or broadcasters). Some of the reasons they might apply to media outlets is that the decision to publish is normally a collective decision, taken by the outlet through an editorial process, so it makes sense that the outlet should be responsible. Furthermore, the harm done is as a result of publication by the outlet, not simply the authoring of a story by an individual journalist. Finally, the outlet is in a better position to provide appropriate remedies, such as printing a correction or reply.

A key attribute of most of these complaints systems is that their codes of conduct set a higher standard for the media than one finds in the civil or criminal law. For example, whereas the legal obligation in the area of hate speech is incitement to hatred, many codes of conduct go much further, calling on media outlets to avoid promoting stereotypes. On the other hand, the sanctions that may be imposed are usually very light, in most cases consisting only of a requirement to publish a statement acknowledging the breach. As such, these complaints systems can be seen as an alternative to a more court-based approach, promising high standards but only minor sanctions in return.

### Examples of Self- and Co-Regulatory Systems

A good example of a self-regulatory body is the German Press Council, a non-profit association. The Council covers all types of print media outlets, including media available only on the Internet, but does not extend to the broadcast media. According to Article 9 of the statutes of the German Press Council of 25 February 1985, it has the following

- to monitor problems in the press and to work towards resolving them;
- to safeguard unhindered access to news sources;
- to produce recommendations and guidelines on journalistic work;
- to fight developments which could endanger free information and the free formation of opinions among the public;

- to investigate and decide upon complaints about individual newspapers, magazines or press services; and
- to regulate editorial data protection.

The Association of Sponsors of the German Press Council, which primarily concerns itself with the legal, financial and personnel decisions of the organisation, brings together two representatives from each of the four founding journalists' and publishers' associations. There are also two Complaints Committees. The General Complaints Committee has two chambers of six members each, and the Complaints Committee for Editorial Data Protection also has six members. All of the members of the various bodies are publishers and journalists. They are proposed by the four sponsor organisations and spend two years in office.

A good example of a co-regulatory system is the Indonesian Press Council, which is established by law but has its members appointed exclusively by the media. Specifically, three members are appointed by journalists' associations and three by media owners, while another three, representing the general public, are appointed by journalists and owners working together. The Council has only limited powers of sanction, namely to require media to carry statements recognising that they have operated in breach of the rules. It also plays a role in terms of resolving wider social disputes and promoting and protecting press freedom.

## 1.7 The Rights and Duties of Journalists According to Professional Ethics

"The responsibility of journalists vis-à-vis the public outweighs all other responsibilities, particularly in relation to employers and the government. Their fact-finding mission necessarily has limitations that journalists themselves impose spontaneously."

The law is not everything. Beyond legal rights and duties, journalists have important incentives to set their own ethical rules, which they then agree to respect. These can be developed by journalists' unions, and sometimes in consultation with the heads of the media that employ them.

This is different from the complaints systems noted above, which are largely driven by external complaints. This is more about internal or ethical standards, and aspirational standards which journalists and media outlets aim to reach, as opposed to minimum standards which they commit to respect.

Accordingly, and beyond forms of "citizen control", it is important to highlight some principles that journalists and the media should respect:

- Journalistic freedom ends where that of the citizen begins. The former involves respect for the truth, as well as readers and the public, and all of its constituent

parts, including minorities.

- Journalistic freedom is justified if it is used well. It is not an end in itself. Democracy is an end in itself, while journalistic freedom is a means to that end.
- Journalists are not special citizens. They have no rights other than those enjoyed by all citizens. They are not above the law.

The journalist must exercise his or her profession taking into account his or her role in a democracy and his or her responsibilities vis-à-vis citizens, with a view to promoting the public interest in being informed about matters of public importance. Always taking an investigative approach, the journalist should not become jaded or let his or her pen or microphone become a mouthpiece for others. His or her priority is to understand everything, while being well aware of the safeguards for his or her work: there are certain ethical standards to be respected both in terms of how information is collected and investigated, and how choices are made as to what is presented to the public.



**Discussion: What do you think about these systems of ethics for journalists? Do they work in practice? Do you have something similar in the security forces or it is more about rules?**

A journalist should be aware of the fact that the media has a preference for subjects which lend themselves to media reporting – conflicts, terrorist attacks, disasters, trials, various facts, strikes and so on – rather than subjects which are closer to daily reality – such as the evolution of society, health, extreme poverty or the status of women or children. This is a tendency that journalists should, taking into account their working reality, try to counteract to the extent possible, always keeping focused on satisfying the public's right to receive information on matters of public importance.

As a result, the journalist must be strict with him- or herself, and know everything about his or her story. He or she has to be able to react to what an interviewee says or the information that he or she receives. A professional journalist should not only pursue news stories but also, once in place, practise active listening, always taking care to put him- or herself in the place of the reader, listener, viewer or Internet user, and especially to take the public interest into account. According to Loïc Hervouet, for the journalist, "The bare fact does not exist. The reporter is a mediator who selects facts, but only significant facts, on the basis of a system of prioritisation which are then explained and placed in context."

Media also have an obligation to refuse offers of financial or other benefits from anyone, whether from the public or private sector or from abroad, which are made with a view to influencing editorial policy or the articles carried by their media outlet. The same applies to individual journalists. Furthermore, media outlets should never seek to pass off advertising as news content.

### Codes of Ethics for Journalists

The excerpts below from various ethical codes highlight the main principles of the

profession of journalism, which should be applied in all circumstances.

These standards are not imposed or regulated; rather, they are part and parcel of what makes a journalist a professional and, as such, maintains the credibility of the media and ensures that citizens have a reliable and trustworthy source of information and ideas. There is no specific system for applying or enforcing these rules. Instead, their purpose is to set standards of reference for journalists who aim to do their work diligently and professionally. It is important to note that judges in certain countries, such as Canada, have imposed sanctions on journalists based on violations of the code of ethics adopted by the profession.



**Discussion: Have journalists or media in your country adopted a code of ethics? If so, do you think the rules contained in the code are sufficient to regulate the profession? If not, why?**

Foremost among these texts is the charter of rights and duties of journalists adopted by the International Federation of Journalists (IFJ), namely the Declaration of Principles on the Conduct of Journalists. For European journalists, an important text is the Munich Charter. In France, the regional daily press has adopted a set of Rules and Practices, while American, British and Japanese journalists have also adopted similar texts.

## IFJ Declaration of Principles on the Conduct of Journalists

This international Declaration is proclaimed as a standard of professional conduct for journalists engaged in gathering, transmitting, disseminating and commenting on news and information in describing events.

1. Respect for truth and for the right of the public to truth is the first duty of the journalist.
2. In pursuance of this duty, the journalist shall at all times defend the principles of freedom in the honest collection and publication of news, and of the right of fair comment and criticism.
3. The journalist shall report only in accordance with facts of which he/ she knows the origin. The journalist shall not suppress essential information or falsify documents.
4. The journalist shall use only fair methods to obtain news, photographs and documents.
5. The journalist shall do the utmost to rectify any published information which is found to be harmfully inaccurate.
6. The journalist shall observe professional secrecy regarding the source of information obtained in confidence.
7. The journalist shall be aware of the danger of discrimination being furthered by the media, and shall do the utmost to avoid facilitating such discrimination based on, among other things, race, sex, sexual orientation, language, religion, political or other opinions, and national or social origins.
8. The journalist shall regard as grave professional offences the following:



- plagiarism;
- malicious misrepresentation;
- calumny, slander, libel, unfounded accusations;
- the acceptance of a bribe in any form in consideration of either publication or suppression.

Journalists worthy of the name shall deem it their duty to observe faithfully the principles stated above. Within the general law of each country the journalist shall recognize in professional matters the jurisdiction of colleagues only, to the exclusion of every kind of interference by governments or others.

[Adopted by the 1954 World Congress of the IFJ. Amended by the 1986 World Congress.]

### Declaration of the Rights and Duties of Journalists, Charter of Munich

This Declaration was drafted and approved at Munich, on 23-24 November 1971. It was later adopted by IFJ and by many journalists' unions in Europe.

#### Preamble

The right to information, to freedom of expression and criticism is one of the fundamental rights of man.

All rights and duties of a journalist originate from this right of the public to be informed on events and opinions.

The journalist's responsibility towards the public excels any other responsibility, particularly towards employers and public authorities.

The mission of information necessarily includes restrictions which journalists spontaneously impose on themselves. This is the object of the declaration of duties formulated below.

A journalist however, can respect these duties while exercising his profession only if conditions of independence and professional dignity effectively exist. This is the object of the following declaration of rights.

#### Declaration of Duties

The essential obligations of a journalist engaged in gathering, editing and commenting news are:

1. To respect truth whatever be the consequence to himself, because of the right of the public to know the truth;
2. To defend freedom of information, comment and criticism;
3. To report only on facts of which he knows the origin; not to suppress essential information nor alter texts and documents;
4. Not to use unfair methods to obtain news, photographs or documents;
5. To restrict himself to the respect of privacy;

6. To rectify any published information which is found to be inaccurate;
7. To observe professional secrecy and not to divulge the source of information obtained in confidence;
8. To regard as grave professional offences the following: plagiarism, calumny, slander, libel and unfounded accusations, the acceptance of bribe in any form in consideration of either publication or suppression of news;
9. Never to confuse the profession of a journalist with that of advertisements salesman or a propagandist and to refuse any direct or indirect orders from advertisers;
10. To resist every pressure and to accept editorial orders only from the responsible persons of the editorial staff.

Every journalist worthy of that name deems it his duty faithfully to observe the principles stated above. Within the general law of each country, the journalist recognises, in professional matters, the jurisdiction of his colleagues only; he excludes every kind of interference by governments or others.

### **Declaration of Rights**

1. Journalists claim free access to all information sources, and the right to freely inquire on all events conditioning public life. Therefore, secret of public or private affairs may be opposed only to journalists in exceptional cases and for clearly expressed motives;
2. The journalist has the right to refuse subordination to anything contrary to the general policy of the information organ to which he collaborates such as it has been laid down by writing and incorporated in his contract of employment, as well as any subordination not clearly implicated by this general policy;
3. A journalist cannot be compelled to perform a professional act or to express an opinion contrary to his convictions or his conscience;
4. The editorial staff has obligatorily to be informed on all important decisions which may influence the life of the enterprise. It should at least be consulted before a definitive decision on all matters related to the composition of the editorial staff e.g. recruitment, dismissals, mutations and promotion of journalists is taken;
5. Taking in account his functions and responsibilities, the journalist is entitled not only to the advantages resulting from collective agreements but also to an individual contract of employment, ensuring the material and moral security of his work as well as a wage system corresponding to his social condition and guaranteeing his economic independence.

### **Extracts from the Rules and Practices Adopted by the Regional Daily Press in France**

The free communication of ideas and opinions is one of the most precious of the rights of man. Every citizen may, accordingly, speak, write, and print with freedom, but shall be responsible for such abuses of this freedom as shall be defined by

law. (Article 11 of the Declaration of the Rights of Man and of the Citizen of 26 August 1789).

Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. (Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms).

Close to its readers and aware of its responsibilities towards them, the newspaper will ensure that "facts" are distinguished from "comment" when presenting information.

### 1. Demand seriousness and rigour

The credibility of a newspaper is based on its ability to disseminate accurate information. Also, the publication of reliable information is a guarantee of the seriousness, rigour and good faith of a newspaper. Do not feed rumours. In particular, a newspaper makes every effort not to feed and amplify a rumour, even if it is already being transmitted via other forms of communication. (...)

### 4. Show respect for individuals

A newspaper fully respects legal prohibitions on incitement to discrimination, hatred or violence against a person or a group of people "because of their origin or their membership or non-membership of an ethnic group, nation, race or religion". For a newspaper it would be discriminatory to instil, in the minds of readers, feelings of difference (segregation) based on contempt, dislike or aversion. Hatred involves hostility towards someone, the desire to harm him because of his membership (or not) of an ethnic group, a nation.... Violence should be understood in a moral as well as in a physical sense. Beyond clearly identifiable provocations, a newspaper avoids words or adjectives that create or are likely to create the feelings described above. (...)

### 7. Do Not Defame

A newspaper respects the honour and reputation of people. In general, it respects four criteria that form the basis of actions inspired by a commitment to good faith:

- The legitimacy of the aim pursued. A newspaper ensures that facts are approached through the filter of concern for the public interest, based on the public's right to information. Priority is given to the subject matter rather than the actors involved.
- The absence of personal animosity. A newspaper guards against publishing deliberately polemic critical articles which are inspired by personal animosity.
- Moderation of expression. A newspaper ensures that articles do not contain gratuitously offensive or outrageous content about individuals.
- The reliability of the investigation. Gathering information is based on the adversarial principle (meaning that all parties/sides/opinions must be heard or represented), which is the basis of actions inspired by a commitment to good faith. (...)

## 8. Cover All Important Points of View.

To ensure this, when investigating a story, a newspaper makes contact with all of the main stakeholders in order to obtain their views and present information fairly. When a person refuses to make a statement, a newspaper informs its readers about this. [...]

## 11. Respect the Presumption of Innocence.

According to Article 9 of the Declaration of the Rights of Man and of the Citizen of 26 August 1789, which has constitutional status, everyone is presumed innocent until proven guilty, i.e. until he or she has been convicted. Where the right of the public to receive information justifies the dissemination of information, a newspaper should take exemplary care in deciding what information to disseminate and how to present it, so as to respect the presumption of innocence.

## 12. Ensure Information is Accurate and Exercise Prudence and Fairness in Disseminating It.

In general, the principles of truthfulness, prudence, fairness and rigour outlined above apply with particular force when processing information about general news, and especially stories involving real people.

### Extracts from the Ethical Rules of the North American Society of Editors in Chief

Systematic bias in commentary, whereby editors knowingly depart from the truth, is an affront to the spirit of American journalism.... In presenting current events, this is a subversive attack on a fundamental principle relating to information.

**Equity** - A newspaper should not attack the reputation or honour of a person without giving that person an opportunity to present a defence. Good practice requires that this opportunity be offered to the individual whenever a serious accusation is made, unless the source of that accusation is an established institution associated with the administration of justice.... A newspaper has no right to violate privacy or to discuss a person's feelings unless this is done to serve the public interest rather than to satisfy the curiosity of its readers.

**Decency** - A newspaper will only be accused of hypocrisy if, while professing a commitment to the highest moral standards, it offers its readers spicy news stories oriented towards inciting crime and debauchery, the publication of which can hardly be claimed to serve the common good. As they lack the authority to enforce compliance with these precepts, the journalists represented here express the hope that bad practices will generate widespread criticism and that the perpetrators will respond to the pressure of condemnation by a majority of journalists.

### Extracts from the Code of Conduct and Working Rules of the National Syndicate of Journalists of the United Kingdom

Art. 5 of the Working Rules – A journalist shall not, for any reason whatsoever, exploit the work of another journalist by plagiarism or the unauthorised use of his

or her work.

Art. 12 of the Working Rules – A member shall treat other journalists with respect.

Art. 5 of the Code of Conduct – A journalist obtains material by honest, straightforward and open means, with the exception of investigations that are both overwhelmingly in the public interest and which involve evidence that cannot be obtained by straightforward means.

Art. 6 of the Code of Conduct – A journalist does nothing to intrude into anybody's private life, grief or distress unless justified by overriding consideration of the public interest.

### Extracts from the Japan Code: The Yomiuri Code

[Adopted by the Nihon Shinbun Kyokai, the association of newspaper publishers, in 1946 and revised in 1955]

#### II. Sphere of News Reporting and Editorial Writing

The freedom of news reporting and editorial writing should be subject to the following voluntary restraints:

1. The fundamental rule of news reporting is to convey facts accurately and faithfully.
2. In reporting news, the personal opinion of the reporter should never be inserted.
3. In treating news, one should always remember and strictly guard against the possibility of such news being utilized for propaganda purposes.
4. Criticism of individuals should be limited to that which could be said directly to the individual involved.
5. Partisanship in editorial comments, which knowingly departs from the truth, undermines the true spirit of journalism.

# Module 2

## Safety of Journalists



# Table of Contents

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<b>Module 2 –Safety of Journalists.....</b>	<b>55</b>
2.1 Overview of the Problem.....	57
2.2 State Obligations.....	59
2.3 The Work of Intergovernmental and Non-Governmental Organisations.....	66

## 2.1 Overview of the Problem

“Noting that violence and other crimes against those exercising their right to freedom of expression, including journalists, other media actors and human rights defenders, have a chilling effect on the free flow of information and ideas in society (‘censorship by killing’), and thus represent attacks not only on the victims but on freedom of expression itself, and on the right of everyone to seek and receive information and ideas”

[2012 Joint Declaration on Crimes against Freedom of Expression of the international mechanisms for the promotion of freedom of expression]

It is not enough to protect the right of journalists to express themselves freely. As the above quote makes clear, when a journalist or anyone else is attacked for expressing themselves, a crime is committed not only against that journalist, but against the free flow of information and ideas in society. The impact of attacks on journalists and others on freedom of expression, understood as the free flow of information and ideas in society, is clear. The special mandates on freedom of expression have described this problem as ‘censorship by killing’. The aim of these attacks is only partly to silence the individual who is the subject of the attack. The wider aim is to send a message to anyone who would report on certain matters that they are at risk in the hope that this will exert a chilling effect on all public discussion of the issue.

The UN Plan of Action on the Safety of Journalists and the Issue of Impunity, adopted on 12 April 2012, highlights the importance of journalists and others expressing themselves to be able to work in a climate of safety:

*“In a climate where journalists are safe, citizens find it easier to access quality information and many objectives become possible as a result: democratic governance and poverty reduction; conservation of the environment; gender equality and the empowerment of women; justice and a culture of human rights, to name a few.”*

Unfortunately, as monitoring by groups like Reporters sans frontières (RSF), the Committee to Protect Journalists and UNESCO shows, the incidence of physical attacks against journalists and others exercising their right to freedom of expression, in particular human rights defenders, has grown very substantially in recent years. As the UN Plan of Action on the Safety of Journalists and the Issue of Impunity notes:

*“Acts of violence and intimidation (including murder, abduction, hostage-taking, harassment, intimidation and illegal arrest and detention) are becoming ever more frequent in a variety of contexts. Notably, the threat posed by non-state actors such as terrorist organizations and criminal enterprises is growing.”*

There is growing evidence of special targeting of women journalists. The UN Plan of Action on the Safety of Journalists and the Issue of Impunity recommends specific measures to protect women journalists, who face higher risks when discharging their journalistic duties:



*“Female journalists also face increasing dangers, highlighting the need for a gender-sensitive approach. In carrying out their professional duties, they often risk sexual assault, whether in the form of a targeted sexual violation, often in reprisal for their work; mob-related sexual violence aimed against journalists covering public events; or the sexual abuse of journalists in detention or captivity. Furthermore, many of these crimes are not reported as a result of powerful cultural and professional stigmas.”*

The 2013 Resolution (A/RES/68/163) of the General Assembly of the United Nations on the safety of journalists and the issue of impunity similarly noted: “the specific risks faced by women journalists in the exercise of their work, and underlining, in this context, the importance of taking a gender sensitive approach when considering measures to address the safety of journalists”.

Furthermore, evidence suggests that the vast majority of those involved in these attacks are never brought to justice. Monitoring by the IFEX, a global network that defends and promotes freedom of expression suggests that fully 90% of the perpetrators of these crimes are never brought to justice.



**Discussion: Why do you think those who attack journalists are seldom punished? Do you think it is harder for female journalists to report on crime, and if so why? Are these specially hard crimes to solve or do you think there may be a lack of political will or relevant security institutions in some cases?**

As a result, it is necessary to protect the safety of journalists on the ground, to ensure that they can do their investigative work. This responsibility lies not only with media managers but also with public authorities in each country.

Key elements of the responsibility of media outlets are to provide training, safety equipment, social support (such as health care and life insurance) and adequate remuneration to journalists working in difficult environments. It is also important to make sure that journalists are made aware of the risk of sexual assault. Women journalists are more frequently victims of this crime than their male colleagues, but awareness efforts should not focus only on women. The awareness of male journalists should be raised so that they are better able to understand the concerns of women journalists and to provide them with appropriate and timely assistance.

National and international journalist groups have often provided reminders of these obligations. The International Federation of Journalists (IFJ) has called on media outlets and public authorities to respect their International Code of Practice for the Safe Conduct of Journalism.

### The IFJ International Code of Practice for the Safe Conduct of Journalism

1. Journalists and other media workers should have appropriate equipment for their assignments, including a first aid kit, communication tools, appropriate means of transportation and, where necessary, protective clothing.
2. Media outlets and, if necessary, public authorities should provide training for journalists and media workers on the risks of undertaking assignments where dangerous conditions prevail or may reasonably be expected.
3. The authorities should inform their staff about the importance of respecting the rights of journalists and order them to respect the physical integrity of journalists and media workers in the exercise of their profession.
4. Media outlets should provide social assistance, including life insurance, to all staff undertaking journalistic activities outside of their usual place of work.
5. Media outlets should provide free medical treatment and health care. They should cover the costs of rehabilitation and recuperation for journalists and media workers who have been injured or become ill when working outside of their usual place of work.
6. Media outlets should provide protection to freelance and part-time employees. These workers should enjoy the same benefits in terms of social assistance, training and equipment as full time staff.

## 2.2 State Obligations

States are under an obligation to take adequate measures to end the climate of impunity and such measures should include devoting sufficient resources and attention to preventing attacks on journalists and others exercising their right to freedom of expression, investigating such attacks when they do occur, bringing those responsible to justice and compensating victims.

State responsibility for attacks on journalists can be engaged in two key ways. First, where officials are directly involved in these attacks, the State bears direct responsibility for those officers who are its agents. Unfortunately, analysis suggests that this is more common than one might imagine. In these cases, the State is under a direct obligation to make a serious effort to put an end to this form of interference with the right to freedom of expression.

As the quotation at the top of this section from the 2012 Joint Declaration by the special international mandates on freedom of expression makes clear, the State also has a wider obligation pursuant to freedom of expression guarantees to take positive steps to prevent all attacks which are motivated by a desire to silence social communicators.

The same idea is reflected in Article 12(2) of the UN Declaration on Human Rights Defenders, which calls on States to take 'all necessary measures' to protect

human rights defenders against attacks, discrimination and any other measure aimed at preventing them from exercising their rights.

Special obligations apply in the context of armed conflict, where the rules of international humanitarian law come into play. These are set out in the Geneva Conventions and their Protocols, adopted, respectively, in 1949 and 1977. These rules apply to all actors involved in armed conflicts, including combatants and civilians, but they do not address the situation of journalists in any detail (see box below). A far more specific statement about the obligations of States towards journalists in situations of armed conflict is the UN's Security Council's Resolution 1738 (see box below).

### **Geneva Conventions**

The original 1949 Geneva Conventions did not address the issue of journalists very closely. However, they did provide for "Persons who accompany the armed forces without actually being members thereof", including 'war correspondents', to be treated in the same way as members of the armed forces for purposes of treatment of the sick, wounded, shipwrecked or captured in certain situations, namely where they accompany the armed forces, and have been authorised to do so (see, for example, Article 4.A(4) of the Third Geneva Convention relative to the Treatment of Prisoners of War, which relates to journalists who are embedded with the military).

In the Protocols to the Geneva Conventions adopted in 1977, a different rule was created for journalists who are not embedded but who are working as journalists. They are to be treated as civilians and non-combatants (provided that they do not take action which qualifies them as combatants) (see, for example Article 79 of Protocol I relating to the Protection of Victims of International Armed Conflicts).

### **UN Security Council Resolution 1738**

1. Condemns intentional attacks against journalists, media professionals and associated personnel, as such, in situations of armed conflict, and calls upon all parties to put an end to such practices;
2. Recalls in this regard that journalists, media professionals and associated personnel engaged in dangerous professional missions in areas of armed conflict shall be considered as civilians and shall be respected and protected as such, provided that they take no action adversely affecting their status as civilians. This is without prejudice to the right of war correspondents accredited to the armed forces to the status of prisoners of war provided for in article 4.A.4 of the Third Geneva Convention;
3. Recalls also that media equipment and installations constitute civilian objects, and in this respect shall not be the object of attack or of reprisals, unless they are military objectives;
4. Reaffirms its condemnation of all incitements to violence against civilians in situations of armed conflict, further reaffirms the need to bring to justice, in accordance with applicable international law, individuals who incite such violence, and indicates its willingness, when authorizing missions, to consider, where ap-

appropriate, steps in response to media broadcast inciting genocide, crimes against humanity and serious violations of international humanitarian law;

5. Recalls its demand that all parties to an armed conflict comply fully with the obligations applicable to them under international law related to the protection of civilians in armed conflict, including journalists, media professionals and associated personnel;

6. Urges States and all other parties to an armed conflict to do their utmost to prevent violations of international humanitarian law against civilians, including journalists, media professionals and associated personnel;

7. Emphasizes the responsibility of States to comply with the relevant obligations under international law to end impunity and to prosecute those responsible for serious violations of international humanitarian law;

8. Urges all parties involved in situations of armed conflict to respect the professional independence and rights of journalists, media professionals and associated personnel as civilians;

The international community, conscious of the many risks faced by journalists on the ground in their search for information, has, since the end of the Second World War, adopted a number of conventions aimed at promoting their safety. These conventions, resolutions and binding declarations aim to prevent impunity for acts committed against journalists (see box).

Some of these, specifically the conventions, are legal instruments, which are formally binding on those States which have ratified them. In these cases, in many countries, these rules take precedence over national law, while in others, they need to be incorporated by national law to have effect locally. Otherwise, these documents are interpretations of other legally binding rules, in particular human rights rules, or commitments by those who have adopted them to take specific sorts of actions to address the problem of attacks on freedom of expression.

### **Conventions and Declarations on Safety of Journalists**

- The 1949 Geneva Conventions and their 1977 Protocols;
- International Convention for the Protection of All Persons from Enforced Disappearance;
- Resolution 12/16 of the United Nations Human Rights Council: Freedom of opinion and expression;
  - Resolution 29 adopted by UNESCO 29th Session of General Conference, Condemning Violence Against Journalists (1997);
- Belgrade Declaration (UNESCO): Support to Media in Violent Conflict and in Countries in Transition (2004);
- UN Security Council Resolution 1738 (2006), condemning attacks against journalists and media professionals in situations of armed conflict;
- Resolution 1535 (2007) and Recommendation 1783 (2007) of the Parliamentary Assembly of the Council of Europe on Threats to the lives and freedom of expres-

sion of journalists;

- The Medellin Declaration (UNESCO) on Securing the Safety of Journalists and Combating Impunity (2007);
- 2012 Joint Declaration on Crimes against Freedom of Expression of the international mechanisms for the promotion of freedom of expression;
- UN Plan of Action on the Safety of Journalists and the Issue of Impunity, adopted by the IPDC in March 2012 and endorsed by UN Chief Executives Board in April 2012;
- Resolution 21/12 (adopted in 2012) and Resolution 27/5 (adopted in 2014) of the United Nations Human Rights Council on Safety of Journalists
- Resolution 68/163 of the General Assembly of the United Nations on the Safety of Journalists and the Issue of Impunity, adopted in December 2013.

By far the most detailed and extensive statement on State obligations in the area of attacks on journalists and others exercising their right to freedom of expression is the 2012 Joint Declaration on Crimes against Freedom of Expression of the international mechanisms for the promotion of freedom of expression. It starts by indicating that States have an obligation to “unequivocally condemn attacks committed in reprisal for the exercise of freedom of expression and should refrain from making statements that are likely to increase the vulnerability of those who are targeted for exercising their right to freedom of expression.” It is important to make it very clear that States are taking a clear position against this sort of crime and that they are serious about their intentions to resolve it.

The Joint Declaration goes on to outline a number of different measures, which may be divided into three main categories:

1. The obligation to prevent and protect against these crimes.
2. The obligation to investigate these crimes when they do occur.
3. The obligation to provide redress to the victims of these crimes.



**Discussion: Do these obligations seem reasonable or excessive to you? What specific actions do you think are reasonable to ensure the protection of journalists in your country? And in particular for women journalists?**

The Joint Declaration calls on States to provide specifically for the crime of attacks on freedom of expression, at least by providing for heavier penalties for crimes such as assault and murder where they are conducted with the intention of silencing someone and for doing away with statutes of limitation (periods after which charges may not be brought) for such crimes.

In many cases, the obligations outlined in the Joint Declaration apply directly to security forces (see box). For security forces, these obligations go beyond their general obligation to ensure that everyone can enjoy the right to security of the person, as important as this is. It is about defending the very basis of democracy, through protecting the ability of journalists to report on, and to criticise, the rich and powerful, whether they be politicians, businessmen, drug dealers or other types of criminals.

Some of the key ideas in the Joint Declaration aimed at security forces include:

- The need for security forces to receive proper training on how to deal with crimes against freedom of expression;
- The need to provide protection in cases where there is a serious risk of an attack on freedom of expression, and to set up a specialised protection unit where there are ongoing and serious threats of this;
- The need to collect and make public detailed and disaggregated statistics (for example, in terms of gender, location and suspected root causes) on attacks on freedom of expression;
- The need for independent investigations and, where necessary, special independent units (for example where the attacks may have come from within or be supported by security forces); and
- The need for sufficient resources to be allocated to investigations, including for the securing of evidence.

### **Provisions Relating to Security Forces in the Joint Declaration on Crimes against Freedom of Expression of 2012**

- appropriate training on crimes against freedom of expression, including gender specific crimes, should be provided to relevant law enforcement officials, including the police and prosecutors, as well, where necessary, to military personnel;
- operational manuals and guidelines should be developed and implemented for law enforcement officials when dealing with crimes against freedom of expression;
- States should ensure that effective and concrete protection is made available on an urgent basis to individuals likely to be targeted for exercising their right to freedom of expression;
- Specialised protection programmes, based on local needs and challenges, should be put in place where there is an ongoing and serious risk of crimes against freedom of expression. These specialised programmes should include a range of protection measures, which should be tailored to the individual circumstances of the person at risk, including his or her gender, need or desire to continue to pursue the same professional activities, and social and economic circumstances;
- States should maintain detailed and disaggregated statistics on crimes against freedom of expression and the prosecution of these crimes, among other things to facilitate better planning of prevention initiatives;

- When there are credible allegations of involvement of State agents, the investigation should be carried out by an authority outside of the jurisdiction or sphere of influence of those authorities, and the investigators should be able to explore all allegations fully;
- An effective system should be put in place for receiving and processing complaints regarding investigations by law enforcement officials of crimes against freedom of expression, which is sufficiently independent of those officials and their employers, and which operates in a transparent manner;
- Where the seriousness of the situation warrants it, in particular in cases of frequent and recurrent crimes against freedom of expression, consideration should be given to establishing specialised and dedicated investigative units – with sufficient resources and appropriate training to operate efficiently and effectively – to investigate crimes against freedom of expression;
- Sufficient resources and training should be allocated to ensure that investigations into crimes against freedom of expression are thorough, rigorous and effective and that all aspects of such crimes are explored properly;
- Where there is some evidence that a crime which has been committed may be a crime against freedom of expression, the investigation should be conducted with the presumption that it is such a crime until proven otherwise, and relevant lines of enquiry related to the victim’s expressive activities have been exhausted;
- Law enforcement bodies should take all reasonable steps to secure relevant evidence and all witnesses should be questioned with a view to ascertaining the truth;
- Investigations should be conducted in a transparent manner, subject to the need to avoid prejudice to the investigation;
- Restrictions on reporting on court cases involving prosecutions of crimes against freedom of expression should be limited to highly exceptional cases where clearly overriding interests prevail over the particularly strong need for openness in such cases;
- In addition to criminal investigations, disciplinary proceedings should be carried out where there is evidence that public officials have committed crimes against freedom of expression in the course of their professional duties.

This issue was not addressed in the Joint Declaration but it may be noted that a claimed need to protect journalists cannot justify State action to exclude them from dangerous areas. In other words, it is up to journalists, not the State, to decide whether or not to take risks in dangerous contexts. There may be certain cases where military prerogatives do require the exclusion of journalists from certain territory, although this is far less often the case than is often claimed by military forces.

The Joint Declaration also called on States to establish a civil law remedy for those who have suffered from attacks on freedom of expression (i.e. victims), as a way of supplementing the criminal justice process and also of ensuring that they are compensated.

### Access to public gatherings

The specific dangers faced by journalists in the context of demonstrations will be dealt with in more detail in a following chapter. But it is useful to note here already that security forces have a role to play in protecting the physical integrity and lives of journalists during such events.

In some cases, in the context of planned demonstrations, security forces may create media perimeters where journalists will be safe to do their job.

«When the Los Angeles Police Department develops an operational plan for an event involving a rally, it will designate an area outside the location of the rally, where the media can remain. The area should be reasonably proximate to the rally, visually and aurally.

As far as possible, the Department will attempt to prevent the 'media zone' from being overrun by the rally. Nevertheless, it is up to journalists to decide what level of risk they are willing to take, as long as they do not violate the law.”

The zone may be moved by security forces if, over the course of the event, it no longer allows journalists and their teams to have a good view of the rally as it is taking place.

Outside of these zones, journalists are responsible for themselves. But security forces will naturally assist any journalist who is threatened by protesters, as they would do for anyone else in the same situation, to the extent that this is possible within the framework their overall mission to protect public safety and any instructions they may have received, and provided that the journalists can be clearly identified by the security forces.

When security forces are required to intervene during a demonstration, they should normally hold a press briefing to inform the media, in a transparent manner, of the reasons for their intervention.



## 2.3 The Work of Intergovernmental and Non-Governmental Organisations

A number of international and non-governmental organisations are working to improve the safety of journalists and to investigate disappearances, murders or physical violence against journalists. UNESCO is the leading UN agency working in this area, on projects which include standard setting, capacity building, awareness raising as well as publishing a number of reports and other documents (including this training manual), of which the Charter for the Safety of Journalists Working in War Zones or Dangerous Areas deserves special mention. The UNESCO/ Guillermo Cano World Press Freedom Prize, given out on World Press Freedom Day (3 May each year), is intended to honour the work of an individual or an organization defending or promoting freedom of expression anywhere in the world, especially in dangerous conditions. Importantly, since the UNESCO Director-General publicly condemns the killing of individual journalists, media workers, and social media producers engaged in journalistic activities for doing their work. The status of investigation of killings of journalists is detailed in the biennial Director-General Report on the Safety of Journalists and the Danger of Impunity.

See : <http://www.unesco.org/new/en/communication-and-information/freedom-of-expression/press-freedom/unesco-condemns-killing-of-journalists/>.

A large number of NGOs do invaluable work in this area, through training, providing direct protection to those who need it, setting standards and raising awareness. Several NGOs, including RSF and the Committee to Protect Journalists, keep statistics on the number of journalists who are killed each year, and publicise these events widely. The standards for protection of journalists adopted by the IFJ were noted above. RSF has also developed a Guidebook on Journalists' Security in collaboration with UNESCO. The International News Safety Institute (INSI) was established with the specific goal of promoting safety for journalists. Many other organisations are also doing important work at the national or regional level on this issue.

When these international NGOs, which specialise in defending human rights or freedom of expression and of the press, investigate rights violations or crimes on the ground, the police should in principle be ready to work with them.

### **Media, public authorities and security services during election campaigns**

To be able to report properly during an election, journalists and their teams need to be able to access the various election events. An enabling environment for the media needs to be created in emerging democracies. Once again, police and security forces have a role to play. Often, decisions about access to campaign events are made by political parties (meetings, press conferences...) or the executive or

pursuant to the law, but security forces should do all they can to facilitate access by journalists to election meetings, polling stations, and locations where the results are announced.

In some cases, an accreditation system will need to be put in place to protect public safety. This is the case where the integrity of ballots may be at risk during counting or when the number of journalists allowed into the room must be limited. This also helps ensure that those journalists who focus specifically on election reporting have access to locations that are not otherwise open to the general public.

Where the level of violence against journalists and interference with their work is already serious under normal circumstances, some countries treat these acts as crimes or even aggravated crimes during election periods.

The International Federation of Journalists recommends that the government or election bodies disseminate a statement to political parties and security forces early in the election campaign highlighting the important role played by the media in elections, while also emphasising that those who prevent journalists from doing their work will suffer the legal consequences.

# Module 3

A Toolbox for Journalists Covering  
Conflicts, Riots and Demonstrations



# Table of Contents

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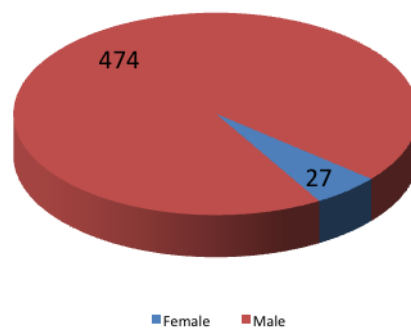
<b>Module 3 - A Toolbox for Journalists Covering Conflicts, Riots and Demonstrations.....</b>	<b>69</b>
3.1 How to Report on Conflicts.....	72
3.2 How to Report on Riots and Civil Unrest.....	75
3.3 Reporting on Organised Crime and Corruption.....	78

## Module 3 - A Toolbox for Journalists Covering Conflicts, Riots and Demonstrations

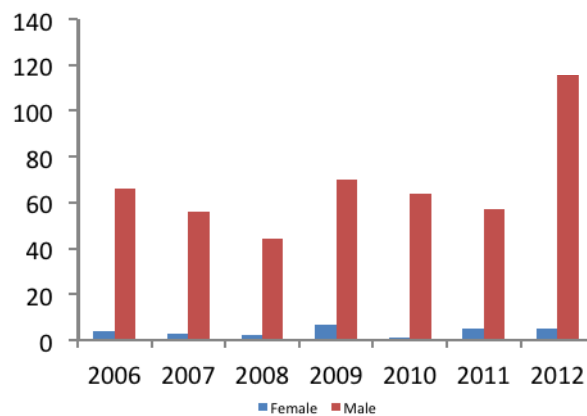
Nearly 1,000 journalists have been killed for doing their work in the last 20 years, and countless others have suffered other forms of physical harm.

[Different organisations have different statistics on the number of journalists killed. This figure comes from the Committee to Protect Journalists. See <http://cpj.org/killed/>.]

Number of journalists killed by gender 2006-2012



Number of journalists killed by gender



Statistics collected by UNESCO between 2006 and 2012 demonstrate that the number of women journalists killed accounted for 5.3% of the total number of journalists killed worldwide. However, women journalists are more likely than their male colleagues to suffer from various forms of pressure, intimidation and attacks of a sexual nature.

Journalists have been killed either because their writing or investigations have exposed issues that disturbed certain sectors of society, or because they were

working in areas of armed conflict. It is a heavy price to pay and the risk seems too high. Most of these journalists are national journalists, who often lack the support of a larger media organisation and the training and awareness needed to survive, and they also normally benefit from less protection than foreign reporters.

It is important to remember that these and other journalists work in dangerous locations to learn about what is happening there. As in previous sections of the manual, it is important to keep in mind the important work that these individuals are doing to ensure the protection of everyone's right to know. It is also important to keep in mind that, in some cases, they endanger a range of intermediaries (drivers, interpreters, technicians) as well as their families and friends.

It is clearly not possible for journalists to avoid all risk, but they can reduce the risk through anticipating the dangers. This can be done as individuals, but also collectively through their unions or media outlets, by sharing experiences, and through efforts by media outlets to mitigate the risks facing crews operating in the field.

The risk to journalists can also be very high during riots or civil disturbances as well as during more conventional conflicts. For example, a demonstration can go wrong and journalists can find themselves attacked by the demonstrators. These risks should be understood and assessed by communication professionals.

## 3.1 How to Report on Conflicts

"Never have so many different types of journalists reported the news on so many different platforms. Yet no matter the form of journalism—from investigative to beat reporting, foreign correspondence to domestic coverage, blogging to photo-journalism—thorough preparation is the starting point."

[Committee to Protect Journalists, *Journalist Security Guide : Covering The News In A Dangerous And Changing World*, 2012, Under 'Basic Preparedness']



**Discussion: In what ways do you think the growing diversity in the journalism profession makes it more dangerous? What might be done about that?**

Journalists who undertake this type of assignment should be informed, well prepared both mentally and physically, and properly equipped. It is important that they understand that matters should not be left to chance and that they constantly need to assess the risks and understand the dangers.

It is important to make a plan to minimise the risks associated with dangerous assignments and to gather as much information and key facts as possible about the nature of the reporting assignment, the situation on the ground and the overall environment. It should be noted that the risks come not simply from direct physi-

cal threats based on the hostile situation, but also because issues like health and access to adequate food can become more problematical in difficult situations.

The practical advice provided here is drawn from the International Federation of Journalists and the European Union (source: Peter McIntyre and the Committee to Protect Journalists, *Journalist Security Guide: Covering the News in a Dangerous and Changing World*, 2012).

One of the most important factors is good knowledge of the local situation. There are many good sources for this. It is useful to talk to journalists and other trusted contacts who know the country or region well. Many human rights and press freedom groups issue regular reports on country situations. In many cases, government sources – for example about travel warnings or the political or human rights situation – can be very useful. The World Health Organization has a wealth of information on its website about health issues, including risks by country and region, the availability of medical facilities and measures to mitigate or resolve health risks.

### Potential risks to be identified

- battlefield hazards such as crossfire, landmines, cluster bombs, booby traps, and artillery and air strikes;
- terrorist bombings;
- abduction for ransom or political gain;
- dangers posed by crowds, including the possibility of sexual assault, theft, tear gas attack, or violence;
- traffic hazards (the leading cause of unnatural deaths worldwide);
- border crossings and other interactions with potentially hostile or undisciplined armed groups;
- physical surveillance leading to abduction or identification of sources;
- electronic surveillance and interception of information or sources;
- potential trustworthiness and loyalties of sources, drivers, fixers, witnesses, and others;
- common crime, including the types of incidents;
- natural hazards, such as hurricanes and floods;
- health risks ranging from water-borne diseases to AIDS.

When going to a higher-risk area, it is important to prepare a formal security assessment. This should establish clear points of contact with editors, colleagues and family members, and link them to local contacts. It should also establish when a failure to be in contact should be considered as a 'situation' and what sorts of measures this might trigger. The assessment should also provide for contingency plans if problems arise. If travelling abroad, it is important to put in place arrangements for fixers, drivers and translators in advance, as far as possible. The assessment should include not only political and safety risks, but also threats to

the security of information (i.e. protection of communications and data), as well as health risks. It should consider not only the current situation but also the chance that a new risk may emerge or an existing risk may escalate in danger and seriousness. Editors should have substantial input into the security assessment and should be ready to work with it and provide assistance. The assessment needs to be monitored and reassessed constantly to make sure that it remains up-to-date.

### **Before Leaving**

- 1) Be physically and mentally ready (this is an important preventive measure), and have a medical check-up before entering danger zones; be realistic about personal limitations;
- 2) Understand the local situation well, including in relation to issues such as the political context, health and safety issues, human rights and press freedom concerns;
- 3) Know one's rights (Geneva Conventions, humanitarian law, the rights of non-combatants, human rights protections, the laws of the country or the region being visited) as well as possible sources of support in case of need (role of the Red Cross, the United Nations, local and international NGOs offering support);
- 4) Know about the social assistance and insurance benefits in case things go wrong;
- 5) Know about the health risks in the destination;
- 6) Keep editor regularly updated about movements and agree to communicate frequently and at pre-set times;
- 7) Bring the right equipment (press card, telephone numbers, dummy card holder or wallet in case of aggression, water, first aid kit, telephoto lenses for photographers and cameramen, alert and medical bracelet with emergency personal information);
- 8) Prepare the vehicle (armoured in some cases, with signs indicating "press" or "media" where this is useful, with a first aid kit and fire extinguisher, an experienced driver, an effective communication systems, and a global positioning system (GPS) if necessary);
- 9) Wear appropriate clothing (shoes for walking, baggy clothes and several layers, no bright colours, no military gear, a hat, a bulletproof vest if necessary);
- 10) Have press credentials on person, preferably laminated to protect them against water damage; always carry them with you, whether or not you decide to display them, so that you can produce them as needed.

### **On Conflict and War Zones**

- 1) Do not become a target by mistake:

It is possible to be targeted deliberately (because one is a journalist) or because one is in the wrong place at the wrong time or because of being mistaken for a military target. A few tips:



- do not wear military-type or camouflaged clothing;
- camera flashes can be confused with gun flares;
- take care regarding reflections from watches and metal on equipment or the light of the night camera;
- 2) Be knowledgeable about types of weapons (pistols and rifles or submachine guns), artillery (shells, missiles...) and mines (anti-tank, anti-personnel);
- 3) Avoid being overconfident, take responsibility and do not get carried away by other journalists getting into unduly risky situations;
- 4) Avoid exposure to risks that are unnecessary taking into account the information needed to gather for purposes of conducting the media assignment;
- 5) It is not necessary to always be close to the action to get a good view; one can sometimes get better pictures from a higher or more remote location;
- 6) Never carry a weapon or provide support to combatants as this is important in order to be recognised as a civilian;
- 7) Monitor health and mental and physical fitness;
- 8) Keep away from active fight areas; margins of error are often large and there is always a risk of coming under friendly fire;
- 9) Pay attention to other journalists and the public; if a street empties all of a sudden, there may be a reason for this;
- 10) Watch out for mines and unexploded ordnance;
- 11) Be careful when celebratory shots are being fired into the air; falling bullets can injure or kill.

### 3.2 How to Report on Riots and Civil Unrest

These types of events can escalate at any time and journalists can become targets, whether intentionally or otherwise, of security forces or protesters.

Covering riots, demonstrations and civil unrest can be as dangerous for journalists as covering armed conflicts. The fears and frustrations of the rioters can turn into violence directed at journalists, especially those working for local media outlets. Protesters may attack cameramen to avoid being identified. This may have some basis as security forces sometimes seek to use footage or pictures taken by journalists to secure convictions. This falls under the right to protect one's confidential sources of information, but it is not always respected by police and other security forces.

Journalists can also be targeted by security forces who do not want their actions

to be filmed or photographed. Sometimes, security forces believe that a media presence reinforces the determination of the rioters. This is a common phenomenon.

When a situation escalates, journalists, even if they are not being targeted, can become caught up in the crowd, with no way of getting away from tear gas grenades or rubber bullets or worse.

## Sexual Violence

Sexual assaults are a serious security risk in some contexts. While the large majority of victims of these sorts of assaults are women, there are also cases of men having been targeted. There is no way to ensure complete protection against these assaults, but some issues to consider are as follows (taken largely from Committee to Protect Journalists, *Journalist Security Guide: Covering The News In A Dangerous And Changing World*, 2012).

- Be aware of one's environment and how one may be perceived;
- Consult checklists on how to be prepared (several are available online);
- Dress conservatively and in accordance with local custom and generally avoid drawing attention to oneself; consider wearing a wedding ring even if not married; avoid makeup, tight clothing (e.g. jeans) and jewellery;
- Avoid necklaces, ponytails or other items than can be grabbed;
- Consider carrying pepper spray or a similar defensive tool;
- Try to work in tandem with a colleague;
- Make sure to have an escape route available (e.g. stay at the edge of a crowd);
- Have a story ready for situations of unwanted attention (e.g. I am just waiting for a friend to come);
- If it appears that an assault is imminent, try to do something that changes the dynamic; this will depend on the situation but shouting out unexpected things (such as, "is that a police car"), breaking things or acting in 'crazy' ways, screaming, or even urinating can be options;
- Try to avoid dangerous situations such as conflict zones where rape is used as a weapon or countries with weak rule of law;
- Consider self-defence training;
- Have in place a policy and plan for addressing sexual assaults when they occur, including access to post-exposure prophylaxis (PEP) kits, which provide initial medical treatment for people exposed to the HIV virus;
- Always keep in mind during an assault that preserving one's life is the overarching need.



### **Discussion: What measures would you advise journalists to take to protect themselves in these types of situations?**

Whether or not to wear a vest or armband identifying you as being from the media during a demonstration is a much-debated question. This helps security forces personnel identify journalists, who they may, pursuant to a code of conduct, be required to protect. But this can also be problematic if the crowd is hostile towards the media.

Remember – as in conflict situations – the goal is to get pictures or stories while limiting the risk to oneself and one's team.

### Some Practical Advice

- 1) Be sure to have press card and wear an armband or some other journalist identification, if applicable, and except where doing so might create a safety risk;
- 2) Store key numbers to call in an emergency on the mobile phone;
- 3) Agree pre-arranged times and places for the team to meet in case the team gets dispersed;
- 4) Carry a cloth and water to wet it with for protection against tear gas; the juice of a citrus fruit is an expedient remedy for eyes which have become irritated by gas;
- 5) Bring a small backpack with a first aid kit, water and some food for the day;
- 6) Cover arms and legs (to limit the irritating effects of gas on skin) and wear loose clothing made of natural fibres, which burn less easily than synthetic fibres, in the event of a Molotov cocktail attack;
- 7) Make sure someone in a position to help is aware of planned movements and is checking for arrival in a safe place at the appropriate time (i.e. monitoring potential disappearance);
- 8) Make sure to have as comprehensive and up-to-date information as possible about risks and dangerous locations. If possible, try to subscribe to a special service which provides this information, if one is available;
- 9) During an event, keep in mind that being in the centre of the action is rarely the best place to photograph, film or watch what is going on; it is better to have a wider view of the scene; also be aware of escape routes to get away from the action, or to get to a police station or hospital;
- 10) If notes need to be taken, use a small notebook carrying a prominent logo of the media outlet so as to avoid being mistaken for an undercover police officer. In general, it is preferable to work from memory and take notes after leaving the scene;
- 11) If the event escalates or if police are charging it, run as fast as possible in the opposite direction of the security forces to get away from the scene. Do not rely on the press card for protection;
- 12) Be aware of the possible deployment of water cannons. If in a situation where water cannons are being used, turn back to them so as to be protected by the bag. Whenever possible, crouch down and use jacket as a hood to create a space to breathe;
- 13) In case there is shooting with rubber bullets, lower head and turn back towards the shooting; the backpack can provide protection;
- 14) If there is a risk of live fire, wear a bulletproof vest;
- 15) If detained by the police, do not resist. One will be taken away from the protest area and – in most cases – be released once it is established one is a journalist.

### **In Case of a Terrorist Attack**

This can happen to journalists on the ground making a documentary, but also in their own offices or hotels, when they are a target.

In the first case, one can become the target of a crowd which is traumatised and which blames the journalist because they think he or she is not showing enough respect for the dead and the wounded.

An explosion may be followed by a larger bomb which is timed to explode when the police, rescue services and media workers arrive on the scene; the aim of the first bomb is to attract them and inflict maximum casualties. Security experts therefore advise against rushing to the scene immediately after a first explosion.

## 3.3 Reporting on Organised Crime and Corruption

Reporting on organised crime and corruption are dangerous activities. According to the Committee to Protect Journalists, fully 35% of all journalists killed since 1992 were reporting on these two topics. Those involved in these sorts of criminal activity do not want to be exposed, and they are often willing to go to great lengths, including by targeting journalists, to avoid this.

How to approach this issue is largely a local issue which needs to be carefully tailored to the local context. As with all dangerous assignments, good research on the situation is important to understand the risks and take appropriate mitigating action. It is also always useful to be aware of local legislation, for example regarding access to public and private property, trespass and invasion of privacy, as these may stand as barriers or limitations on conducting the investigation. It is also useful to be aware of how to use the local access to information law, if there is one.

Some useful measures to help limit risk in these contexts:

- Have access to equipment that may help; this always includes a well-charged mobile phone but could also include weather gear, a first-aid kit and, in certain contexts, protective clothing;
- Plan investigation carefully, taking into consideration the risks and how to avoid or mitigate them, including through a contingency plan;
- Keep in mind that it is not only those conducting the direct criminal activities that may pose a risk, but also official actors and systems that are protecting them (e.g. corrupt policemen or judges);
- It is often best to start the investigation with more trusted and safe sources and then work out towards more risky/dangerous sources of information, limiting

the latter based information from the former;

- When getting into potentially dangerous situations, have a clear communications plan, including by identifying when a failure to communicate will trigger a responsive action;
- When approaching hostile subjects, make journalist status clear and explain that the topic will be approached in a scrupulously impartial manner; give the subject every chance to tell his/her side of the story;
- Consider whether it is safe enough to approach more dangerous subjects at all, and also whether or not to name names in the story;
- Make use of access to information laws, which can reduce reliance on direct sources, but also keep in mind that making requests for information may provide a hint of the topic under investigation;
- In extreme situations, consider protective ways of releasing a story, for example through a collaborative effort where several newspapers run the story at the same time or by issuing the story under a pseudonym; and
- Keep an eye out for possible surveillance, which can be a sign of countermeasures by those that are being investigated.

### NGOs Providing Support for Journalists at Risk

A number of NGOs provide support for journalists at risk. Some examples include:

- Committee to Protect Journalists (CPJ): <http://www.cpj.org/fr/>
- DART Center for Journalism and Trauma: <http://dartcenter.org>
- International News Safety Institute (INSI): <http://www.newssafety.org>
- Reporters sans Frontières (RSF): <http://fr.rsf.org/securite-des-journalistes.html>

See also: <http://www.unesco.org/new/fr/communication-and-information/freedom-of-expression/press-freedom/unesco-condemns-killing-of-journalists/websites/>

# Module 4

## Security Forces: Ensuring Journalists Can Access the Information They Need



# Table of Contents

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<b>Module 4 - Security Forces: Ensuring Journalists can Access the Information they Need.....</b>	<b>81</b>
4.1 Introduction.....	83
4.2 Some General Principles.....	88
4.3 Who Should Communicate?.....	93
4.4 Limits on the Provision of Information.....	97
4.4.1 Limits Justified by Reference to the Need to Maintain Order.....	97
4.4.1.1 General Rules.....	98
4.4.1.2 Specific Rules.....	99
4.4.2 Journalists' access and justified limits .....	103
4.5 Providing Information About People.....	110

*“Democratic civilisation is based entirely on accurate information. If the citizen is not properly informed, the vote means nothing.” Jean-François Revel*

### 4.1 Introduction

In general, where police respect human rights this increases their efficiency. As highlighted in the United Nations Manual on Human Rights Training for the Police:

“When human rights are consistently respected, it is because police officers are professional in their investigations, as well as in their activities in relation to crime prevention and law enforcement. In this sense, respect for human rights is a practical requirement, in addition to being a legal and ethical requirement.”

#### **When the police respect, protect and defend human rights:**

- Public trust is enhanced, leading to better cooperation with the community;
- Prosecutions through the courts are more likely to be successful;
- The police are viewed as being part of the community and as undertaking an important social function;
- The fair administration of justice is guaranteed, building confidence in the system;
- This serves as an example for the rest of society to comply with the law;
- The police become closer to the community and are, as a result, better able to prevent crimes and to solve them through voluntary preventive action;
- The police are supported by the media, the international community and senior authorities in the country;
- This contributes to the peaceful resolution of conflicts and disputes.

A police force that is in the forefront of protecting human rights is considered to be effective. Its members do not rely on fear and brute force to achieve their goals but, instead, rely on the rule of law, honour and professionalism.

United Nations High Commissioner for Human Rights, Manual on Human Rights Training for the Police (2003)

By improving their relationships with the media and journalists, police and security forces can improve their relations with citizens.

In this context, it should be noted that the presence of women in security forces is an important factor in promoting better relationships with citizens. United Nations Security Council Resolution 1325, adopted in 2000, recognises not only the particular impact of conflicts on women, but also the need to view them as stakeholders in the prevention and resolution of conflicts. The Resolution stresses the need to promote the participation of women as military observers and members of



civilian police forces. According to the Geneva Centre for the Democratic Control of Armed Forces (DCAF), there is growing evidence that women in uniform are more likely than their male counterparts to defuse tension. They also perform essential tasks men find difficult for cultural reasons, and they can more easily access women and families. In Liberia, for example, a protection unit made up of and led by women has the positive effect of encouraging other women to feel more confident to report crimes.

## **The importance of women in security forces**

### Case study: United Nations peacekeeping operation in Liberia

The first contingent of all-female United Nations peacekeepers was deployed in Liberia in 2007, when the Government of India sent more than 100 highly qualified policewomen to the country. Reports indicate that their presence made a significant contribution in terms of persuading women to come forward, both to file complaints and to join the Liberian police.

The unit rendered the security forces more accessible for ordinary women in a country where the rate of gender-based violence is high. This is a perfect example of the United Nations' goal of implementing sensitive police reforms in post-conflict States. Based on the positive impact of this all-female Indian police unit, the model has been copied by countries contributing troops in the context of other missions.

Why is it important to assign women to UN peacekeeping operations or in general to security forces?

The presence of women in United Nations peacekeeping operations plays an extremely important role in encouraging women and girls, especially in what are often male-dominated societies. Greater participation of women has played a key role in empowering women in local communities, in meeting the specific needs of women veterans in demobilisation processes and reintegration into civilian life, and also in supporting peacekeeping operations to have closer relations with women in the community, especially women who have suffered gender-based violence.

The presence of female staff is likely also to:

- Soothe conflict situations;
- Provide support to local women, including material and psychological assistance;
- Provide role models for women in the community;
- Enhance the security of women and children at the local level;
- Help to create a safer environment in which women have less reason to be afraid;
- Enhance the UN's goal to promote gender equality;
- Expand the skills and activities of a peacekeeping mission on the ground.

Sources:

UN:

<http://www.un.org/fr/peacekeeping/issues/women/womeninpk.shtml>

UN Women:

<http://www.unwomen.org/-/media/Headquarters/Media/Publications/fr/WPS-sourcebook-04B-GenderSensitivePoliceReform-fr%20pdf.pdf>

An extremely important component of modern policing is to secure the positive engagement of the citizen in the work of the police, based on an understanding that the police are there to serve the interests of society as a whole, of which they also form part. This has multiple benefits, ranging from citizens not opposing or obstructing the work of the police, to citizens helping the police to spread messages aimed at reducing crime and other problems, to citizens actively supporting the work of police, including by providing them with information about crimes.

Communication is clearly central to this, in the larger sense of projecting an image of the police and their work to society. And the media play a key role in intermediating the process of communication between the police and the public.

This is a complex phenomenon. On the one hand, police communicate to provide information about law and order, and the public service role of the police, and to give advice on security issues. In this sense, communication is a means of promoting citizen participation. This type of communication should be founded on positive police values: justice, professional competence, service, safety and increasing the well-being of citizens. These values and the mission of security forces should be reflected in daily communications from the police to the media.

At the same time, there is intense interest in the work of the police, and citizens have a right to know about this work. This is to some extent the flip side of the communication described above. But it also goes beyond this, to the extent that the police, as a public body, have an obligation to be open so that citizens can monitor their work, in both its positive and negative aspects. In this aspect, communication by the police is not just a propaganda function, but it is part of their commitment to being accountable and of subjecting themselves to public scrutiny.

**Discussion: Do you think these two different aspects of providing information to journalists – as their right to monitor the police and to bring police actions closer to the public – are contradictory? How can this be managed?**

To some extent, these different aspects of police communications (and openness) can be contradictory. In the end, a broad commitment to openness is the best policy. As emphasized in the preamble of the procedural manual of the Metropolitan Police Service (MPS) (the Police of London), better known by the name “Scotland Yard”:

“While our interactions with the media can sometimes be complex, open and positive relationships should be encouraged and, in the end, will bring considerable benefits for everyone.”



### **Ideas Box “Your News”**

To better highlight the positive work of the police, the Metropolitan Police Service (MPS) in Great Britain set up a sort of internal ideas box. This was based on the assumption that a lot of good news or positive police work never reached the public relations department and, as a result, the general public. An email address for internal use was created to collect these positive stories. The idea is to bring them to the attention of the public relations service, so that it may ensure that they are included in the communications material disseminated to the public.

The code of conduct for relations with the media of the South African Police Service notes:

“Officers in charge of public relations should endeavour to communicate the dedicated efforts by officers to combat crime, so as to inform the community about such efforts and so that officers receive the recognition they deserve.”

Highlighting what the police do – through relations with the media and journalists – increases transparency and supports crime prevention by forging and maintaining genuine interactions with citizens.

The code of ethics of the police of the Kingdom of Belgium views even this type of communication as an opportunity to improve the quality of the services provided by their staff:

“When officers exercise their right to speak, this can help draw the attention of the relevant authorities to necessary policy changes or administrative deficiencies and optimise communication between the administration and the public.”

### **Preparations needed to establish solid relations with the media:**

- A process of internal awareness-raising on the need to involve the media in the work of the security forces;
- Reflection on what security forces want to highlight in their communications;
- A willingness to respect the public’s right to know about the activities of the police, as a public body, and to subject themselves to external public scrutiny;
- Establishing clear rules (a code of conduct or standard operating procedures) that allow journalists to report from crime scenes, and on major or sensational trials.

To highlight these points in detail, six codes of conduct or standard operating procedures are drawn upon, namely those of:

- The City of Montreal Police Service (SPVM);
- Great Britain’s Metropolitan Police Service (MPS);
- The Police Service of the Kingdom of Belgium (SPB);
- The South African Police Services (SAPS);
- The Police of Finland (PF);
- The Los Angeles Police Department (LAPD).

It is worth noting that the nature and enforceability of these codes vary considerably.

In some cases, they are developed in an organic fashion by police services as part of the rules of employment. These may then be part of the contract of employment or simply part of the general rules that apply in the workplace. In this case, failure to respect them may lead to discipline. For example, the MPS code states:

“Where deliberate or reckless breaches of this policy by police officers are identified disciplinary or criminal action will be taken by the Directorate of Professional Standards (DPS). Any member of Police Staff found to be in breach of this policy will be subject to the Police Staff Discipline Policy.”

In other cases, they are predominantly guidelines, to assist officers in making decisions about behaviour. In yet other cases, they are professional rules, adopted by a union or other type of professional association. It is hard to identify any particular best practice and much depends on the way the rules have evolved in a particular context.

It is difficult to compare different practices, since their nature and contents depend on how the rules and practices have evolved in a given context. The democratic culture and traditions of the country should also be taken into account: in an environment with deeply rooted democratic traditions, security forces will be likely to follow the rules even if they are not binding. In contrast, in situations of democratic transition, it may be preferable to develop binding rules, not only to improve the work of the security forces but also to send a clear and strong message to the public.

### Ethics

Members of security forces may rely on a number of procedures and operational methods when making a decision. When a police officer is required to communicate with the media, he or she may be facing uncharted territories and ethical rules can help guide him or her.

#### 1. Definition

Ethics are considered to be:

A critical reflection on situations which arise in life and work, which help one analyse and decide on how to deal with the possible conflicts of values and norms that can arise in practice.

Ethics do not replace an organisation's code of ethics or code of discipline. It is only with a capacity to discern that one can prioritise key values.

Ethics are directly related to taking decisions and therefore actions and so every decision has an ethical dimension. Ethics promotes fairness in complex decision-making processes.

#### 2. Why Ethics

To help members of security forces to assess especially difficult situations where:

- There is no standard rule of conduct;
- Certain standards and/or values which are accepted by the police come into conflict with other such values;
- It would be possible to defend publicly a clear failure to apply an existing standard or value, given the exceptional nature of the situation.

Meanwhile, personal values may conflict with the role of a spokesperson:

- Confidentiality
- Favouritism (my brother or my friend is a journalist, should I give him a “scoop”?)
- For free
- The image of the service
- Setting an example
- Credibility
- Conflict of interest
- Transparency
- Trust

Ethics is ... “a thought process which helps guide your actions in case of a dilemma, taking into account the values and standards which are engaged in a given situation.”

Remember that behind every decision, there is a value, whether of a personal nature or not.

## 4.2 Some General Principles

“By being proactive and offering the media good news or opportunities to show them what we do, we can get positive media coverage and increase public understanding and trust.”

A few key overriding principles govern communication processes between police and the media, and through the media to the wider public:

### The principle of maximum disclosure

While it is not always in the interests of the police to highlight all information that may be of interest to the public, for example through press releases or active forms of communication with the public, the police are a public body and they are therefore subject to the disclosure of information rules found in right to information laws. Pursuant to these laws, the police are obliged to disclose all information that is the subject of a request for information, subject only to certain exceptions, including to protect the ability of the police to investigate crimes.

For example, section 11(1) of the South African Promotion of Access to Information Act, No. 2 of 2000, states

“A requester must be given access to a record of a public body if—

(a) that requester complies with all the procedural requirements in this Act rela-

ting to a request for access to that record; and

(b) access to that record is not refused in terms of any ground for refusal contemplated in Chapter 4 of this Part.”

Article 39 of the same law, which is found in the Chapter 4 referred to in section 11(1)(b), exempts a range of categories of information relating to police work, such as sensitive investigations or police methods, or where disclosure of the information would be likely to facilitate a crime or escape from custody. Similar exceptions are found in all right to information laws.

This means that the police must, at least in response to a request for information, including from the media, provide that information unless this is likely to cause prejudice to their ability to investigate crimes (note that privacy is also protected).



**Discussion: How much of the information you have do you think would be excluded by these exceptions (to protect investigations and privacy)? What types of information or statistics should be proactively provided to the media?**

### Information provided by security forces

Security forces should provide information which:

- Is of interest to journalists (especially certain facts: accidents, crimes, thefts, arrests, indictments);
- Actively fosters public debate about issues relating to the police and their work;
- The public has a right to know;
- Helps illustrate how the police conduct their work, noting that this applies to both positive measures but also openness about challenges faced by the police;
- Helps build public confidence in the police.

### Promptness

By responding promptly to the media, the police and security forces help to clarify their position and matters in which they are involved or in which they have an interest. When security forces communicate with the media, they should be open and honest, and, as far as possible, answer queries on time.

### Communication by Everyone

The codes of conduct and operational procedures stress that all officers should follow established procedures governing communications with the media. Journalists may contact any officer to obtain information, but in general organisations provide for the centralisation of such requests, or identify focal points to ensure better monitoring and that the requests are processed by those who are more specialised or available.

Facilitating communication should be the main principle in all cases. The procedural manual of the South African Police Service states:

«No officer shall:

- Without a valid reason, hinder communication between, on the one hand, his position, unit, section, department, division, or officer in charge of public relations, etc., and, on the other hand, the media;
- Prevent an officer in charge of public relations from obtaining relevant and required information, as long as this information is not prejudicial to the Service in the performance of its duties....

A commanding officer or a project manager must consult with the relevant officer in charge of public relations regarding the development of a major operation or project, so as to ensure that the publicity generated by the operation or the project is coordinated and adequate.”

### Private communications

Members of security forces, like everyone, enjoy the right to freedom of expression. At the same time, as public officials, and particularly officials in the security sector, certain limits may be imposed on their right to freedom of expression which go beyond those which are imposed on other individuals.

This is because, as officials, their actions, including their private actions and what they say and write, may affect the way their employer, i.e. the security services, are seen. Their position as security officers may also lead to the public giving special weight to what they say or write.

Historically, in many countries, it was assumed that security officials would not engage in expressive activities such as writing books, and to some extent this continues today. Thus, the code of the Metropolitan Police Service states:

“It is not standard practice for serving police officers or members of police staff to be given permission to write a book about their policing experience. In exceptional circumstances permission may be granted.”

However, the Internet is starting to challenge this, and greater leeway is in most countries being allowed to publication over the Internet. At the same time, certain principles may be imposed. Some principles which are commonly imposed include the following:

“It is not standard practice for serving police officers or members of police staff to be given permission to write a book about their policing experience. In exceptional circumstances permission may be granted.”

However, the Internet is starting to challenge this, and greater leeway is in most countries being allowed to publication over the Internet. At the same time, certain principles may be imposed. Some principles which are commonly imposed include the following:

- Officers should not profit from their experiences as officers, at least not while they are still on active duty;
- Officers should be careful not to bring their services into disrepute through their writings;
- Officers should make it clear that the views expressed are their own, and do not represent the official views of their services;
- Information which officers have obtained on a confidential basis through their

work should not be made public through their writings;

- Officers should avoid certain kinds of content which, while generally legal, may cause harm or bring their services into disrepute, such as sexist or racist material.

### Privacy

Privacy is an important right, recognised in Article 12 of the UDHR and Article 17 of the ICCPR. But although police officers enjoy the same right to privacy in their personal lives as anyone else, this right does not apply when they are on active duty in public places. This is due in part to practical considerations relating to the necessarily public nature of their positions. Thus, a report on policing of the G20 summit held in Toronto in 2010, *Policing The Right To Protest: G20 Systemic Review Report*, noted:<sup>1</sup>

“[W]ith almost every journalist, protester, and observer holding a camera of some sort, their behaviour is liable to be recorded at all times. [Police] must accept that, even under tremendous pressure, they may be held accountable for their actions”<sup>2</sup>

Limitations on police privacy are also warranted by the need to maintain proper oversight of the police and the right of the public to be informed as to how police are behaving.

There will be instances where legitimate security concerns require that the police take steps to guard their identity. However, such concerns must be distinguished from privacy concerns and, in any case, these precautions should be carried out only as far as is reasonably necessary and through providing police with masks or employing other means to hide their identity rather than through restricting the right to record.<sup>3</sup>

### Responding to Inaccuracies

Sometimes, journalists disseminate an inaccurate story, whether via a newspaper, on the Internet or over radio or television, which contains an unfair interpretation of the facts, which may in turn have implications for a police officer or the entire institution.

The communications manager or supervisors must then decide whether or not to react. Sometimes, reacting can inflame a situation which would otherwise calm down by itself. It can also rebound negatively on the police, if they are perceived as attempting to control the flow of information or as being excessively sensitive to criticism. Responding to an inaccuracy can also attract the attention of the media or public to information that had largely gone unnoticed or which was not seen as being very important.

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<sup>1</sup>Office of the Independent Police Review Director, “Policing The Right To Protest: G20 Systemic Review Report” (May 2012), p. 254. Available at: [https://www.oiprd.on.ca/CMS/getattachment/Publications/Reports/G20\\_Report\\_Eng.pdf.aspx](https://www.oiprd.on.ca/CMS/getattachment/Publications/Reports/G20_Report_Eng.pdf.aspx).

<sup>2</sup>On this point, see also the section “The right of members of security forces to protect their images” at the end of this sub-section.

<sup>3</sup>Based on the publication of the Center of Law and Democracy, (CLD), *Standards for the police and public relation*



The first step is to assess the impact of the inaccuracy. It is important to assess the severity of this impact. If the inaccuracy is sufficiently serious, managers should consider reacting in the manner best suited to the situation, depending on the seriousness of the facts, and the good faith or otherwise of the journalist or media involved.



**Discussion: In what types of situations do you think you would want to respond to inaccuracies? And when might you not want to do that?**

The most appropriate response will usually be a simple request for a correction or issuing a statement which corrects the error. In some cases, it might be appropriate for the police to exercise their right of reply.

In most cases, these choices will be made by management, especially if they involve criticising those who were responsible for the original inaccuracy:

“Only the Director General of the National Police can publicly criticise political parties, national media outlets, or a media representative or media, in particular regarding how a subject was dealt with.” (South Africa)

**The right of members of security forces to protect their image <sup>4</sup>**

Members of security forces who normally wear a uniform can easily be recognised. They should not expect to enjoy their privacy when they are on duty and in uniform. Uniforms not only attract media cameras, but also those of citizens, tourists or visitors.

A security forces officer is thus likely to be photographed or filmed in the exercise of his or her functions.

Officers must pay attention to how interviews are going to be filmed or photographed, especially when no public relations officer is present, which is usually the case. When taken in a certain way, pictures or videos can be misleading or convey a negative image.

Members of security forces must therefore behave in an exemplary fashion at all times, and expect the media to take photographs of or film them. They cannot try to prevent journalists from taking pictures which show them in a bad light.

However, there are exceptional cases where officials, for security reasons, need to preserve the secrecy of their identities (anti-terrorism or serious crime units).

In these exceptional cases, the best solution may be to wear clothing which prevents identification.

In general, security forces should understand that their function is to provide a public service, namely maintaining public order, which the public has the right to observe and examine. Indeed, these services represent the State which, in a democracy, must be transparent and open to public scrutiny. Security forces are,

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<sup>4</sup>On this subject see also below box “Private Expression and Communication”

in the same way, legitimate subjects of public scrutiny. This scrutiny is carried out, among other things, by the media, which must be free to serve as witnesses on behalf of the general public.

Members of security forces should not limit the right to take photographs (indeed they do not have the power to do so in democracies). Instead, they should ensure that they will not appear in a bad light in a photograph or video, by displaying irreproachable behaviour and a professional attitude.

### 4.3 Who Should Communicate?<sup>5</sup>

The most common response to this question is: the Minister of the Interior, the Director General of the Police or the Commissioner, and so on. This ignores the expectations of the media who may wish to obtain an “on the ground” perspective. Recognising this, and in a spirit of transparency, many police services have decentralised public relations functions. In practice, almost everyone can communicate, but within certain parameters.

#### In South Africa:

“In addition to public relations officers, the following individuals may be authorised to communicate with the media:

- An officer with a particular specialisation, who has been instructed to communicate on a particular topic,
- An expert working in a specialised unit which has been designated for this purpose
- An officer who has been authorised to communicate on issues involving other units, as long as that officer is qualified in public relations.”

#### In Belgium:

“Staff enjoy freedom of expression in relation to facts which they are aware of firsthand, as part of their duties.

Within these limits, staff may speak and publish freely.

In the exercise of their freedom of expression, staff shall however:

- Not harm the interests of the service or the dignity of their office;
- Not harm the interests of established authorities, public institutions or third parties;
- Disseminate information which is as complete and correct as possible;
- Make it clear whether they speak on behalf of the service or on their own behalf, and distinguish clearly between facts and opinions.”

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<sup>5</sup>See infra module 5, PO-2, for practical recommendations on this matter

### **To be able to communicate with journalists, officers must:**

- Benefit from advice:

«Before granting an interview, staff members should consult with the public relations department or their managers.” (Belgium)

- Maintain legitimacy by focusing only on their area of focus:

“An officer must limit responses to questions from the media which are directly related to his official duties. If an officer is approached by the media and asked to talk about a subject that falls outside of his or her operational work or his or her immediate responsibilities, that officer must inform his manager. The manager must identify or appoint an officer to respond to the request or demand.” South Africa]

- Do not impose individual obligations:

«No agent is personally obliged to communicate with the media except of course public relations officials or official spokespersons” (Great Britain)

However:

“When an officer is approached by the media and he or she does not want, for whatever reason, to be personally involved in communicating with them, he or she must courteously redirect requests for a statement, information or an interview to the responsible persons.” (South Africa)

### **Some reminders**

A police officer who is present at a crime scene or performing his or her duties in public should behave in a dignified manner, in accordance with the seriousness of the occasion, the accident, or the ongoing investigation. He or she should always keep in mind that audio or video recording may take place.

Police should present a professional image of the service through their behaviour. Officers should, therefore, refrain from making statements or comments which are inconsiderate, irresponsible or discriminatory, and from using inappropriate language.

### Who is Responsible?

All security forces officers are, of course, responsible for any statements or comments they make to the media. They should, therefore, pay particular attention to what they say and the perceptions that such statements or comments may give rise to.

In addition, security forces officers should always avoid deliberately providing false or misleading statements to the media. They must verify the accuracy of the information they provide.

In case of doubt, and where the media are demanding an immediate response, the following phrases should be used:

“According to the information available at this point, it appears that...”

“According to the information available at this point, we assume that...”

“The reports that are available at this point suggest that...”

### What to Do When You Are Approached by the Media

- Consult:

In most police departments, officers who are approached by the media must consult with the public relations officer before making any statement to the media. This not only preserves legitimacy but also provides an opportunity for the service, after receiving guidance, to maximise the benefits of the coverage. This also helps ensure a coordinated response, in particular where more than one officer might be involved in media communications.

- Identify and verify:

When an officer is approached by the media and wants to communicate with them, he or she should get the journalist's name and the name of the media outlet.

If an officer has doubts about someone who claims to be a media representative, he or she should contact the public relations officer of the relevant media outlet for clarification.

- Courtesy, dignity and respect:

In all cases, officers should treat the media with courtesy, dignity and respect, even if provoked. The agent should aim to promote ethical relations with the media.

### Who Communicates in Different Situations?

An interesting distinction can be made in terms of choosing who should be interviewed, depending on whether this relates to an ordinary accident or routine operational investigation, on the one hand, or a high profile incident or operation, on the other hand:

## Routine Incidents and Operational Investigations

“Inspectors and officers are authorised to speak to the media about their own areas of responsibility unless a specific media strategy is in place or a spokesperson has been designated for this purpose.

If necessary, officers below the rank of Inspector may speak to the media, but only with the approval of an inspector or a higher ranking officer.” (Great Britain)

## High Profile Operations

Different considerations apply in cases where the public interest in a case is very high. In such cases, the police need to be very careful to ensure that the messages are clear and accurate. In most cases, this warrants putting in place a more hierarchical communications strategy (i.e. requiring higher level approval for communications and often also limiting who is authorised to speak to the media to more senior officers. There are a number of reasons for this, including to ensure that the public does not become confused through conflicting messages, and also to ensure that rules on balance between informing the public and respecting the privacy of those involved in cases – including victims and witnesses – which becomes more threatened the wider the publicity of the case.

“In some cases, such as serious crimes, security threats, terrorism, major incidents and so on, plans and procedures or strategies may already have been developed to cope with the increased media interest. This will normally include designating a spokesperson for the police....

For such incidents/operations, the media management strategy should be explained to all officers and members of the police involved, when providing initial briefings to teams.” (Great Britain)

## Special Case: Communicating on Behalf of a Union

Media often contact representatives of police unions to obtain information on cases and comments on issues and activities related to the police, for example in the context of negotiations around benefit packages for police officers and, in particular, where industrial action is threatened.

In such cases, the decision whether or not to issue a statement or to participate in an interview naturally falls on the union official but it is necessary to clarify to the journalist that any statements or comments are being made on behalf of the federation, union or staff association, and not on behalf of the police. In this case:

“The television interview should be given in a uniform and the name of the staff association or union which the individual is representing should appear clearly on the screen.” (Great Britain)



**Discussion: Do these rules seem reasonable? Do you already operate like that in your service?**

## 4.4 Limits on the Provision of Information

As noted above, the principle approach of the police in terms of the provision of information to the public through the media should be one of openness and respect for the principle of maximum disclosure. At the same time, there are limits to this and, in providing information to the public, the police need to keep in mind, in particular, the legal limits on the disclosure of information, as well as, in some cases, professional requirements to exercise discretion in the disclosure of information.

### 4.4.1 Limits Justified by Reference to the Need to Maintain Order

There are two aspects to this. One is the extent to which the police seek to draw the attention of the public to a certain event or fact, by including it in their proactive communications with the media. Here, the police should exercise some discretion, as well as respect the limits of the law. The second is the extent to which the police should disclose information pursuant to a request either from the media or any other entity or individual. Here, the law, as described above, imposes clear obligations on the police, as a public body, which they are bound to respect.

In terms of the first aspect, the code of conduct of the Metropolitan Police Service highlights some of the considerations that need to be taken into account when assessing whether or not to provide information to the media:

“The goal should be for staff to provide the media with factual information on accidents, affairs, inquiries or problems in which they are personally involved or for which they are responsible. To say “no comment” or “I’m not prepared to discuss this” to a reporter can be as damaging as saying too much. Similarly, to comment on an accident or an affair when not all of the facts are known can also be harmful.”

The two main reasons for refusing to disclose information are as follows.

One must not compromise the integrity of the security forces or risk causing damage to an ongoing investigation or the administration of justice. This includes the disclosure of information that may harm the prevention of crime, as well as investigations, including investigation techniques, the apprehension and prosecution of offenders and, more generally, the fairness and effectiveness of the administration of justice.

Second, a balance needs to be struck between respecting the right of the public to be informed about police matters and especially the criminal justice system, and the right of everyone to privacy. This is a complex matter, and slightly different approaches are taken in different jurisdictions. The details of this are addressed below, under information about persons, but in general the right of the

public to know is deemed to require the police to disclose the names and certain other information about suspects and certainly individuals who have been charged with an offence.

In deciding what to provide to the media, the police should always operate in an objective, impartial, fair and ethical manner. There should never be favouritism towards one media at the expense of another one. And there are clearly limits on the withholding of information, as highlighted in the code of conduct of Scotland Yard: "However, keeping information confidential simply because it is embarrassing for an individual or an organisation cannot be justified." (Great Britain)

### 4.4.1.1 General Rules

The identity of complainants, witnesses and victims should be protected. Complainants and witnesses will lose trust in a police force which provides their information to the media. Journalists should be made to understand that protecting this information is essential to maintaining public trust.

Once again and for the same reasons, the identity of victims should not be made public. Also, police must not "contaminate" witnesses by giving them too many details. As a result, it should be simple to distinguish true witnesses from those who have just heard about the news in the media.

Furthermore, it is imperative to be honest and let journalists know that the security forces have certain information but that they cannot reveal it because this would prejudice the investigation. If security forces are dishonest about this, they can lose their credibility or even destabilise citizens, who may believe that the security forces lack sufficient information about a crime or misdemeanour.

### Embargo

*Security forces may also provide information to the media under an embargo. That is to say, they provide the information to the media to facilitate their work and allow them to prepare, but on the condition that it will not be revealed to the public until the date and time indicated in the embargo. This is to allow security forces the time they need to undertake their investigations or procedures.*

### Off the Record

Sometimes, officers wish to provide the media with information to help them in their work, while also insisting that the information will not be publicly disclosed, at least initially. This might also involve officers explaining to journalists why certain information should not be published, or specifying what exactly might be published. This is called 'off the record'.

Confusion can arise about what exactly is meant when an officer provides information 'off the record' because there are two aspects to this. In some cases, it can mean that the information itself is confidential. In others, it means that the information may be published, but that the officer does not want his or her name associated with it. As the code for the Metropolitan Police Service notes:

"Misunderstandings can sometimes occur about what 'off the record' means.

Some journalists interpret it as being completely non-reportable, whilst others believe that they can report what is said but not attribute it to the individual who said it. It is therefore essential that before giving guidance of this sort, the officer/police staff member clarifies the basis on which it is being provided. It is good practice to keep a written note of any off the record briefings given.”

If the information is an update on a pending case, “Officers should focus on the facts of the case and not speculate or allow their personal views or prejudices to influence the discussion.” (Great Britain)

Furthermore, officers should refrain from making “off the record” comments about cases in which they are not involved. Officers should also bear in mind that they should only provide information ‘off the record’ to journalists they know and not to ‘newcomers’.

Finally, competition for information and scoops (especially in the context of seeking to provide “value-added” information) means that providing information ‘off the record’ can be risky. For this reason, it is an approach which should be practised with discretion and generally avoided unless there are good reasons for it.



**Discussion: Do you practice ‘off the record’ in your force? When do you use it and for what purposes?**

### Confidentiality Obligations

In most cases, the rules on keeping information confidential continue to apply even when the officer has left his job:

“Employees are prohibited, even after their active employment has come to an end, from revealing information related to national security, protection of public order, the financial interests of the authorities, the prevention and punishment of crimes, medical confidentiality, and the rights and liberties of citizens, especially privacy.” (Belgium)

Obviously, police officers should never be remunerated in any way whatsoever for providing information to journalists:

“An officer cannot under any circumstances request or accept payment or a reward, whatever form it takes, in exchange for providing information to the media. An officer who requests or accepts such a payment or reward commits an offence and may be prosecuted.” (South Africa)

### 4.4.1.2 Specific Rules

#### Homicides

The last person to see a victim alive is normally the murderer. One should, so as to protect the investigation, be careful not to reveal details such as: the weapon, the calibre, the number of shots and the exact injury. When communicating with the media officers should use vague terms such as:



- weapon used: sharp weapon, blunt object, handgun or rifle;
- calibre: do not disclose this information;
- the number of bullets or blows: do not disclose this information;
- the nature of the injury: the victim was hit on the top or the bottom part of the body.

## Terrorist Attacks

In this type of major event, the exchange of information between security forces and their partners (fire fighters, paramedics, etc.) is crucial if they are to avoid contradicting each other. It is useful to keep in mind that people may judge the reaction of the security forces more harshly than the actions of the perpetrators.

It is important to establish a media perimeter at a distance from the scene to protect journalists and or the location.

One should keep in mind that a first attack may be a precursor to a second. Perpetrators can wait for the police and media to arrive before striking for a second time, thus inflicting greater losses and gaining visibility. Security forces should keep this in mind before establishing a perimeter around an event, and perhaps opt for something a bit further away.

The way security forces respond to an event, as conveyed by the media, not only informs and reassures the population, but it also sends a message to the perpetrators.

It is essential to stay in touch with investigators and not to reveal certain details, to protect the integrity of the investigation, because the perpetrators may be listening.

Terrorist organisations often seek visibility. It may be advisable not to give them that publicity by naming them.

Terrorist attacks attract global media coverage. This can create a sense of insecurity among the general public. One should be careful before categorising an action as terrorist and be sure to inform one's partners and superiors before doing so.

## Information about Armed Robberies or Robberies against Vehicles Transporting Money

This information is naturally of interest to the media and should be provided, even though some codes of conduct may impose restrictions on this, depending on the seriousness of the situation, such as:

- if it is related to the investigation;
- so as not to give others copycat ideas in terms of the methods used;
- to protect witnesses.

"At the request of the Banking Federation, the Police have undertaken not to disclose the following information about armed robberies and robberies against vehicles transporting money:

- the amount stolen during an armed robbery or robbery against vehicles transporting money;
- information on how the theft or robbery was executed, which could give ideas to future robbers;
- personal information and contact details of the victims and witnesses of an armed robbery or robbery against a vehicle transporting money, such as tellers, security personnel, etc.” (South Africa)

In cases of theft or robbery, it is important to give out a description of the suspects and/or the getaway vehicle so as to find the suspects. Moreover, in order not to harm the victims or tempt potential future criminals, security forces should not reveal the amount stolen. Revealing the sum taken or that important technology has been stolen from a company can affect its shares or the trust of its partners, or give others ideas about committing such an apparently profitable crime.

### Destroying Areas of Drug Cultivation

The destruction of an area where drugs are being cultivated is a visually powerful event, which is popular with the media. In their communications, security forces should focus on the negative impacts of drugs on health and society. Indicating the value of the plants seized only promotes the lucrative aspect of cultivating drugs and may motivate others interested in making quick gains. If security forces highlight the penalties rather than the value of the assets seized (equipment, cars, etc.), they can support a preventive objective.

### Physical Access <sup>6</sup>

Over and above the question of what sort of information should and should not be provided to the media, there is the question of ensuring the physical access of media personnel to certain venues, in particular crime scenes or events in which the police are intervening.

As noted above, the media play a particular role in ensuring that the public have access to information which they have a right, as citizens, to know. For this reason, the police should generally facilitate access by media workers to this information, including by granting them access to crime scenes, even where the general public may be excluded.

### Photos of Police Stations

#### *Outside:*

In a democracy, media representatives or members of TV or movie crews should not be prevented from taking pictures or filming the outside of police stations, as long as they remain outside of the premises. More generally, the media have a right to film in any public location, subject to the right of everyone to respect for

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<sup>6</sup>Refer to the module 5, PO-3, for practical and operational details on this matter

their privacy.

*Inside:*

It is a different matter in the interior of a police building, which is not a place to which the public in general have access (apart from certain locations). Only a national police director, a local manager or the central communications services may allow media representatives or television or film crews to photograph or film inside a police station.

## Allowing Media to Accompany Police Operations

To get even closer to the action, journalists sometimes accompany, with their consent, patrols or spectacular operations conducted by security forces.

Media are often particularly interested in this type of reporting, especially for television. Apart from reporting through television news programmes and magazines, the development of reality TV has led to whole programmes being dedicated to police operations, which for the public create almost a live experience.

Accepting media representatives on these operations is a real communications opportunity:

“These reports about police operations can provide a good overview of the police and how it fights crime. Officers planning such operations should always take the media into account as part of their overall strategy. «(Great Britain)

Such requests should naturally be handled by a centralised press office, which can coordinate requests and ensure that the proper guidelines are followed. And when this sort of activity is authorised, it must be accompanied by a clear agreement between the media and the police, setting out the terms of the arrangement (see box below).



**Discussion: Do you have a track record of allowing journalists to accompany you? Does this seem like a good idea or not?**

If the media are refused permission to accompany a police operation, a clear and immediate explanation of the reason for the denial should be provided.

To ensure the safety of officers, as well as journalists, it is important for the police to come to an agreement with the media on a number of guidelines which must be observed while reporting on the police operation.

### **Guidelines for Journalists**

- In general, accompanying media are not allowed to enter restricted areas, especially areas to which officers only have access by virtue of their status as police. This includes: houses, backyards, ambulances or any other area requiring some protection for privacy.
- Any authorisation provided by a person to be filmed or to enter a private location

is simply an agreement between that person and the media. The police should not facilitate the conclusion of such agreements.

- Officers should only undertake tasks directly related to their work, and not override their authority or grant preferential treatment to the media outside of the operational elements associated with the fact of accompanying the police.
- Officers should not allow the media to disrupt their work and should immediately stop the reporting if this does occur.
- Every journalist joining a police patrol should sign a statement absolving the police of any responsibility for what happens during the patrol.
- In no case should police officials invite a journalist onto private property for purposes of filming.

### 4.4.2 Journalists' access and justified limits

There is an old adage that a picture is worth a thousand words. Nowhere is this truer than in media, where readers have become accustomed to the presence of pictures, and live audio recordings and video clips, which give a sense of reality and vitality to news stories.

It is clear that taking recordings is an expressive activity and police officers should, therefore, respect the right to record. At a minimum, this means not interfering with individuals taking photos, sound recordings or video clips.<sup>7</sup>

In this regard, some codes recall the duties of the police in the matter:

"Journalists, photographers and camera crews have the right to cover public events and photograph or film in public places. However, if they cause a serious obstruction or create a real operational problem, officers should seek to offer them a place nearby as an alternative. Officers or employees of the police do not have the right to censor media taking photographs or filming. This includes: putting your hand on a camera lens, removing film or erasing photographs....

Denying them any support or asking journalists to leave does not foster positive relationships between police forces and the media." (Great Britain)

It is not the role of the police to determine whether or not recording activity in the context of police actions may infringe on the rights of third parties, for example to privacy. This is the role of the courts, just as it is in relation to any other recording activity (i.e. outside of the sphere of police activity). In other words, the fact that recording is being undertaken in the context of police activity does not afford the police some special power to interfere with or judge the act of recording<sup>8</sup>.

The right to record is not limited to professional journalists. Every member of the public enjoys the same right to record, whether for private purposes or with an eye

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<sup>7</sup>Based on a publication of the Center of Law and Democracy, (CLD), Standards for police and public relation

<sup>8</sup>Ibid

to publishing the material. Police guidelines should be clear about the nature of this right, and its universal applicability<sup>9</sup>.

Facilitating access for journalists or finding other ways to enable them to do their jobs does not mean that journalists and their technical teams can do whatever they want. Limits must be observed so as to avoid harming the integrity of evidence at a crime scene or interfering with an officer in the performance of his or her duties.

In such cases journalists “should be asked politely to leave the crime scene or the restricted zone. If the media representative refuses, he or she should be accompanied out of the restricted zone.” (South Africa)

Although the right to freedom of expression applies to everyone, there may be situations where special access should be provided to journalists while it is still necessary to exclude the public at large. This approach, which is somewhat similar to the special access provided via accreditation procedures to journalists to the legislature and courts in many countries, is based on the role journalists, and particularly those employed with popular news outlets, play in informing the public. It flows not from some inherent special status of journalists but, rather, from the right of everyone to ‘seek’ and ‘receive’ information and ideas, protected under international law, which can in these situations only be protected by affording special access to those able to inform the general public, which has traditionally been journalists.

Thus, the OSCE’s Guidebook on Democratic Policing notes: “The most effective and efficient way of complying with the demand for transparency is by informing the public through the media.”<sup>10</sup>

More specifically, the London Metropolitan Police’s “Photography Advice” provides:

#### Creating vantage points

When areas are cordoned off following an incident, creating a vantage point, if possible, where members of the media at the scene can see police activity, can help them do their job without interfering with a police operation. However, media may still report from areas accessible to the general public.<sup>11</sup>

Although this approach makes sense as a practical means of giving effect to the right to freedom of expression, the need to differentiate between journalists and others creates an operational challenge. In a case from Canada in the context of parliamentary accreditation, the United Nations Human Rights Committee, which

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<sup>9</sup> Ibid

<sup>10</sup> Organisation for Security and Co-operation in Europe, 2008, Article 97. Available at: <http://www.osce.org/spmu/23804>.

<sup>11</sup> Available at: <http://content.met.police.uk/Site/photographyadvice>.

is responsible for the implementation of the ICCPR, held: “The relevant criteria for the accreditation system should be specific, fair and reasonable, and their application should be transparent.”<sup>12</sup> In that case, even though the system was operated by an independent voluntary association it failed to meet this standard.

A more modern challenge is the shifting media landscape, where the lines between citizens and journalists have begun to blur and key information of public importance about police activities is often disseminated by ordinary citizens. Because everyone is a potential source of information, everyone should potentially be considered a journalist, although this is not necessarily useful where limited access is all that can be provided. In dealing with dynamic situations, such as a protest or demonstration, it can be useful to differentiate between journalists and others who are observing the event, and those who are participating in it. When an event is planned in advance, it is useful for officers to hold a briefing for journalists beforehand to inform them of the methods that they will be using to control crowds, the actions they will and will not tolerate from demonstrators, and their overall media strategy. Once the demonstration or protest is underway, it may be useful to establish a media perimeter from which journalists can cover the protests while staying out of the fray. Although journalists should by no means be confined to this area, providing this kind of a neutral zone will help officers distinguish between journalists and demonstrators if the situation deteriorates.<sup>13</sup>

### Respect for Journalists and Their Material

Regardless of the situation, security forces should always respect journalists and their equipment. A media representative should never be verbally or physically abused. Cameras and other equipment should not be seized except in cases envisaged in the law.

A police officer should not, under any circumstances, deliberately damage a camera, film, recording or any other equipment belonging to a media representative.

### Seizures

Precise legal rules on this issue have not yet been established in every democratic country. However, in most democratic countries good practice, if not the legal rules, requires security forces to obtain a warrant from a judge before they confiscate any equipment belonging to a journalist, if they feel that it is likely to have probative value.

Impromptu seizures of electronic equipment and other material containing potential evidence, i.e. outside of the context of a search (on which see below), are highly intrusive from the perspective of freedom of expression when that equipment or

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<sup>12</sup>Gauthier v. Canada, 7 April 1999, Communication No. 633/1995, para. 13.6.

<sup>13</sup>Based on a publication of the Center of Law and Democracy, (CLD), Standards for police and public relation

other material is being used for expressive purposes. By taking a photographer's camera, the authorities are not only depriving them of their property but also seriously undermining their ability to report to the public. The loss of equipment on which relevant data is stored may mean that work on a story, or potentially a number of stories, grinds to a halt.<sup>14</sup>

As a result, there is a strong presumption against such actions by the police, which can only be justified by an overriding need to preserve important evidence which cannot otherwise be secured.<sup>15</sup>

### Practical Advice :<sup>16</sup>

Although seizures take place in many different contexts, the presumption against the validity of such seizures is particularly emphatic where the context is one of live recording of police activities in public. In such contexts, rather than seize material, the police should normally seek voluntary surrender of the material, failing which they should follow up by requesting a court order to conduct a search.

Security forces are not allowed to confiscate equipment from journalists as they see fit. This possibility is limited in scope and should only be granted by a judge, to prevent arbitrary action.

Illegal attempts to seize or destroy equipment or digital information may also attract legal liability for the police.

#### Some Examples:

- Pursuant to Article 487(1) of the Canadian Criminal Code, security forces must obtain a search warrant in advance. Judicial authorisation is, in practice, given by a justice of the peace only if the security forces demonstrate that they have tried to obtain the evidence in question by other means at their disposal, without success. Authorisation is given as a last resort and can be challenged in court by the relevant media outlet.

When this happens, the seized equipment is sealed and cannot be used by the police until a judge of the court hearing the dispute rules on the matter.

- Article 56-2 of the French Code of Criminal Procedure provides that only a judge may authorise the seizure of journalistic material, and the search must be done in the presence of a representative of the media.

The media may oppose the seizure of certain documents, for purposes of protecting their sources, as a result of which the documents are placed under seal.

Note that these rules apply to both the home and the working vehicle of a journalist.

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<sup>14</sup>Ibid

<sup>15</sup>Ibid

<sup>16</sup>Ibid

Even when obtaining and preserving evidence is legitimate and imperative, the authorities should bear in mind that digital devices often contain a large amount of other information which may be relevant to the work of the owner. Given the importance of a computer or a camera to the work of a journalist, seizing this type of equipment can have a serious impact on his or her work, especially if the equipment is then kept for several months while the information is reviewed. As a result, in the case of electronic equipment, it is preferable to copy relevant information than to seize the device.

Traditional rules of evidence suggest that original information is better than a copy. However, this does not make sense in the digital era. Hard copies of documents or photographs can actually be of lower quality. Furthermore, digital devices are normally able to reproduce information perfectly, so that it is not possible to distinguish between copies and the original. There is, therefore, no reason why a digital copy of information, obtained as part of the search for evidence, and recorded in accordance with standard procedures, should not be considered to be as reliable as the original.

Even where securing evidence is a legitimately overriding need, the authorities should keep in mind that digital storage equipment will often contain enormous amounts of other information which is relevant to the expressive activities of the owner. Given the importance of a computer or camera to a journalist's work, seizure of the equipment could have a very serious impact on his or her expressive activities, particularly if the equipment is held for months while the information is examined. As a result, when dealing with electronic equipment, copying the pertinent information is preferable to seizing the entire device.

Traditional rules of evidence hold that original versions of information are preferable to copies. This, however, does not make sense in the digital age. In dealing with paper copies of documents or photographs, there is indeed a loss in quality. Digital storage devices, however, are generally capable of duplicating information flawlessly, and creating copies which are indistinguishable from the original. There is no reason why a copy of digital information, obtained as soon as the evidence is discovered and safeguarded according to standard procedures, should be considered any less reliable than the original.

### Searches <sup>17</sup>

#### General Rules

It is generally recognised that searches represent a significant invasion of privacy and, as a result, should be subject to important protections against abuse, of which the most important is the need to obtain prior judicial authorisation before conducting a search.

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<sup>17</sup>Ibid



According to the OSCE's Guidebook on Democratic Policing

### According to the OSCE's Guidebook on Democratic Policing

48. In the course of investigations, police may only interfere with an individual's right to privacy (including private life, family life, home and correspondence) when strictly and legally necessary and only to achieve a legitimate objective. Information and documents acquired by the police must be treated appropriately and with all necessary confidentiality.

50. Strict control by a data protection official is also necessary to ensure that the "collection, storage, and use of personal data by the police shall be carried out in accordance with international data protection principles and, in particular, be limited to the extent necessary for the performance of lawful, legitimate and specific purposes." Particular attention must also be paid to rules on exchanging information between the police and other elements of the criminal justice system, and on exchanging data at the international level.

Different jurisdictions accord differing powers of warrantless search to police depending on their domestic rules of evidence and what constitutes a reasonable search. The general rules on warrantless searches are set out well in Section 6.180 of the Seattle Police Manual, which provides that police may only conduct such a search if there is probable cause to believe that delay in getting a warrant would result in the loss of evidence, escape of the suspect, or harm to police or public. Of these, the latter two will rarely be engaged in the context of journalistic material, and the former can normally be avoided by issuing a notice to preserve evidence.

Some jurisdictions only allow searches without a warrant if the officer suspects that they will find evidence related to a particularly serious crime. In New Zealand, for example, searches without a warrant are only permitted if the material would relate to an offence punishable by imprisonment for a term of 14 years or more.<sup>18</sup>

### Special Considerations in the Case of Journalists<sup>19</sup>

Given that it is their job to seek out newsworthy events, journalists will often have access to important information about criminal activity, or evidence of crimes that have been committed. At the same time, given the fundamental role they play in making freedom of expression a reality, it is vital that journalists be given appropriate room to operate and that the confidentiality of their work be respected.

Another important consideration in cases involving the search of journalistic material is that such material may contain information which would expose confidential sources of information. In these situations, even more restrictive rules govern confiscations, which require the existence of serious and compelling reasons

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<sup>18</sup> Search and Surveillance Act, No. 24 of 2013. Available at: <http://www.legislation.govt.nz/act/public/2012/0024/latest/DLM2136536.html>.

<sup>19</sup>Based on a publication of the Center of Law and Democracy, (CLD), Standards for police and public relation

which justify a violation of the principle of protection of journalists' sources. This is an important aspect of the right to freedom of expression, as has been widely recognised in international law. See, in this regard, the decision of the European Court of Human Rights in the case of *Goodwin v. the United Kingdom*.

Protection of this interest erects additional barriers to allowing for the search of journalistic material, particularly electronic equipment, which may well contain confidential sources along with other information which may be of interest to the police.

### Special Considerations Relating to Search of Electronic Equipment

Courts have often been extremely reluctant to approve warrantless searches of electronic data given that, once the police have obtained the data, in the form either of a seizure of the equipment or a copy of the data, there is virtually no risk of loss of evidence and other grounds for warrantless searches are also normally of limited applicability. On the other hand, given the large amounts of information contained on such equipment, the risk to privacy and to freedom of expression interests is very high.

In *R. v. Vu*, the Supreme Court of Canada held that warrants are required before a personal computer may be searched.<sup>21</sup>

The Ohio Supreme Court has held that warrants are also required before cell phones (or mobile phones) may be searched, even though such a search is not quite as intrusive as a search of a computer.<sup>22</sup>

Although these cases hinged on privacy considerations, the same arguments apply at least as strongly where freedom of expression is at issue.

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<sup>20</sup>Protection of journalistic sources is one of the basic conditions for press freedom.... Without such protection, sources may be deterred from assisting the press in informing the public on matters of public interest. As a result the vital public-watchdog role of the press may be undermined and the ability of the press to provide accurate and reliable information may be adversely affected. Having regard to the importance of the protection of journalistic sources for press freedom in a democratic society and the potentially chilling effect an order of source disclosure has on the exercise of that freedom, such a measure cannot be compatible with Article 10 of the Convention unless it is justified by an overriding requirement in the public interest. (27 March 1996, Application no. 17488/90, para. 39.)

<sup>21</sup>Noting: "Computers potentially give police access to vast amounts of information that users cannot control, that they may not even be aware of or may have chosen to discard and which may not be, in any meaningful sense, located in the place of the search. These factors, understood in light of the purposes of s. 8 of the Charter, call for specific pre-authorization in my view." [2013] SCC 60, para. 24.

<sup>22</sup>Although cell phones cannot be equated with laptop computers, their ability to store large amounts of private data gives their users a reasonable and justifiable expectation of a higher level of privacy in the information they contain. Once the cell phone is in police custody, the state has satisfied its immediate interest in collecting and preserving evidence and can take preventive steps to ensure that the data found on the phone are neither lost nor erased. But because a person has a high expectation of privacy in a cell phone's contents, police must then obtain a warrant before intruding into the phone's contents. *State v. Smith*, 124 Ohio St.3d 163 (2009), para. 23. Available at: <http://www.sconet.state.oh.us/rod/docs/pdf/0/2009/2009-ohio-6426.pdf>.

## Protection and Return <sup>23</sup>

Where data storage devices are seized, they should be safeguarded and returned to their owners as soon as possible. The information contained on an electronic storage device is often far more valuable to journalists than the device itself. When devices have been seized, police should take all reasonable efforts to guarantee their digital integrity and to avoid any loss of information. Deliberately or negligently deleting information from a storage device should be treated as a serious breach of conduct. The Commentary on the United Nations Code of Conduct for Law Enforcement Officials notes the need to safeguard seized information.<sup>24</sup>

One means of ensuring that seized items are not lost is to take an immediate inventory of them. The Seattle Officer's Evidence Handbook also stresses the fragility of digital information, and advises that a specialised High Tech Crime Unit (HTCU) be consulted before dealing with any such devices.<sup>25</sup>

London's Metropolitan Police Service's Exhibits and Property Manual calls on the police to copy rather than to seize equipment containing relevant information, but it also requires that, where a decision is made to retain property, that decision should remain under constant review.<sup>26</sup>

Formal police procedures, as well as common sense, often explicitly state that material should be returned once it is no longer necessary to retain it.

## 4.5 Providing Information About People

In providing information about individuals to the media, security forces need to strike a balance between the right to privacy and the right of the public to access information of public importance. In democracies, it is recognised that there is an important public interest in following legal, and especially criminal, cases, and that this normally outweighs certain privacy interests, in particular of those involved to keep their identities secret. One reason for this is that, if the criminal

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<sup>23</sup> Based on a publication of the Center of Law and Democracy, (CLD), Standards for police and public relation

<sup>24</sup> By the nature of their duties, law enforcement officials obtain information which may relate to private lives or be potentially harmful to the interests, and especially the reputation, of others. Great care should be exercised in safeguarding and using such information, which should be disclosed only in the performance of duty or to serve the needs of justice. Any disclosure of such information for other purposes is wholly improper." Commentary on the United Nations Code of Conduct for Law Enforcement Officials, adopted by General Assembly Resolution 34/169, of 17 December 1979. Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/LawEnforcementOfficials.aspx>.

<sup>25</sup> Revised January 2013, Section 2.00.030. Available at: [http://www.wsp.wa.gov/publications/manuals/Officers\\_Evidence\\_Handbook.pdf](http://www.wsp.wa.gov/publications/manuals/Officers_Evidence_Handbook.pdf).

<sup>26</sup> London's Metropolitan Police Service's Exhibits and Property Manual, Section 1.6.4. Available at: [http://www.met.police.uk/foi/pdfs/disclosure\\_2010/november/2010100003151.pdf](http://www.met.police.uk/foi/pdfs/disclosure_2010/november/2010100003151.pdf).

justice system were to operate in secret, this would greatly increase the risk of abuse.

### Disclosure Requirements

The criteria for the disclosure of this information may be:

- The public interest in obtaining the information is greater than the interest of the individual; this is generally deemed to be the case, for example, with respect to the identities of suspects;
- The information needs to be disclosed so that security forces can perform their duties and tasks; this may be the case, for example, where the police need the assistance of the public to discover key facts or evidence in a case.

### Information on Suspects

The name of a criminal suspect who has not been issued with an arrest warrant may be disclosed to the media as long as the disclosure makes it clear that the matter remains under investigation and that an arrest warrant has not been issued.

Once an arrest warrant has been issued, the person's name can be revealed to the media, since he or she is suspected of committing an offence and is wanted by the police.

If the identity of a person suspected of committing a crime is unknown, but a description or sketch is available, this may, with the approval of the person who is responsible for the investigation, be released to the media.

In this case, the offence which the person is suspected of having committed may be disclosed, along with a call urging the public to contact the police or a certain police officer if they have information about the identity or location of the person.



**Discussion: Does this fit with what you do in your service? If not, in what ways is your practice different?**

### Personal Information about a Victim

Democracies take somewhat different approaches to the disclosure of information to the media about the circumstances surrounding a crime and the parties involved. Some flexibility is given to security forces regarding the disclosure of these types of information. Except, of course, where disclosure is expressly prohibited by law or as part of an ongoing enquiry. In some countries, it is normal to provide quite a lot of information about the circumstances surrounding crimes, even if this may involve personal details of the victim(s), while in others, more priority is given to protecting the privacy of victims and others who may be involved in the case.

Regardless, any discretionary power must be exercised with care: “The police should consider the embarrassment, the danger to the victim and his family, and the negative impact on the investigation that such a disclosure could cause.” (South Africa)

### **Information about Women Involved in Crimes**

The way that security forces divulge information about women involved in criminal matters can have an important impact on the way women in general, and certain crimes in particular, are viewed in society. In some countries, for example, there are widespread prejudices about the underlying reasons for sexual crimes or about what women should do to prevent them. Indeed, fear of family and social stigma often contributes to failures to report cases of violence against women, thereby leading to impunity. This helps to mask the extent of the problem; according to UN Women, up to 70 percent of women experience physical or sexual violence at some point in their life. It is of the greatest importance that the police are very vigilant not only not to promote such prejudices but to ensure that they report on all crimes in an objective and fair manner, without ever imparting a sense of responsibility to the victims. According to the guidelines of the Global Media Monitoring Project (GMMP) on violence against women in the media, one should:

- i) Use precise language (e.g. rape is not a “sexual engagement”);
- ii) Use “survivor” rather than “victim” if possible to highlight the capacity of women to take control during and after the crime;
- iii) Respect the privacy of women;
- iv) Ensure the safety of women and prevent stigmatisation;
- v) Avoid misinformation and myths.

In this regard, security forces should be aware of the leadership role they exercise in society, and of their obligation not only not to promote stereotypes and prejudices, but also to combat them. A similar responsibility applies to reporting on crimes involving minorities or groups in society that suffer from disadvantages.

### **Information about Survivors of Sexual Crimes**

The nature of these offences means that, in general, there is no question of providing the name of the survivor or other information that might reveal their identity to the media. If a suspect or accused person is related to the survivor, the name of the suspect or accused person should not be disclosed where this may lead to the identification of the survivor.

The reason for this is the particularly intrusive and private nature of these crimes, which often carry a social stigma that is different from that associated with other types of crimes. At the same time, in certain high-profile cases, where either the information is likely to be found out by the media anyway or where there are strong public interest grounds for making it public, there may be reasons for the security forces to provide it directly to the public.

Sexual crimes are particularly delicate because of their very personal nature and

the fact that victims may experience feelings of shame or guilt. Security forces should always be respectful and not disclose details in a voyeuristic manner where this is not necessary for pursuing the investigation.

It is worth recalling that, in the vast majority of cases, the victims know their attackers, which makes it more difficult for them to report these crimes. Publicising these crimes can discourage victims from reporting or testifying, to avoid the pressure or the risk of being identified publicly.

### Crimes Involving Children

There is a stark difference between cases involving adults and those involving children. For the most part, it is accepted that while the criminal justice process must generally be open, there are countervailing considerations when children are involved. An important consideration here is the extreme consequences publicity may have on children, and the desire to avoid a situation where, even though a child has committed a crime, it may become difficult for them to lead a normal life. These considerations are even stronger in cases of child victims or witnesses. As a result, in most cases, the names of children involved in criminal cases are normally not made public.

### Information about an Injured or Deceased Person

Information about someone who is dead or has been injured should not be disclosed publicly before his or her relatives are informed. This is out of respect for the grief of the relatives, who should not hear about these matters through the media, which could exacerbate their grief. After the relatives have been notified, the following information can be provided:

- Full name;
- General address (that is to say, the district or neighbourhood, etc., but not a specific address)
- Occupation and age
- The time and place of the accident.

### Criminal Cases Involving the Police

Obviously cases involving police officers are difficult for police services, which may be reluctant to disclose information about them to the media. This would violate the principle of transparency vis-à-vis citizens and may cause even more harm to the service in terms of their image, for example if journalists learn about it from other sources. The rules on this in the United Kingdom represent good practice:

“[T]he criteria used to provide information to the media about officers or employees of the police who are accused of a crime should be the same as for other members of the public.

Details to be released include the name, age, rank, profession and nature of the charge. The home address will not be disclosed, but a general description of the location of the residence will be provided.” (Great Britain)

The police also benefit from the same protections in relation to the presumption of innocence: “We should not disclose information that may affect the outcome of the process or comment on the guilt or innocence of an individual before this has been established by a competent decision-making body.” (Great Britain)

## Information on Suicides

The police should refrain from stating that a person has “committed suicide”, and instead leaving this to be established by the judicial body conducting the inquiry. Once again, the strong social stigma associated with this act, even though it is no longer considered a crime in some countries, means that it has particular implications in terms of the privacy of the relations of the person involved.

In general, the identity of someone who has died as a result of a suicide should not be revealed because it does not have to be published. The same is true for police suicides.

It goes without saying, when the deceased is a media personality (politicians, celebrities...), it may be difficult to conceal the information.

## Video Surveillance Images

Clear guidelines should (if this is not already the case) govern the dissemination to the public through the media of CCTV images and photographs of suspects. These should take into account not only the interests of suspects, but also the fact that it is often difficult to fully obscure other people from this sort of material.

“Officers and staff of the Metropolitan Police Service should consult with the appropriate level of management before releasing any photograph or video image to the media.” (Great Britain)

## Photographs or Images of Detainees

Police officers should not, without a valid reason, subject those who have been arrested, detained or held up to the public gaze.

They should not subject these people, without their consent, to being questioned by journalists or third parties, or to being photographed other than for purposes of identification or other purposes identified by a competent judicial authority.

They should not, without the written authorisation of the competent judicial authority, disclose the identity of these persons except to warn their relatives.

“No one shall, without the written approval of the Director General of the National Police or a provincial director, publish a photo or a drawing of a person:

- Suspected of committing an offence and being held in custody while awaiting a decision on whether to pursue a criminal prosecution against him or her;
- Being detained while waiting for a criminal prosecution against him or her to proceed; or
- Who is likely to be a witness in a criminal proceeding and who is in custody while waiting to give his or her testimony, in accordance with the established procedures.” (South Africa)







# Module 5

## Operational Safety Procedures When Dealing with the Media

As Practised by the City of Montreal Police Service



## Table of Contents

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<b>Module 5 – Operational Safety Procedures When Dealing with the Media.....</b>	<b>117</b>
OP-1: Relations with the Media.....	121
OP-2: Spokespersons.....	124
OP-3: Media Perimeters.....	128
OP-4: Demonstrations.....	130
OP-5: Elections.....	133
OP-6: Crime Scenes.....	135
OP-7: Using Social Media.....	136

The procedures described below are intended to serve as a reference for security forces when conducting operations in the presence of media.

Journalists and the police both play an important role in society as protectors of democracy. Although their missions and means and ways of working are different, both overlap in terms of their areas of operation, and they must cooperate to achieve their respective goals.

Journalists provide a link between security forces and citizens, who read, watch or listen to the media. Looked at from this perspective, it is important for security forces to be transparent, honest and credible in order to maintain public confidence and their own legitimacy.

People need to know what is happening and understand the work of security forces. It is important for the security forces to remember that efficient communication aims at:

- Maintaining public trust in the security forces;
- Crime prevention;
- Solving crimes and finding the perpetrators;
- Creating awareness of the work of the security forces in order to facilitate the conduct of their duties whilst also preserving a sense of accomplishment;
- Involving citizens in promoting their own security;
- Promoting the feeling of security;
- Correcting facts and addressing rumours.

Today, with social and alternative media, the question arises as to who is a journalist? The simple answer is that anyone can be a news and information provider, regardless of training or qualifications. As a result, it makes more sense for the security forces to approach people based on what they do rather than their status.

### Media Presence at the Scene of Operations

Security forces should designate spokespersons in advance, and decide which level of spokesperson is authorised to deal with different events, so as to avoid any ambiguity and to be able to communicate well with the public (Procedure OP-2: Spokespersons). Procedure OP-3 deals with media perimeters and arrest of journalists.

Different types of police operations have special characteristics in terms of communications and operational or tactical impact (Procedures OP-4 to OP-6 deal with different types of operations).

Since 80% of all communication is non-verbal, it goes without saying that all members of security forces are continually communicating through their attitude and behaviour, even without formally addressing the media (see procedure OP-1: Relations with the Media). Members of security forces should be aware that what they say in their personal lives via social media may have an impact on the image of their respective services (see OP-7: Using Social Media).

Finally, these procedures for dealing with the media are intended as an operational guide for staff working with representatives of the media. It is imperative that security forces develop a clear policy on media relations in order to facilitate the work of front-line services on the ground, to enable journalists to relay information to citizens, and to ensure transparency.

When a police officer is assaulted or killed in the line of duty, this is an attack against the community because the police represent that community and the officer was killed as a result of his or her efforts to protect the community. It is the same when a journalist is attacked or killed for his or her work; this is also an attack against the community, to which he or she was providing information. As a result, it is important to not only inform and guide journalists, but also to protect them in the discharge of their mandates.

## OP-1: Relations with the Media

Although the rules define who may talk to the media, all members of security forces should know how to act in the presence of representatives of the media. Communication is more than 80% non-verbal. Through their comportment, members of the security forces will continually be sending messages to the public via the media.

### Establish a Clear, Simple and Well-publicised Policy

Security forces should establish a policy on media relationships to provide guidance to their staff on expectations and to journalists on how to get information. The policy should be widely publicised, including through organisational websites. The simple and clear policy should contain, among other things, the following information:

- How can the media get information? There are two approaches: either a decentralised approach whereby media representatives make contact directly with the heads of various units or a centralised approach whereby all requests are analysed and processed by the same office. It is important to put in place a simple and rapid system for providing information to media, whether by phone or email.
- Different levels of spokesperson, including who should speak and when (as detailed in procedure OP-2).
- A central contact point in case of arrests or other problems on the ground.

### Prepare all Members of the Security Forces

Security forces should raise the awareness of all of their staff about the media relations policy through a briefing and by incorporating the media policy into internal procedures.

### How to Respond When Media Representatives Arrive

Even though there are leaders and spokespersons, all security forces staff must be prepared to respond when media representatives arrive at a scene of police operations. To reassure and protect journalists, and to communicate well, staff should:

- Hold an initial meeting with representatives of the media;
- Advise the media representatives that they are not spokespersons, but that they will inform their superiors that the media are present;
- Invite the media to enter the media perimeter for security reasons, referring them to the rules relating to perimeters;
- Refrain from giving out any information about the operation, leaving this to designated officers; and
- Notify other members of security forces about the media presence and the agreed location of the media perimeter, so as to avoid any conflicts over this.

## Right to One's Image

Security forces, in the exercise of their duties, cannot rely on a claimed right to their image as a basis for preventing journalists from taking photos or video footage. (see the dedicated box at the end of Module 4.2).

## Interviews with the Media

### What to do?

Set the goals, i.e. prepare seriously:

- Take control of the interview by remaining focused on the message to be delivered;
- Illustrate comments with concrete examples;
- Ask questions if necessary;
- Determine, from the beginning, the purpose and subject of the interview;
- Establish credibility from the beginning based on thorough knowledge of the subject;
- Do not be afraid to steer the interviewer back to the subject;
- Pay attention to what the interviewer says;
- Show an interest in the interviewer by dealing with him intelligently (speaking of his or her critical role in information processing);
- Sell the message: knowledge of the subject will highlight the problem solving capacity and competence of the organisation;
- Take advantages of pauses on the part of the interviewer to ask questions;
- Be courteous and relaxed; and
- Rephrase questions to avoid any misunderstandings.

### What not to do?

- Arrive for the interview late or too far ahead of time;
- Be too casual or reserved, or pretentious;
- Look at your watch (in the presence of the interviewer);
- Disparage your own organisation, or a colleague or partner;
- Indicate that this is the only interview that has been secured;
- Say you are in a hurry;
- Ridicule the interviewer;
- Read the answers;
- Address political, religious, social or moral questions;
- Give personal opinions;
- Tell one's life story;

- Lie or manufacture information; or
- Leave before concluding the interview.

### **Why is it necessary to prepare in advance?**

- To represent the whole organisation properly;
- To avoid becoming someone who has been “misquoted”;
- To protect the public’s right to information;
- To communicate your messages effectively and avoid ambiguous messages to the extent possible;
- Participatory communication is one of the foundations for protecting democratic values. Spokespersons bear a heavy responsibility, namely to be able to impart understandable and transparent information to citizens through journalists.

*Develop summarising skills: a radio or TV spot or topo (very short brief, presentation or recap of a situation) is usually 250 words. A newspaper article is about 500 to 1000 words, and a magazine article is 3000 words.*



## OP-2: Spokespersons

Before deciding what to say, it is important to decide who is going to speak. The choice of a spokesperson sends a strong message both internally and externally. Different levels of spokesperson must be identified in advance of a crisis to allow them to prepare and train beforehand and to be ready when the time comes.

### The Benefits of Identifying Spokespersons in Advance:

- Choosing the right spokesperson, the best person for the situation and the types of questions (in terms of subject knowledge and fluency);
- Sending a clear message to the media and the public;
- Simplifying work during crises because the spokesperson has already been identified; and
- Training and preparing spokespersons in advance.

### Making Choices

The choice of spokesperson must be based on the following considerations:

- Knowledge of the situation (depending on the stage of the situation);
- Credibility;
- Availability;
- Accountability;
- The seriousness of the situation;
- The grade (rank) of the spokesperson determines the breadth of the situation or the importance attached to it;
- The need to correct earlier statements by a lower level spokesperson (e.g. when a situation is still developing, one may need to correct something that was said earlier);
- Corrections or withdrawals of previous statements should be made by a spokesperson of higher rank;
- At joint press conferences (e.g. a press conference jointly with the fire department), it is important to coordinate so that all partners are represented by spokespersons of the same level; and
- In the early stages of an event, it is preferable to have a spokesperson who is not responsible for making decisions. That way, the commanding officer has more time to gather and check the necessary information, so as not to disclose information prematurely.

### The Different Levels of Spokesperson

The levels in the following pyramid table do not represent formal grades but the knowledge and credibility the designated spokesperson needs to be able to respond to media inquiries. Each level corresponds to a different type of communication need.<sup>27</sup>

#### Level 1

- Factual information;
- Most requests should be addressed at this level;
- This is the lowest level, so it allows for the withdrawal or correction of information which has been provided;
- Spokesperson: press officer, prevention officer or communication officer;
- When requests are not responded to, doubts or fear are created; and
- This level also represents the majority of officers working in the field, which reinforces the importance of providing this function in-house and demystifies police work for citizens (e.g. when an officer or a regular policeperson acts as spokesperson, they hold the rank of the majority of the members of the security force).

#### Level 2

- To recover when an error has been made at level 1; a higher-ranking officer withdraws or disseminates corrected information.

#### Level 3

- The content expert, the person who knows the most about the subject.

#### Level 4

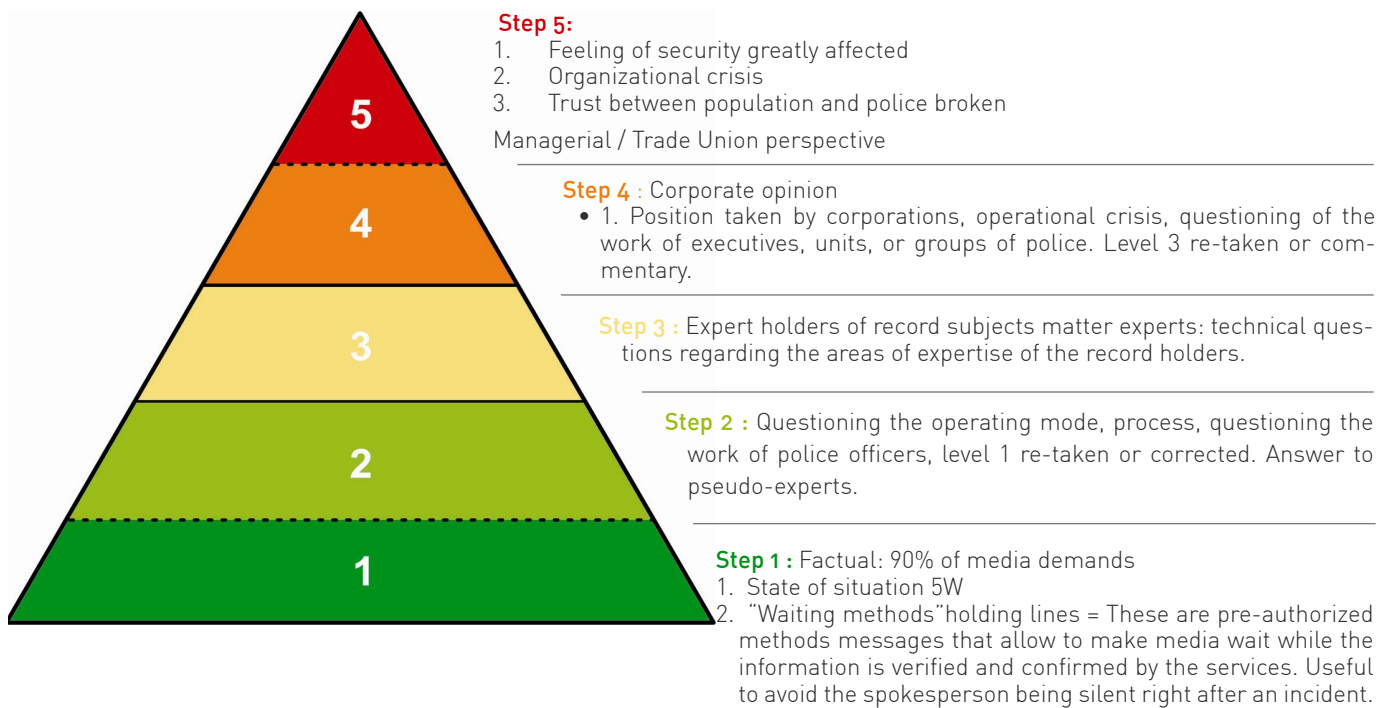
- Operational Crisis, a major event;
- Corporate view/the position of the organisation on an event;
- Major impact on operations or skills;
- Recovery from Level 3; or
- Operations are involved or implicated.

#### Level 5

- Organisational crisis/when the organisation is weakened or questioned;
- The public's sense of security is seriously undermined / national crisis;
- Trust in the organisation is being questioned;
- Major impact on the organisation, region or nation.

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<sup>27</sup>Triangle which illustrates the state of the gradual use of force as a function of the gravity of the situation



## To Centralise or Decentralise Requests from the Media?

It is important to have a clear policy on media relations both for journalists and for members of security forces in order to minimise frustrations and errors.

### The Centralised Model

This approach simplifies the work of the media but imposes important demands on security forces, which need to receive and process all requests. It provides for a single point of contact for all requests. However, who or which unit responds to media requests will have a big impact on perceptions about transparency. For example, if media requests are handled by the city or by a ministry, it can signal a lack of openness and transparency.

In addition, this type of approach can create frustration within the organisation because it is being portrayed by individuals who do not wear a uniform. The most dangerous risk of this approach is giving the impression of political influence over the security forces. In a democracy, political actors should not interfere with the systems of law and order.

The benefits of centralisation are:

- The simplicity of the system (a single point of contact);
- It helps to maintain a good overview and an understanding of what is happening within the organisation;
- It helps with identifying the spokesperson, depending on the situation and the

details of the request (see OP-02: Spokespersons);

- And, since the media does not make direct contact with operational units, this ensures cohesion among spokespersons, thereby avoiding contradictory statements, and allows for greater control of the message.

### **The Decentralised or Autonomous Model**

Pursuant to this approach, a list of spokespersons is provided to the media, which can then contact them directly. This approach reflects greater openness and transparency.

However, the disadvantages of this approach are:

- Communications with the media are not coordinated and therefore it is possible to give out mixed messages;
- It is almost impossible to have a proactive media strategy;
- Because of the lack of coordination, it is very difficult to establish a good internal communications system to alert staff about what is being carried in the media;
- In theory, this system looks great for the media, but this may not be the case in practice. When contacting spokespersons directly, the media often find that they are very busy and rarely available. For them, media relations are secondary tasks for which they do not have the same level of resources for research and background preparation as a dedicated media relations office would do.

### **The Ideal Solution is a Hybrid**

To both foster coordination and facilitate the work of the media, a hybrid approach is seen as the ideal solution by the majority of security forces in the United States. In practice, a central media office serves as the main point of contact for the media, alongside a series of specialised spokespersons who respond to requests for interviews. This approach promotes openness and transparency, while allowing those working in the field to communicate.

## OP-3: Media Perimeters

To protect crime scenes, police often establish clear media perimeters. In terms of the media, these boundaries play an important role in facilitating access to information and maintaining journalists' safety. This sort of routine operation can significantly promote the achievement of communications objectives: to protect the crime scene, to protect journalists and to promote freedom of expression. The perimeter must be negotiated with the person on charge and be established quickly.

Lessons learned suggest that the boundary must be indicated physically (no imaginary lines). It is not intended to confine the media, but to facilitate their work by indicating the boundaries of secure access.

### Why Have a Perimeter?

A perimeter must be clearly delimited because otherwise journalists go where they want and do not always follow safety instructions.

Moreover, a perimeter:

- Allows for the media to come together;
- Reduces stress during operations;
- Makes it clear from where journalists may access the event;
- Keeps media away from investigations;
- Relieves the pressure on commanding officers, by keeping the media at a distance;
- Gives negotiators or units of rapid response exclusive access to the immediate vicinity of the incident, by keeping the media at a distance;
- Provides a central location for disseminating information to the media; and
- Offers a secure location for the media.

### How to Establish a Perimeter?

If possible, undertake a survey of the area;

- Use tape or a barricade to delimit the media zone;
- Establish an exit, or emergency exit in case of danger or use of gas;
- Keep away bystanders and distractions (people gesturing behind TV reporters, noise, block any visible addresses that should not be identified, etc.);
- Engage the media by having a source of information, a spokesperson, on site;
- Provide an interesting vantage point (which has a good view of the event and is easily accessible) that is satisfactory for the media and which encourages them to remain there;
- Identify witnesses and be proactive in ensuring that victims speak to the police

before the media; and

- Provide a safe and secure location.

### Attention to the background

While an operation is ongoing, you must ensure that rest areas for members of the security forces are out of the way and you have to remind staff of the image they can project through gestures or taking off their uniforms. For example:

- Laughing in the vicinity of a murder;
- Being seen holding a drink or smoking, or any other breach of good manners.

### Partners

**It is important to notify operational partners about the perimeter that is to be established to make sure not to interfere with their operations:**

- Notify the fire department / first aid / health care services;
- Do not exceed sphere of authority;
- Do not speak for other services such as the fire department, paramedics, etc.;
- Do not antagonise potential witnesses;
- Do not interfere with the investigation;
- Do not identify victims;
- Special attention should be given to hostage situations or situations involving armed or barricaded individuals. In both cases, communications play a strategic role, because the perpetrators are listening and, indirectly, we participate in or shape the negotiation. As a result, messages should be approved by the negotiators, because everything is important: words and images.

## OP-4: Demonstrations

Demonstrations are democratic exercises undertaken to express an opinion or position. Security forces have a mandate to ensure everyone's safety: the demonstrators, police and other citizens. Demonstrations are demanding for security forces but essential in a free society. Security forces should not judge the relevance of the cause or message. To maximise the chance of success, security forces should make plans for three phases: before, during and after the event.

### Beforehand

Issue a technical briefing to journalists to:

- Explain how the security forces will ensure crowd control;
- Clarify what will and will not be tolerated on the part of the protesters;
- Clarify the rules of engagement with the media (who are the spokespersons, where are the media lines and boundaries) and establish operational rules for the police and the media (what is expected from both parties).

Brief all police officers on the work of journalists during the protests and the established operational rules.

Establish a code of conduct for the protesters (what will and what will not be tolerated) and disseminate it via the Internet, media and social media.

Issue statements through the media to remind protesters of the rules and to reinforce the message that the police are determined to let people express themselves.

### During

- Establish a safe media perimeter where representatives of the media will be given information and will be able to observe the event.
- Do not give interviews on the ground in order to avoid confrontations with protesters as well as any possibility of being photographed or filmed against a negative background, such as forceful arrests, or coarse signs or language from protesters.
- Disseminate current information to the media with and over social media to let participants know about intentions.
- Provide a neutral and quiet central location for dealing with media requests during the event.
- Invite journalists to follow the event, as they would a tennis match, from a position on the sidelines and not between security forces and demonstrators. This will allow the media to observe the actions of both parties.
- During police interventions, inform the media and citizens of the intentions

and movements via social media so they can avoid getting caught up in the action (e.g. when an event is declared illegal and it needs to be brought to an end, the media should be notified).

- Do not prevent the media from taking pictures; security forces have neither the authority nor the legitimacy to impose such limits on freedom of the press.
- Do not seize equipment; security forces have neither the authority nor the legitimacy to impose such limits on freedom of the press or freedom of expression.

### After

- Release journalists who have been detained during a police action as soon as they are identified as journalists.
- Stress the good behaviour of demonstrators and do not generalise based on isolated events (e.g. where a small group of protesters causes property damage).
- When releasing any information or statement (to the media), do not judge the objectives of the demonstrators; remain neutral since it is not for the security forces to convey political messages.
- Communicate internally regarding the outcome of the demonstration in order to show the rest of the force that demonstrations can run smoothly.
- Finally, provide an assessment of the demonstration to the media.

### Lessons Learned

- Providing journalists with a card, armband or other identifying accreditation can put them at risk vis-à-vis protesters, who might see them as allies of the police.
- Press cards should be used as a way to identify journalists, not to sort them or deny them access to the media perimeter or a media room.
- Journalists play a role in disseminating information to the public, and keeping them away can generate public mistrust. It is in the interest of the security forces to be transparent. It is important not to forget that the role of the journalists is to convey information to the general public.
- The media can occupy three positions during a demonstration:

a. In the crowd:

This approach is the least demanding in terms of preparation on the part of the security forces, because the media are in the crowd with the protesters. However, media safety is not assured and the main focus will be on the security forces rather than the protesters (the media will tend, for example, to cover the response of security forces rather than the protesters who attack them). Furthermore, during crowd control operations, the media may find themselves caught in



the crossfire between the police and suspects.

TO CONSIDER WHEN THE DEMONSTRATION IS MOVING OR IS IMPROMPTU.

b. Embedded (i.e. with the security forces):

In contrast to when they are in the crowd, the media can only observe the actions of the protesters. Furthermore, this position is very demanding in terms of preparation and the media could be seen as a propaganda tool for the police.

TO CONSIDER WHEN THERE IS A REAL DANGER TO THE MEDIA, SO AS TO ENSURE THEIR SAFETY.

c. In a neutral media perimeter allowing them to see both sides:

When a perimeter is carefully established, the media are safe while being able to observe both parties. The perimeter should be close enough to observe the action while affording protection to the media. To encourage media to go into the perimeter, a spokesperson from the security forces should be placed there to provide information to the media.

TO CONSIDER FOR MOST DEMONSTRATIONS WITH A VIEW TO ENSURING FAIR AND NEUTRAL MEDIA COVERAGE.

## OP-5: ELECTIONS

Elections are a key event in a democracy. During the electoral period, security forces play a very important role in maintaining public order and protecting the various actors, such as those running the elections, candidates and citizens going to vote. Given their role, it is all the more important that security forces remain neutral and manifest this neutrality through their communication, behaviour and the arrangements they put in place. During the various stages of the election, security forces must keep several points in mind.

### Feeling of Security

Citizens must feel safe in order to be able to vote freely, but also to express themselves freely during the election debates. This sense of security is intangible and hence very difficult to assess. Security forces should not be too visible, through a substantial presence (which sends a danger message), or too absent (which could encourage malicious people who wish to disrupt the elections).

- During election debates, maintain a discrete presence nearby.
- On election day, provide security at voting stations, but also nearby to control excesses or intimidation.
- During the election campaign, the police should take a low profile in the media, letting politics dominate.
- Remain transparent but discrete on these days, and do not hold media events (press conferences...) near polling stations. In the unfortunate event of an incident, it is best to hold media events in neutral locations such as in front of a police station (given the importance of visual communication). For example: if there were a stampede outside a polling station, do not go there at the last minute to communicate with the media.
- Keep in mind that citizens could be dissuaded from exercising their right to vote if, during the election campaign, they see the police talking about security problems in the media.

### The Neutrality of Security Forces

The police must keep their distance from political actors if they wish to be seen as apolitical:

- Do not be seen with elected officials during the election campaign. Some elected officials may wish to be seen with the police to increase their credibility;
- Do not issue an assessment or annual report during the election period. The figures could be used for or against the ruling party by demonstrating their success or failure in terms of public safety;

- Prohibit and reprimand any political declaration or activity by employees while on duty;
- Do not comment or take a position on the electoral debate;
- If the security forces have a union which takes part in discussions on issues such as working conditions, crime, funding for the police, etc., this should be done on a civilian basis, without showing any visual insignia of the security force (flag, uniform, etc.); and
- Let democracy prevail by taking up the least possible space in the media.

## Allowing Voting to Proceed Freely

- On polling day, everything possible should be done so that people can vote freely.
- Ensure free access to voting stations, including journalists so they can cover the elections.
- If journalists are present at polling stations, make sure this does not intimidate voters (e.g. media should not be situated near voting booths).

## Lessons Learned

Despite the best precautions, there are always politicians who will be tempted to use security forces to do the following:

- Ask for a significant and visible police presence near polling places, which can discourage people from voting.
- Being seen at joint events with the police so as to increase their credibility or to send a message that they represent better security.
- Some even go so far as to make criminal allegations to discredit their opponents.

For these reasons, you should remain focused on your mission and avoid different political interests. Politicians and governing parties change, but the police remain and the public needs to have confidence in the police and in their independence.

## OP-6: Crime Scenes

The mainstay of police work is to find the perpetrators of crimes and bring them to justice. When an event which is or appears to be criminal in nature has taken place, a perimeter is established to protect the crime scene or the police intervention. In addition to preventing “contamination” of the scene or the loss of evidence, a perimeter keeps curious observers away and facilitates the work of the police.

Nevertheless, the media need to serve as an interface between security forces and the public, informing the latter about what is happening. Journalists are, therefore, naturally interested in such events.

Within a framework of respect for media freedom, the police cannot prevent the media from being present where they are investigating unless:

- They have been ordered to do so by their superiors, so as to protect the ability of the police to undertake an investigation;
- This is necessary to maintain public order, safety or the protection of privacy.

The police should, in this second case, comply with legal requirements and any official directives on dealing with the media.

Where necessary, and in accordance with these principles, the crime/incident scene and investigation centre may be closed to the media. The goal is to protect the integrity of the investigation, as well as the ability of police officers and emergency personnel to access the location.

Any restrictions on media access should be of limited duration:

“Restrictions on media access to a crime scene/incident are subject to review by the commanding officer or an appropriate staff member. Such restrictions should be lifted as soon as the situation allows. The decision is made by the commanding officer or an appropriate staff member.” (Los Angeles Police Department)

In addition, security forces cannot simply impose a ban on access.

### **Security forces must also:**

- Establish a maximum access zone (a limit which the media may not breach);
- Designate an onsite spokesperson to provide journalists with real time information updates;
- Consider ‘group’ access (for one TV camera, TV journalist, newspaper reporter, photographer, radio journalist), who can then share information with other members of the press who are present.

## OP-7: Using Social Media

Social media tools have democratised information sources. Indeed, anyone who has Internet access can view or even generate messages or news. Security forces are no exception. Their personnel are very likely to be present on social media, which must be taken into account. Security forces should adopt a policy on the use of social media which includes the following:

- A prohibition on employees using official images of the service (logo, flag, names, uniforms, etc.) on social media;
- Keep a watch on/monitor social media activity;
- When an employee identifies him- or herself as an official, he or she must follow the same rules which apply to the traditional media, i.e. no personal opinions, no operational information, do not go beyond his jurisdiction and expertise, remain neutral and respect organisational values in his or her comments;
- Reminding employees of the dangers of posting private information online;
- Encouraging employees to use an intranet rather than a Facebook group to share police information; and
- A prohibition on using social media during work hours.

Social media can be useful for getting messages directly to the public without going through the traditional media. However, it should be kept in mind that entering into the social media world requires resources, standards and flexibility.

Some examples of corporate uses of social media:

YouTube allows for the broadcasting of short information videos, appeals for witnesses, and notices about research or the promotion of job openings in the security forces.

Facebook allows for the communication of brief messages about incidents or crises, advice to citizens during special events, or for meeting prospective employees.

Twitter is a communications tool which allows daily dissemination of messages up to 140 characters quickly to certain segments of the population, and can be used as a tool for promotion, with links to the Internet or YouTube.

In various contexts, the police are often the first to communicate (on the facts), before the judiciary takes over. This communication should be objective, transparent and factual.

### Information the Police Should Not Provide

Police officers who are asked by representatives of the media for information on court cases should avoid making statements or comments regarding:

- Details about an investigation where such disclosures could prejudice the investigation, the prosecution of the accused person, or future investigations;
- The identity, testimony or credibility of a potential witness;
- The guilt of the accused;
- The possibility of a guilty plea; or
- Any criminal record of the accused.



# Module 6

## Coverage of Judicial Proceedings by the Media





# Table of Contents

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<b>Module 6 – Coverage of Judicial Proceedings by the Media.....</b>	<b>139</b>
6.1 General Principles.....	141
6.2 Media Presence in and Around Courtrooms.....	142
6.3 Major Trials.....	145

## 6.1 General Principles

Access by the media to the courts and court information raises special issues, in particular the need to strike a balance between open access to the courts and the protection of the integrity of legal processes and those involved in them.



**Discussion: Can you think of any special issues that might arise in relation to access by the media to the courts? How might you, as security services, have to deal with this issue?**

The analysis that follows refers mainly to the rules on media relations of the justice system of Quebec (Guide to media relations and the management of high-profile and risky events, Justice Services Branch, Ministry of Justice, Quebec). This Guide begins by stressing the principle of the right to information:

“As a public body, the Ministry of Justice must make every effort to publicise its services and the way the justice system works ... information provided to the media should be as accurate and timely as possible. To this end, it is communicated by an authorised person, subject to validation by the authorities ... The Ministry of Justice is always transparent with respect to its administration and its activities. Relations with the media are undertaken within a framework of the greatest respect for their role and how they operate.”

As with the police and other law enforcement authorities, this concerns everyone, while taking into account the hierarchy:

“All units of the Ministry are involved in the dissemination of information to the media and are stakeholders in this process ... Communications with the media should focus on factual information. The giving of opinions and evaluations is reserved for management.”

At the same time, and as with the security forces, certain information should not be disclosed to the media.

This involves respect for the presumption of innocence, the right of accused persons to defend themselves, and the privacy of victims and third parties.

## 6.2 Media Presence in and Around Courtrooms

“All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.”

[Article 14(1) of the International Covenant on Civil and Political Rights (ICCPR)]

The excerpt above from the ICCPR sets out clearly the general rules on access to courts. In general, hearings in criminal cases shall be open. This presumption may be overcome, and a hearing closed, only in limited cases where this is necessary to protect morals, public order, national security or privacy, or in very limited cases, the interests of justice.

In practice, in democracies, hearings are very rarely closed, even when children are involved, although the media will often be prevented from disclosing the identities of the children involved. There are exceptions to this. In the United Kingdom, for example, cases of family law involving children are now regularly closed to the public, including the media, but this is an exception.

Public morals and public order are almost never accepted as grounds for closing a hearing. In some cases, hearings may be closed where the accused is charged with a serious national security offence, but even in these cases this is normally only for those parts of the hearing where sensitive information is being presented to the court.

In terms of judgments, the dominant practice in democracies is to publish them, even when children are involved, but to replace the names of the children with initials. Indeed, it is almost necessary to do this in important cases, so that lawyers and the public can understand the way the law is developing and the way that the rules have been interpreted and applied.

It is important to guarantee the possibility of the media to attend hearings and to be able to report on them in a clear, accurate and comprehensive manner. As in other cases discussed in this manual, this is not because of the special status of journalists as such but, rather, to ensure that the general public can learn about what happens in courts, which, for the vast majority of people, they do through the media.



**Discussion: How often, if ever, are courts closed in your country? Do you think this practice strikes a good balance between the various interests?**

As a result, courtrooms which are frequented by journalists should reserve a few seats for them, to facilitate their work; these seats should be situated so as to give the journalists a good view of the courtroom and of the various actors. This also applies to artists engaged by the media, who are increasingly used in cases of interest to the public. To ensure that journalists can always access the courts, especially in the context of very popular cases, it may be necessary to put in place special measures (see below).

### Guidelines for Conducting Interviews

In order to ensure the fair administration of justice, the tranquillity of judicial hearings and the rights of litigants and witnesses:

1. Obstructing or hindering free movement in public areas is prohibited, including standing in front of someone or obstructing his or her path.
2. Interviews are permitted only in specially designated areas.
3. No interview may be conducted at the exits or areas surrounding the courtroom, where this could impede the free movement of people in these places.
4. However, it is permissible to ask a person to give an interview as he or she is leaving the courtroom.
5. If someone agrees to give an interview, the media representative and that person should conduct the interview at a location which has been authorised for this purpose in the courthouse.
6. Safety instructions and zones should be respected at all times.
7. Anyone may call on the security staff of the courthouse to ensure compliance with these guidelines.

### Sound or Video Recordings During Court Hearings

The rules of procedure and practice of courts in most countries prohibit filming and taking photographs during court hearings.

Radio and television broadcasting of hearings are also prohibited.

In ongoing criminal proceedings, the court registrar or senior registrar, as appropriate, should check with the judge before granting a journalist access to documents.

The same person will help journalists and photographers or cameramen take pictures of these documents in the courtroom or in a room adjacent to it, if this is allowed.

In this case, it must be made clear to reporters that pictures may only be taken in accordance with the authorisation.

Taking pictures and sound recordings and doing interviews should be allowed out-

side of the courthouse, including in the forecourt. On the other hand, depending on the layout and available space, judicial authorities may, especially at certain times (for example during large trials) and for safety reasons, prohibit or restrict the taking of pictures, making of sound recordings and conducting interviews at certain locations outside or on the forecourt.

But also ...

Depending on the number of cameramen and photographers expected, it may be impossible to allow them to take pictures and conduct interviews in the usual places, such as inside a small courthouse. In this case, appropriate locations for taking photographs should be identified or, in the worst case scenario, it may be necessary to ban this altogether inside the courthouse.

## Filming in Courtrooms as Background

The media sometimes ask to use courtrooms as a backdrop, for example for pictures of an interview with a lawyer. This can illustrate a story on the judicial system or provide context for the public during a high-profile trial.

In all cases, and especially when the request relates to a pending case, photographs should only be taken when the courtroom is empty, unless taking pictures or filming is otherwise allowed during hearings.

### **Reports, Documentaries and Other Film Shoots**

An application, whether for a news story, a documentary or a work of fiction, should be considered in light of only the following considerations:

- The link between the subject and the administration of justice and its compatibility with the normal function of the premises;
- The educational or informational value of the production for the administration of justice;
- Any risk this use of the space may create for the administration of justice;
- The impact of the shoot on the conduct of regular activities at the courthouse, on security or on the infrastructure of the building;
- The impact of the shoot on available resources in terms of personnel, time and space.

The person who is responsible for the courthouse where the shoot is to take place should provide the applicant with a written authorisation specifying the relevant terms and conditions. This authorisation will facilitate monitoring of the activity by security forces.

## 6.3 Major Trials

In terms of courtroom news, certain trials, inquiries or other events generate more interest from the public and hence the media. This leads to a greater presence of reporters, photographers and cameramen. Some newcomers may not be familiar with the location and or rules which are generally applicable in the courthouse.

These high profile trials often also attract a large crowd of curious onlookers and even protesters. A large crowd, together with an increased media presence, can pose risks to the safety of the public, the parties and witnesses, and can also jeopardise the success of the hearings. Indeed, the crowd often tries to attract the attention of the media and sometimes also to convey their hostility.

These cases also give rise to issues relating to access to the courts, because it may well be the case that not everyone who wishes to can attend the hearing.

Judicial authorities, in collaboration with security forces, should anticipate risky situations in advance. To do this, it is necessary to study judicial timetables to identify those trials which are likely to generate public, and hence media, interest.



**Discussion: Have you had experiences where there were problems with crowds and access to courts in the context of very high-profile cases? How did you deal with it?**

If a trial lasts a long time (several weeks or months), the interest of the media and public tends to be focused on certain stages of the proceedings: the beginning of the trial, key witnesses, defence pleadings, sentencing ... There will be highlights and downtime. The requirements will therefore vary over time.

### Identifying Major Trials

In general, high-profile trials have certain characteristics related to either the nature of the offence or the profile of the people involved:

- Trials involving serious or heinous crimes;
- Trials where police officers are accused of crimes against citizens;
- Crimes involving vulnerable persons;
- Criminal or civil trials involving artistic, political or public personalities as victims, accused persons, witnesses or parties;
- Trials of organised criminal gangs;
- Civil or criminal trials involving important political or economic issues or involving community safety issues.

In general, the more extensive the media coverage of an event at the beginning, the greater the interest of journalists and the public will be as time goes on.

## Factors for Risk Assessment

To assess security risks and needs, a number of factors should be taken into account. These include the possible presence of :

- Local, regional, national and foreign media;
- Specialised media: sports, politics, arts, fashion;
- Pressure groups;
- Demonstrators;
- Sympathisers;
- Relatives of the accused or of the victims.

Depending on the nature of the accused, victims and witnesses, it may be necessary to put in place specific systems for moving people in and around the courthouse, for example to prevent them from coming face-to-face with a hostile crowd.

Similar systems for moving about the courthouse may be needed for journalists and their accompanying staff, where their physical integrity or equipment is at risk.

This engages the credibility of the judicial institution and the security forces.

“The image of the administration of justice is harmed when people who come to the courthouse cannot move about freely and must fight their way through a barrage of media people or a sometimes hostile crowd of demonstrators.” (Justice Services Branch, Ministry of Justice, Quebec).

## Allocating “seats”

Depending on the size of the room in which a high-profile trial will take place, it may be necessary to establish rules for allocating seats among:

- Relatives of the parties;
- Regular journalists or media (regional and national);
- Visiting journalists; and
- The public.

Reserved seats should be identified and preferably labelled. One should try to distribute seats equitably among the relatives, the public and the media.

## An Overflow Room

At major high-profile trial, one way to address a shortage of space inside the main courtroom may be to provide an auxiliary courtroom with a video screen and a sound system that allows the public and the media, or only the media, to follow the trial.

### Accreditation or Laissez-passer

In many countries, systems are in place for the courts, so as to ensure that journalists can have access to the courts, including when there is very high interest in a case. There are different ways of doing this. In some countries, the security forces and courts recognise press cards issued by journalists associations. Individuals carrying these cards (i.e. journalists) are then given preferential access to courtroom space (for example, special seats may be reserved in the courtroom for journalists).

In other countries, the courts may operate special accreditation programmes for journalists who report regularly on court proceedings. In such cases, international standards relating to both freedom of expression and equality demand that the process of accreditation be both fair and non-discriminatory. Decisions about accreditation must be made on the basis of objective considerations, such as the extent to which the journalist or media outlet concerned reports on cases, and not on the basis of subjective considerations such as whether or not the journalist tends to present courts in a favourable light.

Where accreditation systems are in place, photo identification cards for purposes of accreditation are provided to each journalist.

This allows journalists to enter the courtroom, the auxiliary room and the press room.

If accreditation is deemed to be too complicated, judicial authorities may also provide media representatives with a simple pass. These may only be needed at the beginning of the trial and during some highlights, when everyone wants to attend.

### Transparency

In the interests of transparency, The person responsible for the courthouse or the communications officer should indicate to court officials and the media what measures have been adopted to ensure appropriate media coverage of the proceedings.

### Risk of demonstrations

Some cases may lead to more or less significant demonstrations, possibly involving pressure groups. When this is anticipated, the judiciary can call on the police to protect the streets and public places around the courthouse. However, a peaceful demonstration should be tolerated as long as it does not harm courthouse activities, even if it may be inconvenient for some.





# Module 7

## Communicating with the Media



# Table of Contents

## **Module 7 – Communicating with the Media ...163**

7.1	Foreword.....	151
7.2	Communicating facts.....	153
	7.2.1 Prepare Your Message.....	153
	7.2.2 Using Clear Language.....	155
7.3	Media Relations in the Era of the Internet and Social Networks.....	157
7.4	Public Relations Tools.....	159
	7.4.1 Press Release.....	159
	7.4.2 Press Kit.....	161
	7.4.3 Press Conference.....	163
	7.4.4 Media Scrum.....	167
7.5	Being Interviewed by Journalists.....	169
	7.5.1 Identifying the Journalist’s Approach.....	169
	7.5.2 Some Practical Details.....	170
	7.5.3 Prepare Your Message.....	171
	7.5.4 Interviews as Public Speaking.....	172
7.6	Managing Communication in a Crisis.....	176
	7.6.1 Defining a Crisis.....	176
	7.6.2 The Crisis Committee.....	177

## 7.1 Foreword

As a State becomes more democratic, relations with the media become more complex while, at the same time, also more exciting and rewarding. In this new landscape, the public's thirst for information stimulates the work of journalists, who are now free to exercise their desire to investigate.

Journalists need information and, therefore, sources of information. The security forces can become a fully-fledged player in this by building good relations with the media based on transparency and respect for freedom of expression. As noted earlier in the manual, security forces also need journalists and the media, particularly to build trust between themselves and citizens, but also to enhance their image.



**Discussion: What are the main ways that you communicate with the media and the public? Do you feel that these are effective? If not, what is missing?**

Needing one another does not mean that your needs are the same. Security forces need time to complete their investigations. The media always work in emergency mode: each story steals the headlines from the previous one. Security forces need to secure a location (a crime scene). Journalists want to enter that location, to be at the heart of the action. Security forces want to prioritise the communication of certain information to the public, but the media world is tumultuous, saturated with all kinds of information which they continuously have to filter.

Of course, current events have priority. From this perspective, security forces are a privileged interlocutor. Rigour, clarity and speed are key to maintaining this type of relationship with the media. Therefore, it is important for the security forces not to wait, for example, until they have all of the information before communicating. Once a piece of information has been verified, it is crucial to communicate as quickly as possible in order to be in the communication game.

It may be difficult to get journalists to talk about the security forces institution or a new project that is being launched, or good news about the police. Whether it is print, radio, television or online, it is important to find the right way, in terms of both substance and form, to communicate this information.

To get good results, one needs to avoid creating problems, including by using the tools that will be discussed in this module effectively. It is not possible to do more, and journalists may still make mistakes. But experience shows that where communicators are competent, journalists make far fewer errors.

A small example: a press officer complains about an article appearing in the press based on a report by a journalist. "I do not understand. I talked to him for two hours ago. I gave him all of the information and he only referred to secondary

information.” A communications expert will respond: “But why didn’t you make it clear what the key points were. Perhaps you buried the key points in too much other information.”

A Swiss police commissioner who is an expert in media relations notes: “If relations are good in regular times, it will help things to go smoothly in extraordinary situations. You need good everyday relations.”

## Foster a positive relationship with the press and media

- The challenge: to ensure there is access to the media whenever the need arises;
- The reality: journalists and the media process information according to their own needs: newsworthy developments, target audience, their position in their respective markets, etc.
- The organisational need: a minimum level of organisation and to maintain regular and respectful relationships with journalists and the media so as to build credibility.

Keeping in mind that journalists prefer those working on the ground to managers, who sometimes use too much jargon, it is useful to identify, among staff and police working on the ground, spokespersons who can talk to the media in a credible manner and on concrete cases, thereby providing added value to the communications.

### Identify the target

- Who is being addressed?
- What is the objective? (to reassure or to alert)
- What is the dissemination system? (Press, interview, media scrum, press briefing, press conference, specialised briefings, etc.) Depending on the chosen system, it will be possible to reach the sought target.

## The importance of defining goals

Inform, alert, mobilise, denounce, reassure, consult, advise, establish the facts, summarise information, counter an effect, reinforce or change behaviour, publicise, monitor, etc.

### What is a goal?

It is often a short phrase that begins with an action verb ...

E.g. Publicise speed limits.

... Which is then reformulated in terms of the message to be delivered and the target audience...

E.g. By the end of the interview, motorists will be aware of the new speed limits...

...Which will be as specific as possible.

E.g. By the end of the interview, motorists in the Ahuntsic region will be aware of

the new speed limits.

... and which, if necessary, will be complemented by other details (specific objectives).

E.g. By the end of the interview, motorists in the Ahuntsic region will be aware of the new speed limits that apply in Sauvé Street in the evening.

To communicate well with the media, it is important to decide on the target of the message – this will allow for the selection of the appropriate means of communication – and define the goal, but also discover their language.

## 7.2 Communicating Facts

Journalists and communicators should use a factual writing style, both in writing and orally. This allows for the clarification of the information that needs to be conveyed to journalists.

### 7.2.1 Prepare the Message

#### The Information

Information:

- What is new?
- What is original?
- What is interesting?
- What is important for the reader?

Journalists want information.

If there is nothing to say, do not write, do not talk.

If there is too much to say, make a selection to avoid drowning the journalist with information.

Do not overload by giving too many details. Prioritise.

#### The Core Message

The journalist (his or her audience) needs a strong theme, and only one, leading thread.

Secondary information is used to clarify the key message.

The core message is first defined orally ("If I had to summarise this issue in 25 seconds..."). One then checks whether the main reference questions have been answered: Who? What? Where? When? How? Why?

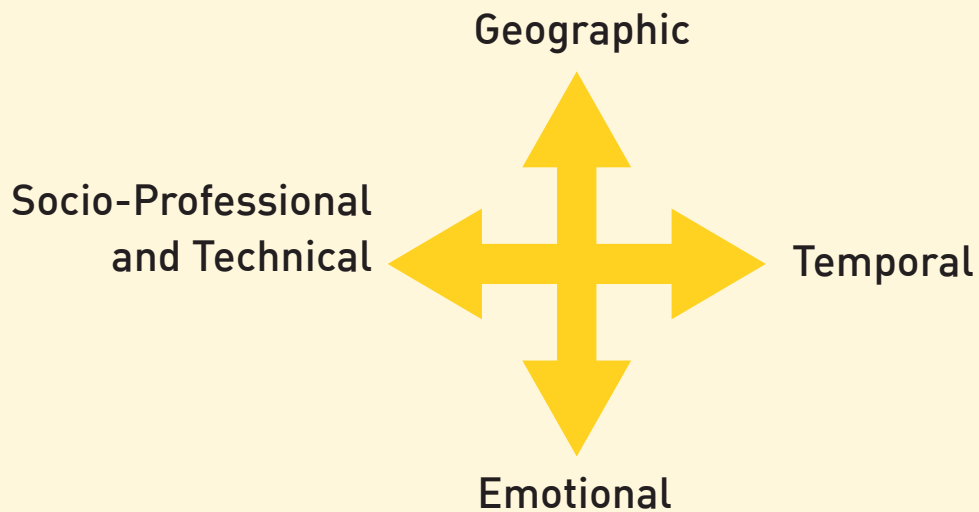
## The Laws of Proximity

The reader, listener, viewer or Internet users are more interested in information that is proximate to them.

Information may be proximate in four different ways:

### The Angle

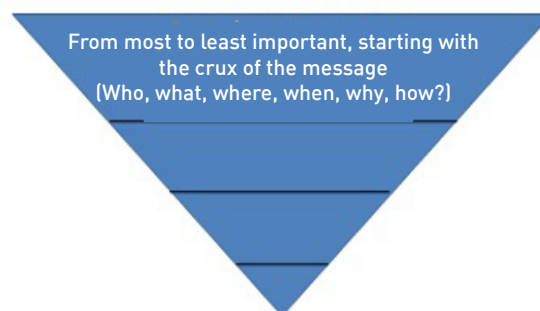
This is how one approaches the theme. Newspapers choose angles according to their target audience and depending on the local laws that apply to their medium. média.



### The Inverted Pyramid

Organise the messages to the press using the inverted pyramid:

Start with the core message and continue in a descending order of importance relative to the core message.



## 7.2.2 Using Clear Language

### Simple, Accurate and Concise Vocabulary

Keep in mind the following points:

- If forced to use big words, explain them;
- Be careful with professional jargon. Make sure it is well understood by everyone and ban it from documents intended for an external audience;
- Beware of neologisms;
- Beware of archaic terms;
- Beware of unfamiliar foreign/ borrowed words;
- Beware of homonymous words (words which have several meanings, such as 'bank');
- Beware of using acronyms and abbreviations (spell them out);
- Beware of words which shift in meaning (words which have changed from their original meaning, such as 'gay' or 'cell');
- Beware of local words;
- Proper names should always include the first name (and, where relevant, the function, such as Prime Minister, and in what capacity we are speaking of the person).

Be careful about using:

- General terms (people, persons, there is...);
- Linking verbs and the verbs 'do', 'say';
- The auxiliaries: 'be' and 'have'.

Replace them with more specific words or verbs. For example, the verb "to say" is still widely used. Several other phrases could be used: indicate, declare, reply, observe, clarify, remark, tell, show, stress, affirm, proclaim, retort, raise, add, judge, claim, insinuate, announce, confess, deny, recognise, protest, sigh, continue, declare, affirm, proclaim, etc.

### Be Careful about Syntax

Beware of literary effects and overcomplicating sentences; use simple forms (subject + verb + object).

### Numbers

Give examples: A collision at 70 km is equivalent to falling from the sixth floor.

Rounding the number. Allow the public to imagine. Give equivalents.

When using numbers, follow these rules:

- Write \$500 million rather than \$500,000,000
- It is hard to remember numbers, so it is useful to compare with something that is known (more than a million dollars or X times the price of...).



## Short Sentences

Subject + verb + object. No layered phrases or endless conditional phrases.

Active verbs are more direct, stronger.

## Good Turns of Phrase

Try to use the following approaches as far as possible:

- Use the active rather than the passive voice. The active voice maintains the subject/verb/object order of the sentence. E.g. say or write "the police have completed their mission" rather than "the mission was accomplished by the police".
- Use positive rather than negative phrases. Positive communications are always better. Double negatives take up more space. They are sometimes difficult to understand at first, especially if there are several negatives in a sentence.
- Use a direct rather than indirect style. When preparing a written statement for the press about what was said, put quotations in quotation marks. E.g. The defendant said: "I am guilty" rather than "The defendant admitted that he was guilty."
- Avoid repeating the "who" and the "that". E.g. a phrase to avoid: "The man, who was suspected by police of having committed the crime that had been committed in the hotel room which was frequented by the victim, eventually acknowledged his guilt to the inspectors who interrogated him."

These tips will help to shorten the sentences and make them more readily understandable. Be especially careful to avoid "screens", that is to say words that separate the subject from the object or action.

## Beware of Discriminatory Phrases

Avoid phrases that may be perceived as being discriminatory because they present gender stereotypes, or tend to minimise the presence of women or make this appear as exceptional. As far as this is reasonable, one should portray both women and men in different roles and avoid perpetuating gender stereotypes.



**Discussion: Does this advice make sense to you? Is it something that you could introduce into your work?**

## 7.3 Media Relations in the Era of the Internet and Social Networks

The development of the Internet and the new media that have accompanied it – characterised as multimedia, interactive, social networks and Web 2.0 – have fundamentally altered traditional approaches to media relations. The job of the communicator or press officer has rapidly undergone a major change. It is no longer enough simply to address journalists; one also has to address bloggers and even Internet users directly, and hence the general public.

The way the public is informed has been completely turned upside down. 90% of Internet users consult news websites frequently.

Journalists themselves are very fond of browsing the Internet, consulting and creating blogs, participating in or consulting forums (sometimes even forums run by their own media). They themselves increasingly publish online, which allows them not only to inform themselves but also to communicate so as to learn more. They also receive press releases via email, and fax, and nowadays rarely by post.

As a consequence, communicators working for businesses or institutions should put their information online in real time, and should also continuously monitor reactions to their work online.

These communication tools, more typical of the media, associated with community management (presence and vigilance online and especially on social networks) help improve the ranking of the company or institution online and therefore its visibility.

One common idea applies to both traditional media relations tools and online communication: one must target one's audience. The Internet offers infinite opportunities to express oneself and to communicate. But at the same time the risk of ones' communications being diluted is great. One must be present where the information will be requested and therefore accessed.

One must target the right media and the right web links and choose the right way to reach the right audience:

- Sites of the major dailies, or of more specialised, professional or community press;
- Dissemination of corporate or institutional information, an expert chronicle, interviews.



**Discussion: Do you have special protocols for communicating via the Internet? Is it something you use often?**

## Four Tips for Success in Communicating Online

- Be responsive every day:

There is nothing worse than a Facebook or Twitter account which is not fed regularly, or a website that has outdated statistics.

- Communicate with everyone:

Respond on an equal basis to Internet users who contact you. The Internet is primarily a place for exchanges between Internet users, where it is equally important to express oneself as to search for information. At the same time, there are of course limits to this due to the resources it takes. What is important is to be aware of it and to try to respond as often as possible.

- Do not be too PR oriented:

The goal in being online and on social networks should be to deliver information which enhances one's image. It is not to provide a glitzy image of one's institution to the public. One must put him/herself in the shoes of the Internet user or journalist.

- Be careful:

Monitor the "e-reputation", that is to say what is said about one's institution online. A single online posting or video that tarnishes the image can have enormous consequences, regardless of the resources used to build one's image.

## The Blogger

This is an Internet user, who may or may not be anonymous, who has a blog. A blog is a website, which is presented so as to look a bit like a newsletter. The blogger provides information (mostly obtained online or from the media) or blogposts (his reaction to the news or a particular issue).

Most bloggers are not professional journalists. They also do something else: they are students, workers, politicians and ordinary people. In a few exceptional cases, they become professional bloggers.

An undeniable advantage of blogging is to reach an audience which is potentially much larger than that of most traditional media. And this is available without needing to set up a media outlet, which is expensive, time consuming and has many important consequences. One of the important differences with bloggers is that they are not subject to an editorial process, unlike mainstream media (i.e. where decisions about what to publish are made by editors and material is vetted by those same editors before it is published or broadcast).

This is why one finds the best and the worst. The blogger is often seen as a kind of "white knight", immune from both economic and political pressures, and particularly independent and honest.

In any case, companies and institutions should identify relevant bloggers and provide them with information that might interest them, which they will further disseminate. Especially since these bloggers are often connected via social networks.

All modern communication strategies rely as much on the Internet as on traditional channels.

Throughout this section on media relations tools, special sections are included on applying them to web 2.0, under the heading "And on the web!"

## 7.4 Public Relations Tools

To communicate effectively with the media, it is important to first choose the right tool. There are three main levels of relations with the press. The more important the event or information to be communicated is, the more elaborate the tool needs to be, ranging from a simple press release to a press conference, and then a press kit.

### Level 1: press release.

Restricted to current, factual information.

### Level 2: press kit.

To provide a full overview of the information or event, while taking stock or during a visit from a journalist.

### Level 3: Press conference + kit.

Reserved for major events, annual reports, launching a new policy.

Beyond classification: the media scrum.

This can occur at any time and, unlike the three previous levels, one controls neither the place nor the time it takes place, and nor does one fully control its dynamics.

### 7.4.1 Press Release

The press releases received by newspapers are often unusable. Some of the more common problems are: little or no information, a title which is too vague or too promotional, too much text, no answers to the five Ws (or no core message).

#### The Basic Rules

To be effective (and as far as possible directly usable or "ready"), a press release should follow the same rules as a newspaper article. It should not exceed one typewritten page.

- **Rule 1:** The article should contain the core message: Who did what, when, where, how and why?
- **Rule 2:** the core message should be in the opening part. These three or four lines summarise the news in a way that is useful and interesting. It should be visually distinguishable from the rest of the text.
- **Rule 3:** Prepare a plan. With a plan, the author (or the press officer, as the case may be) will offer readers (journalists) a better articulated and clearer piece.

The inverted pyramid plan.

The article should present the information in descending order of importance. It starts by giving the reader the most important information and, by the end, contains information that could, if necessary, be cut. Which often happens with press releases.

- **Rule 4:** write short, clear sentences

The shorter the sentence, the easier it is for the reader to remember it. According to what is taught in French journalism schools, on average a person:

- Remembers 100% of a 12-word sentence.
- Remembers 70% of a 17-word sentence (and only 50% of the second half).
- Remembers 50% of a 24-word sentence (and only 30% of the second half).

### Some advice, tips and tricks to write a press release:

- Keep to the point, a phrase is one fact, one idea;
- Avoid redundancies;
- Avoid layered sentences with subordinate clauses;
- Favour the active over the passive voice;
- Use the present tense;
- Use verbs with precise meanings, not vague verbs (e.g. 'be', 'do', 'have'...). E.g. "The officers are securing the perimeter." rather than "Officers are in the process of securing the perimeter.";
- Prefer verb over nouns (e.g. "improve a situation" rather than "proceed with the improvement of a situation");
- Avoid unnecessarily complicated or abstract words: "problematical" rather than "problematic";
- Avoid unnecessary verbal structures ("as it were", "if I had only been allowed to");
- Remove, as far as possible:
  - Relative pronouns (who, what, whose, which, whom, etc.);
  - Coordinating conjunctions (but, and ...)
  - Subordinate conjunctions (while, after, as well as).

The number 1 rule: write like journalists do in newspapers, not as one would for an administrative report or a sociology dissertation for university.

### Beware

- Ensure the term "press release" is clearly visible (at the top of the document);
- Always write in the third person rather than the first person, so that journalists can use the sentences directly;
- Do not mention the organisation or administration in every line and above all do not write it (the name of one's company or administration) in CAPITAL let-

ters;

- The text should be dated. If the journalist forgets it at the office, he will always know when the statement was written;
- A press release should always include contact information for the spokesperson or the press officer from whom journalists can obtain additional information.

### Whom to Address the Press Release to, When and How?

- Target mailings based on the content.
- Sent it to all targeted media simultaneously.
- Send it by email and, possibly, fax. Mailing documents is now rare.

#### And on the Web

The press release should always be featured on the website and Facebook page, and these should be identified through a message sent out on Twitter. This is a good way to update one's website and be active on social networks.

The statement should be sent to bloggers and to potentially interested social networks - who may forward it on.

If necessary, change the statement to make it more dynamic and punchy, more adapted to the online environment (shorter text, shorter sentences).

Also send the press release to specialised professional sites, to associations, and to organisations working in the industry or who may be interested in the information.

Do not forget to circulate press releases over the intranet.

### 7.4.2 Press Kit

The press kit is used in two situations: for press conferences and for important topics. At a press conference, one may combine a press release and a press kit. Journalists will find critical information in the first, and it also allows for interaction, for questions that interest them, and, in the second, the necessary material for more in-depth and diverse pieces written from different angles.

#### What is a press kit?

A press kit provides a complete overview of an issue, and brings together all the important, available information on it. The matter is approached from several directions, providing a general framework and background information, different entrées for journalists into the subject and to interest the reader. Do not hesitate to include items such as surveys or investigations: this raw information may be used directly by journalists.

Each section of the press kit should not exceed one or two typed pages (except the news summary which should be just one page) and should follow its chosen theme. To prepare a press kit, one should respect the rules set out in the section on press releases. For each section, the title and opening should provide essential information. The opening should also present the thrust of the article.



**Discussion: Have you ever worked on a press kit? What did you put in it? Was it useful?**

## What Structure?

A press kit should include a summary on the front page with informative and specific titles. Two pitfalls to avoid:

- Chapter headings (“The self-taught Minister of the Interior “ is preferable to “A profile of the Minister of the Interior”);
- Unduly technical titles

The sections may vary, depending on the media that the press officer is targeting: it is important to try to find angles that will be of interest to the media in question. Obviously, one should highlight the items that one wants to draw attention to, and which will interest the journalist (useful and interesting news). For example, in case of a serious criminal investigation, a chart of how many similar crimes have occurred in recent years and in which parts of the country might be interesting.

If the press kit is to be launched only on a specific date, indicate that «the press kit is under embargo until...» This is a common practice of news agencies (AFP, Reuters) to which journalists are accustomed.

## Do Not Forget the Photographs

- A press kit should include one or more photos, which should be labelled. Ideally one should provide an illustration for each section of the kit. If the budget is limited, indicate that pictures are available on request or, better yet, on a website.
- In the last few years, the print media and television have started to use a lot of info-graphics. One or more graphics are a huge plus in a press kit. One condition: their technical quality should be beyond reproach; they should also be able to be reproduced directly.

## Format, Packaging

- Do not try to be original: Use size A4 paper.
- The different sections of the press kit should be provided in a folder which carries the name of the Ministry, unit or national service, the words “press kit”, the date, the generic title of the press kit and contact information for the press officer.

### Dissemination Outside of the Press Conference

If a press kit is prepared for a press conference, it should be sent to journalists. It should be accompanied by a short, highly targeted letter from the head of one's unit or ministry that profiles the innovative, useful and interesting information found in the press kit. This letter should be personalised, for example by addressing it to an individual journalist or an editor-in-chief.

### The Release Should be Timed to Reflect Editorial Deadlines

When a press kit arrives in a newsroom, it is often used as a starting point for a piece. One must, therefore, take into account the rate of information processing, research and audits, and the periodicity of release of the media that one is addressing and their deadlines.

- Daily: send 10 to 15 days before the desired date of publication.
- Weekly: three weeks.
- Monthly: six to eight weeks.
- Radio: 3-5 days.
- Television: 5-6 days before the desired release date.

#### Beware

- Do not forget to include practical information.

#### And on the Web

The press kit should be posted online as soon as possible, while respecting the deadlines of the media to which it has been sent.

This online press kit should be disseminated on one's website, blog if the institution has one, and over social networks. The different angles covered in the kit may be illustrated with images, info-graphics, hyperlinks, illustrative videos or interviews (with staff but also with experts).

### 7.4.3 Press Conference

A press conference is the most involved and intense form of engagement from among the three types of engagement with the media described here. Among other things, it takes more time and effort than the other three, for both the security services and for journalists. It should therefore be reserved for situations of significant public interest, such as a very serious or complex criminal investigation.



**Discussion:** For what sorts of events would your service use a press conference? How often do you hold one? Are they useful? What are the difficulties in holding a press conference, and how to overcome them?



## One Must Follow a Series of Steps to Arrange a Press Conference:

### **Choose a good date and time**

A press officer should look into whether other press conferences are being held on the same day. Avoid Saturdays or starting after 17:00 on weekdays.

### **Choose a good location**

A symbolic venue can improve the press conference, especially when media photographers are there to take pictures. The venue should be user friendly and suitable given the number of journalists expected to attend.

### **Invite the journalists**

Select specific journalists from media files based on the event being highlighted.

A simple letter of invitation (or formal invitation) is enough: that will entice journalists, telling them enough to get them to come but not enough to satisfy their curiosity. The invitation should also indicate the agenda of the conference and who will be present: if, for instance, this is the first time the unit has addressed the press since its creation, and journalists will want to get to know it.

### **The follow-up**

Provide one or two follow-ups: 48 hours before and the morning or evening before for a very important press conference.

### **Choosing the right speakers**

Having interesting speakers who have information to share on the subject makes for a good press conference. Limit the number of speakers to two or three.

## The Proceedings

A press conference should begin with brief presentations from one or more speakers (10-15 minutes). Be aware: they should not read statements but instead shed light on the subject, highlighting their experiences and views.

Afterwards, journalists are given an opportunity to put questions to the speaker(s).

### **One needs to prepare for a press conference**

If the speakers have rarely met the media, there is nothing like a good media training to prepare. They will refine their speeches and their arguments, and reassure themselves.

### **After the press conference**

At the end of the press conference, the speakers and journalists often gather to

discuss more informally. This is often where the journalists get the most interesting information. If the head of the unit or the speakers do not indicate that the conversation is private (i.e. "off the record"), journalists continue to work.

### **Beware**

- A press conference is not the launch of an exhibition (i.e. it is not a purely social event). It is a special opportunity for journalists and managers of a company, association or organisation to get together to work.
- Place name tags in front of each speaker, including titles.
- Do not forget to include a list of participants (name, function) in the press kit.
- Identify journalists as they arrive.
- Send the press kit to journalists who are not able to attend the press conference.

### **Other important points to remember to ensure a press conference is successful:**

#### **A) The message**

- Understand the message to be communicated
- Set objectives
- Verbal and non-verbal communication
- Respect for the language
- Clarity of the message, i.e. be concise

#### **B) Checking the facilities of the venue**

- Exit door for journalists
- Exit door for you
- Briefing room
- Planning where people sit
- Indicate the order of the subjects to be addressed to journalists before the meeting

#### **C) Visual elements**

- Table(s)
- Video(s)
- Slide(s)
- Supporting document(s)
- PowerPoint presentation(s)
- Microphones, tables, control desk or panel, etc.

#### **D) Something one can control – the Press kit**

Media handouts:

1. press releases;
2. speeches (double-spaced Arial 18 font for readability);
3. business cards (of spokespersons or the organisation);
4. photos;
5. other documents which are relevant to understanding the subject.

#### **E) The master of ceremonies**

Controls the flow of the proceedings:

- Presentation of actors
- Taking questions
- Conclusion of the press conference

The moderator acts as a filter. Questions are not addressed directly to speakers but to the moderator, who manages the event. He or she takes care of the transition between one speaker and the next, and the exchange between speakers, leaving the spokespersons to focus on content. By managing the event, he or she allows spokespersons to focus on the message to be delivered.

#### **F) Preparing the Spokesperson**

- The main statement and its duration
- The time for questions and answers (with arguments prepared in advance, where possible)
- The creation of a checklist
- Individual interviews: broadcast media, print media
- Keeping track of which media are present (name, media, email, phone)
- Determining the total time for the press conference
- Following the press conference: reviewing and analysing the media coverage (angle, importance, frequency, extracts used)

### **Why is it Necessary to Prepare for a Press Conference?**

- To represent one's organisation adequately
- To avoid becoming someone who has been "misquoted"
- To protect the public's right to information
- To communicate one's messages effectively
- To develop summarising skills: a radio or TV top (very short brief, presentation or recap of a situation) is 250 words. A newspaper article is about 500 to 1000 words, and a magazine article is 3000 words.
- A spokesperson who understands how the media functions and the role of each one
- Communication is one of the foundations for protecting democratic values. Spokespersons bear a heavy responsibility, namely to be able to impart understandable and transparent information to citizens through journalists

### And on the Web

A press conference is an event to which one only invites journalists. This does not prevent the general public and in particular Internet users from benefitting from it.

Nothing prevents one from filming a press conference and turning the best parts into a podcast that can be distributed over the Internet.

During the press conference, one can also tweet the location of the podcast.

Unlike the press conference, which is planned and organised, an equally important but unexpected media event can take place, namely the media scrum.

## 7.4.4 Media Scrum

“Scrum” is a term that should be understood for what it is, and a “scrum” should not be confused with a press briefing.

A media briefing is actually a short press conference to present a subject or situation that is evolving rapidly; it is announced on the same day and statements made there have been prepared.

A media scrum, on the other hand, is an ad hoc situation which arises where journalists rush to surround a public figure who is likely to make a statement and start firing questions at him or her. [Definition of the Office of the French Language in Quebec (OLFQ)]

It is useful to remember two things:

- The situation arises on an ad hoc basis
- It involves being surrounded by journalists

### *Ad hoc* situation

An “*ad hoc* situation” is one that may occur spontaneously even at a location where a media interview was not envisaged. However, if a media scrum attracts the interest of a large number of journalists, it is because there is information potentially available on an issue. One is, therefore, more-or-less prepared. As with any interview, one has to expect the unexpected and keep in mind one’s communication objectives.

### Communicating to be Heard, Read, Understood and Remembered:

- Understand fully the message to be communicated
- Set objectives

- Verbal and non-verbal communication
- Respect for the language, self-respect
- Clarity of the message, i.e. be concise

Contrary to ones' preconceptions, it is essential to transform this from a situation that is improvised to one that is controlled.

### Remember:

- Make sure there is adequate space with an exit area;
- Never allow oneself be trapped, unable to move or without a way out;
- Protect one's "space", that is to say a minimum area around oneself;
- One should not let people get behind oneself.

### One's first reaction may be:

- "I do not know what questions they will ask me";
- There will be too many questions to respond properly;
- "This will stress me out";
- "I do not know how long this will last";
- Ad hoc or controlled situation – how to get from one to the other?;
- "I have been caught unprepared" – sense of surprise.

"I do not know the questions they will ask me!"

"But you know the answers!"

- Build on knowledge of the subject;
- Think back to the communication objective;
- Turn a potentially embarrassing question to an advantage by responding with an important message or information.

"There will be too many questions to respond properly."

Only answer questions relating to the topic.

- Do not improvise so as to give the illusion of responding;
- Stick to the facts and what can be announced;
- Avoid being arrogant;
- Avoid giving the impression of dodging a question;
- If the answer to a question is not known, acknowledge this.

“This will stress me out!”

Stress is controlled by:

- Mastery of the subject (be prepared in relation to recent topics/incidents);
- Control of the environment: impose authority over the fray;
- Control the flow (slow it down, require the media to give time to respond);
- Take control of the proceedings: never try to answer several questions at once.

“I do not know how long this will last.”

Remember to take control of the time

- Take control of the media scrum;
- Lead the organisation of the media scrum.

Bring it to an end politely once the information has been provided, and the goal achieved.

## 7.5 Being Interviewed by Journalists



**Discussion: What types of challenges do you think might come up in the context of a media interview? Do you think you would be ready to give one?**

### What to do When a Journalist Calls?

If you are not authorised to communicate with the media by your organisation: Do not work in a silo! The best idea is to refer the journalist to your office's public relations unit without answering any questions or disclosing information. Let the staff of the public relations unit organise the interview, if they decide to give one, and to help you prepare for the interview, if they decide that you should give it.

If you are authorised to communicate, keep in mind that interviews should follow a four-step process: negotiating for the interview, preparation, the interview and an assessment of the results.

### 7.5.1 Identifying the Journalist's Approach

Who is He or She?

- What media does he or she represent?

- What is his or her general profile?
- Has he or she already come to your office? Did he or she talk to you? To someone else in your unit?

## What Information Does He or She Want to Obtain?

- Do you already have a response to the media on this issue?
- What angle does the journalist want to cover? (In order to provide a better answer or to direct him or her to the appropriate colleague)
- Is the information confidential, in whole or in part?
- Does it touch on the privacy rights of a third party?
- What does he or she already know about the subject? Even a journalist who specialises in the topic is likely to know less than you do, but test him or her to find out how much he or she knows.
- Be clear and specific so that you can easily be understood. Feel free to repeat important information.

## The Target Audience

- Do you already have a response to the media on this?
- Specialised media: develop the scientific and technical aspects.
- General press: outreach efforts may be required.
- The journalist's questions will depend on his or her target audience and take the principle of proximity (as in psychology) into account. For you to follow suit, address yourself to the reader, listener or viewer; remember that it is ultimately the public that you are communicating with, not the journalist.

## The Angle

- This is how you approach the theme.
- The journalist chooses the angle according to their target audience.
- The interviewee should understand the angle from which the interview will be conducted.
- It should represent the backbone, the common thread for both parties.

## Are There other Stakeholders?

Ask the journalist if he has talked to someone else besides you (a colleague from another unit, a representative of other professionals, critics...).

## 7.5.2 Some Practical Details

### The Location of the Interview

- Do you already have a response to the media on this issue?

- For TV or radio: choose a quiet location.
- Suggest a location (this also sends a message) that is consistent with the image you want to project.

### The Time of the Interview

- Do you already have a response to the media on this issue?
- Ask about the duration of the radio or TV report.
- The shorter it is, the more concise you should be.

### The Day and Time of Broadcasting

- Do you already have a response to the media on this issue?
- Consider whether you need to update the information if necessary before the release or the deadline for broadcasting: if so, call the journalist.
- Respect the media's deadline, but not at the expense of the quality of information you transmit.

## 7.5.3 Prepare Your Message

### The Information

- What is new?
- What is original?
- What is interesting?
- What is important for the reader?

Journalists want relevant information, so:

- If you have nothing to say, do not talk.
- If you have too much to say, be selective so as not to overwhelm the journalist.
- Do not give out too many details. Prioritise the information.

In general, journalists' information needs may be summarised as follows:

- A credible source of information
- Accurate and timely information
- Images, photos and words
- Patience and respect on the part of the interlocutor

### The Core Message

- The journalist (his or her audience) needs a strong theme, and only one i.e. the leading thread.
- Secondary information is used to clarify the key message.



- Build your point around a strong idea.
  - Pay attention so as not to be led astray by the journalist, and ensure your argument will be logical and consistent.
- a) Before meeting with the journalist, you should prepare your examples, your stories, your illustrations and your key statistics, based on the core message.
  - b) Prioritise your information: from the most important to ancillary or secondary information.

Your core message should be presented:

- Right from the first lines in print form.
- Right from the first seconds on TV or radio.

## Your Notes

- Key words + a few figures to convey the main point.
- Written on one side only.
- Your most important idea + 2 illustrations or secondary ideas or anecdotes illustrating the key message.

## 7.5.4 Interviews as Public Speaking

### Beware of Mannerisms

- Try to avoid certain turns of phrase which do not sound well during an interview and do not communicate clear messages. Some examples of these are:
  - i. “So to speak”, “Therefore”, “So”, “Indeed”
  - ii. “Let me...”
  - iii. “...a little...”
- These expressions tend to undermine rather than to enrich your oral communications. Such mannerisms reflect a fear of silence. Hence the need to revert to speaking too quickly or to unnecessary mannerisms and words to “fill” the silence.... Sometimes all three at once.
- Identify your mannerisms (e.g. by recording yourself), and then you will normally be alert to them as you speak. This awareness will allow you to avoid them in most cases.

### Breathing

- Learn to breathe from the stomach: do not obstruct your breathing (avoid folded arms or crossed legs).
- Give yourself time to breathe between sentences. Especially when moving

from one idea to another.

- Use shorter breaks between sentences expressing the same idea.

### Recovering

- You distort a word as a result of stage fright;  
or
- You say the opposite of what you meant:
  - i. Do not stumble over the error - Pause and resume.
  - ii. Otherwise, you risk getting bogged down.

### Practical Tip: Recordkeeping

Public relations staff should keep records of all interactions with the media. The following should be included:

- Date and time of the contact;
- Full name of the journalist and the agency he or she represents;
- Telephone and fax numbers;
- Specific questions asked;
- Ministerial sources consulted before answering the question;
- Summary of the response provided;
- Required follow-up.

#### Ten tips to remember when conducting a media interview

##### 1- Never say “no comment”

Novice spokespersons often blurt out “no comment” when they do not want to answer a difficult question. In fact, a “no comment” may be seen as a comment and, in particular, as a form of evasion or admission of guilt. For example, consider the following:

Q: Did your company dump toxic waste into the lake?

A: No comment.

Resulting headline: “ABC Company: Source of Toxic Spill?”

A better approach is to indicate that you do not have the answer right now, but that you expect to get it soon. You can also explain why you do not have the answer right now, so that readers, listeners and viewers can judge for themselves whether the reason is credible. For example:

Q: Did your company dump toxic waste into the lake?

A: I do not have the answer right now because we are still working with the authorities to determine exactly what happened. Once we have this information, we will provide it to you.

Resulting headline: "Polluted Lake: ABC tries to avoid crisis"

## **2- Do not engage in speculation**

Journalists often look beyond the immediate facts, either to help their readers, listeners or viewers understand how the story has developed, or to decide when the best time is to call you back for an update.

You have to expect them to ask questions like: "What is the next step?" They will also ask about possible results: "What will happen if your organisation moves forward with the development?" Your organisation may have developed detailed scenarios, and you may think that you can answer the question. But keep in mind that we cannot control the future. Your answer may be fine now, but will it still be relevant later? Otherwise, would you wish to provide your opponents with an advance briefing on your options?

Do not engage in speculation. Answer: "It is difficult to know what might happen. But I can explain what is happening now."

## **3- Do not provide information on an unofficial basis**

It is never beneficial to provide information on an unofficial basis (or "off the record"), even for experienced spokespersons. The more "seasoned" the information is, the greater the chance that it will end up in the media in any case, one way or another. The best approach is always to speak in an official capacity, before, during and after the interview.

## **4- Do not fly blind**

Journalists will test the waters for more information, knowing that some people are more talkative than others. Sometimes a spokesperson who has inadvertently disclosed information will focus the attention of journalists by attempting to correct the information. Be honest with journalists but do not give them your secrets. If you mention something you should not have, parry the question and stick to your subject.

## **5- Avoid jargon**

Remember who you are talking to. Most media products are aimed at the average person and use simple terms.

Even if a journalist understands technical jargon as well as you do, this is not necessarily the case for readers, listeners or viewers. You are addressing them. Be sure to be understood.

## **6- Do not use double negatives**

A question may contain a negative premise, but the answer does not have to. Remember that it is the answer, and not the question, which the audience will hear. Answers that repeat a negative premise may cause problems. For example, notice the difference between these two exchanges:

When the negative premise is repeated

Q: Would you not agree that this result is a disaster?

A: It is not a disaster. On the contrary, I would say we performed well.

When the negative premise is ignored

Q: Would you not agree that this result is a disaster?

A: In fact, I'd say we performed satisfactorily. Let me explain.

Can you imagine the first headline: "The government said it is not a disaster". And the second: "The government claims to have performed satisfactorily."

### **7- Either one or the other**

Journalists sometimes try to get you to respond with a 'yes' or 'no' answer, or to make you choose between two answers. If this does not include your preferred response, you have to mention it, explain it. Not everything is black and white; regardless of how the media present it, there are always gray areas.

### **8- He said, she said**

The news often includes conflicting elements. Journalists may ask you to comment on the position of another player or an adversary. You have nothing to gain by criticising positions taken by third parties.

Stick to your own position: "I cannot speak for X, but I can tell you that when people see our plan, they will agree that it is a prudent plan, with measures that are adapted to the circumstances».

### **9- For leading questions**

When a journalist poses a question based on a false premise, immediately correct the error. If you let it pass, it may appear in the report. Errors are easier to correct before they appear in a report. Say: "Actually, that's not quite right. Let me explain." Journalists like accuracy.

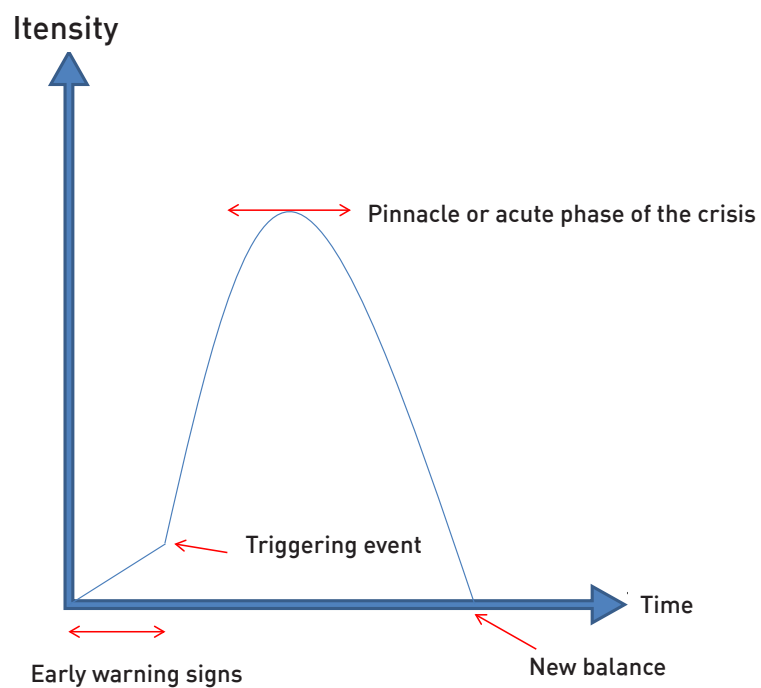
### **10- Dealing with a barrage of questions**

Sometimes, a journalist will not let you finish your answer and will pose a barrage of questions. This can happen when he or she believes that your time is limited and does not feel that your answers are exactly what he or she is looking for. You have the right to ask him or her to slow down, and to take the time to consider your answers. Think about the questions and how to answer them. Then, answer at your own speed. If the reporter wants to interrupt you, let him. You will come out better if you stay calm and remain polite – and maintain control over what you say.

## 7.6 Managing Communication in a Crisis

### 7.6.1 Defining a Crisis

A **sharp break**, involving several actors and a climate of great uncertainty about the course of events and the consequences of decisions that are made.



## The most common errors made during crises

- Dismay: my country, my organisation, my industry, my country is so powerful it cannot experience a crisis. When this does happen, I am so caught by surprise that I am unable to respond.
- Inability to appreciate the magnitude of a crisis at the outset
- Responding slowly
- The fortress mentality: The idea that we can manage, regardless of the situation, and that we are not accountable to the public and even less so to journalists. This attitude is possible only in a context of limited respect for freedom of expression in the country where the crisis takes place. When that freedom increases, both government and the private sector must learn to communicate in times of crisis, and to leave the fortress mentality behind.
- Difficulty in respecting the logic of revelation: this logic, based on the need for journalists to compete for scoops, takes over in any crisis. Journalists will ignore a public relations service which refuses to recognise this logic or which is lagging behind.

Security forces must prepare for crisis management well in advance and know the potential players. The process or manual for managing a crisis should include:

- Warning systems;
- Identifying responsible persons;
- Precautionary measures;
- Managing communications with the public authorities, media and the general public.

It is essential to test the system by undertaking crisis simulations, based on different scenarios.

This will ensure that everyone has well defined responsibilities, which they know and understand.

There should also be a system of shifts which is defined in advance and operational.

One also needs to monitor warning signs of a crisis. This can often help avoid the crisis itself.

One should also make sure that one's list of journalists and media is up-to-date.

Verify that there are up-to-date documents to distribute to the media.

### 7.6.2 The Crisis Committee

Once a crisis is clearly identified, a crisis committee should be put in place.

This should include at least:

- A manager or coordinator, who may be the head of the committee, although this is not required. This person should have very broad decision-making powers.

- A facilitator, who will provide a link between all of the services which are mobilised in the context of the crisis.
- Someone who is in charge of internal and external communication.
- Someone who is in charge of logistics.
- One or more experts, depending on the nature of the crisis.

This crisis committee should benefit from the required logistics: a space which has been prepared and equipped in advance so as to be ready.

Action on the part of the crisis committee from the very beginning of the crisis and during the first hours is crucial. It should, as a result, not be changed during this period.

The main reasons why crisis committees fail are, in general:

- Problems with the contact information of those who are supposed to be involved in managing the crisis;
- A tendency to minimise the situation or to underestimate the seriousness of the crisis.

One needs tools to organise crisis management, such as:

Risk assessment tables, fact sheets and emergency information forms.

An example of a risk assessment table:

Dangerous situations	Damage expected	Risks		Priority level	Prevention measures	
		Gravity	Likelihood		Existing	Proposed

The crisis committee should allow the rest of the department or unit to continue its normal operations. The members of the crisis committee should, as far as possible, be relieved of their regular duties.

Every action and decision taken during the crisis should be registered and time-lined. This crisis logbook will be particularly useful when it comes to learning from the crisis.

To communicate during the crisis, the committee should:

- Identify stakeholders and priority targets;
- Undertake media monitoring;
- Provide an information hotline, if necessary;
- Prepare internal communications and press releases to inform others about the evolution of the crisis.

### Ten simple rules for communicating in times of crisis

1. A crisis creates a need for information: we must communicate and inform.
2. Communicate in a timely fashion.
3. Take one's responsibilities seriously.
4. Speak with care.
5. Journalists are not enemies.
6. Do not persist.
7. Do not underestimate the crisis.
8. Do not say whatever comes to mind. Be specific and unambiguous.
9. Remember the context.
10. Tell the truth.

### And on the Web

A crisis communication strategy should be designed to integrate fully the interactive logic of the Internet.

Crisis communication through the Internet and social networks is a relatively new phenomenon that has long been neglected by public relations experts. Large companies are increasingly reacting as follows in crisis situations:

- Occupy the space – in the same way as one would with other media – and thereby avoid leaving space for rumours, which would compound the crisis.
  - Create a web page (or a website) to provide information in real time as the crisis evolves and to respond to accusations in the media or online, providing information to maintain one's image and, above all, to be transparent.
  - Seek the assistance of experts to feed social networks and to ensure that information is well networked online.

However, one should be aware that online media do not respond in the same way as traditional media. It is not enough simply to distribute press releases showing that you are addressing the situation or to explain yourself in a heavy-handed manner. One needs to integrate the logic of Web 2.0 and social networking by being present on relevant forums, by answering questions from users, and by shining a light onto the core of the event through live camera.



## For Further Information:

G. MALGLAIVE, Enseigner à des adultes, [Teaching adults], Presses Universitaires de France (PUF), 1990

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A. MEIGNANT, Manager la formation, [Managing training], Editions Liaisons, 2009

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ESJ-LILLE – Le Manuel du Formateur, ouvrage collectif assemblé et écrit par, [Training manual, assembled and edited by]

T. GUIDET, Ecole Supérieure de Journalisme 2006

## List of international NGOs concerned with the rights and safety of journalists

- Generalist international NGOs

Amnesty International: [www.amnesty.org](http://www.amnesty.org)  
1 Easton Street, London, WC1X 0DW, United Kingdom  
Tel.: (44) 20 74135500 - Fax: (44) 20 79561157

Avocats sans Frontières, France: [www.avocatssansfrontieres-france.org](http://www.avocatssansfrontieres-france.org)  
8, rue du Prieuré – 31000, Toulouse, France  
Tel.: (33) 5 34 31 17 83 - Fax: (33) 5 34 31 17 84

Fédération Internationale des Ligues des Droits de l'Homme:  
[www.fidh.org](http://www.fidh.org)  
17, passage de la Main d'or, 75011 Paris - France  
Tel.: (33) 1.43.55.25.18 - Fax: (33) 1.43.55.18.80

Human Rights Watch: [www.hrw.org](http://www.hrw.org)  
350 Fifth Avenue, 34th Floor, New York, NY, 10018 – 3299, United States  
Tel.: 1 (212) 290-4700 - Fax: 1 (212) 736-1300

- International NGOs which specialise in the defence of freedom of expression and freedom of the press

Article 19: [www.article19.org](http://www.article19.org)  
Lancaster House, 33 Islington High Street, London N1 9LH, United Kingdom  
Tel.: (44) 20 72 78 92 92 - Fax: (44) 20 77 13 13 56

Centre for Law and Democracy: [www.law-democracy.org](http://www.law-democracy.org)  
39 Chartwell Lane, Halifax, N.S., B3M 3S7, Canada  
Tel.: (1) 902 431-3688 - Fax: (1) 902 431-3689

Committee to Protect Journalists: [www.cpj.org](http://www.cpj.org)  
330, 7th Avenue, 11th Floor, New York, New York 10001, United States  
Tel.: (1) 212 465.10.04 - Fax: (1) 212 465.95.68

Index on Censorship: [www.indexonline.org](http://www.indexonline.org)  
Lancaster House, 33, Islington High street, London N1 9LH, United Kingdom  
Tel.: (44) 171 278 23 13 - Fax: (44) 171 278 18 78

Fédération Internationale des Journalistes: [www.ifj.org](http://www.ifj.org)  
rue Royale 266, B 1210, Brussels, Belgium  
Tel.: (32) 2.223.22.65 - Fax: (32) 2.219.29.76

World Association of Newspapers: [www.wan-press.org](http://www.wan-press.org)

25, rue d'Astorg, 75008, Paris, France  
Tel.: (33) 1.47.42.85.00 - Fax: (33) 1.47.42.49.48

International Pen: [www.internationalpen.org.uk](http://www.internationalpen.org.uk)  
Brownlow House, 50/51 High Holborn, London, WC1 V6ER, United Kingdom  
Tel.: (44) 20 7253 4308 - Fax: (44) 20 7253 5711

International Press Institute: [www.freemedia.at](http://www.freemedia.at)  
Spiegelgasse 2, A-1010, Vienna, Austria  
Tel.: (43) 1 512.90.11 - Fax: (43) 1 512.90.14

Reporters sans frontières: [www.rsf.org](http://www.rsf.org)  
47, rue Vivienne, 75003, Paris, France  
Tel.: (33) 1.44.83.84.84 - Fax: (33) 1.45.23.11.51

World Press Freedom Committee: [www.wpfc.org](http://www.wpfc.org)  
11690-C Sunrise Valley Drive, Reston, VA 20191, United States  
Tel.: (1) 703 715-9811 - Fax: (1) 703 620-6790

International News Safety Institute : <http://www.newssafety.org/home/>  
Thomson Reuters Building, 30 South Colonnade, Canary Wharf, London E14 5EP,  
Royaume-Uni  
Tél. : (44) 7766 814274

## • Other international organisations

United Nations Non-Governmental Liaison Service (UN-NGLS):  
[www.un-ngls.org](http://www.un-ngls.org)  
Palais des Nations, CH-1211, Geneva 10, Switzerland  
Tel.: (41) 22 917 2076 - Fax: (41) 22 917 0432

United Nations High Commissioner for Human Rights:  
[www.ohchr.org](http://www.ohchr.org)  
UNOG-OHCHR – 1211, Geneva 10, Switzerland  
Tel.: (41) 22.917.90.00 - Fax: (41) 22.917. 90.11

Centurion Risk Assessment: [www.centurionsafety.net](http://www.centurionsafety.net)  
PO Box 1740, Newquay, TR7 3WT, UK  
Email: [main@centurionsafety.net](mailto:main@centurionsafety.net)  
Tel. (44) 1637 852910 - Fax: (44) 1637 852919

International Committee of the Red Cross: [www.icrc.org](http://www.icrc.org)  
19, avenue de la Paix, CH-1202, Geneva, Switzerland  
Tel.: (41) 22.734.60.01 - Fax: (41) 22.733.20.57

International Criminal Court: [www.icc-cpi.int](http://www.icc-cpi.int)

174 Maanweg, 2516 AB, The Hague, Netherlands  
Tel.: (31) 70.515.85.15 - Fax: (31) 70.515.85.55

United Nations High Commissioner for Refugees:  
www.unhcr.fr  
Case Postale 2500, CH-1211, Geneva 2, Switzerland  
Tel.: (41) 22.739.81.11 - Fax: (41) 22.731.95.46

UNESCO: www.unesco.org  
7, Place de Fontenoy - 75732 Paris 07 SP, France  
Tel.: (33) 1.45.68.10.00 - Fax: (33) 1.45.67.16.90

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Peter McIntyre, *Guide de survie à l'usage du journaliste*, [A Survival Guide for Journalists], [International Federation of Journalists and the European Union].

*A Practical Guide for Journalists*, edited by UNESCO and Reporters Sans Frontières, 1998.

Universal Declaration of Human Rights, adopted by the UN, 10 December 1948.

International Covenant on Civil and Political Rights, Adopted 16 December 1966, entered into force 3 January 1976 and ratified by 168 States (as of August 2014)

European Convention for the Protection of Human Rights and Fundamental Freedoms, adopted 4 November 1950, entered into force 3 September 1953

American Convention on Human Rights, adopted 22 November 1969, entered into force 18 July 1978

African Charter on Human and Peoples' Rights, adopted 12 July 1981, entered into force 21 October 1986

UN Security Council Resolution, condemning attacks against media professionals

in situations of armed conflict, 23 December 2006

Declaration of the Rights and Duties of Journalists, Charter of Munich, 24-25 November 1971

Rules and Practices adopted by the regional daily press in France

Ethical Rules of the North American Society of Editors in Chief

Code of Conduct and Working Rules of the National Syndicate of Journalists of the United Kingdom

The Japan Code: The Yomiuri Code (Adopted by the Nihon Shinbun Kyokai, the association of newspaper publishers)

International Code of Practice for the Safe Conduct of Journalism (International Federation of Journalists)

United Nations Manual on Human Rights Training for the Police (UN 2003)

The following codes of conduct and operational procedures:

- the City of Montreal Police Service (SPVM);
- Great Britain's Metropolitan Police Service (MPS);
- the Ethical Code of the Police Service of the Kingdom of Belgium (SPB);
- The South African Police Services (SAPS);
- the Police of Finland (PF);
- the Los Angeles Police Department (LAPD).

Guide to media relations and the management of high-profile and risky events, Justice Services Branch, Ministry of Justice, Quebec

The training manual “Freedom of Expression and Public Order” aims to provide security forces with both theoretical and practical tools to carry out their mission of maintaining order while respecting human rights, freedom of expression and the security of journalists. It elaborates on international standards on freedom of expression and the conditions in which this fundamental freedom can be restricted. It also highlights the important role of journalists in a democratic society and why safety of journalists has become a priority for organisations promoting freedom of expression. It is essential that journalists be able to access information of public interest, so that they can analyse and provide this information to the public.

Comprised of seven modules, each providing a different focus/entry point into the topic, this manual aims to raise the awareness of members of security forces regarding their duties and obligations in relation to freedom of expression, press freedom and the safety of journalists. It illustrates how their mission of maintaining public order is not incompatible with respect for freedom of expression and the work of journalists, and how, instead, that mission is often essential for their full realisation.

This manual helps security forces understand better the importance of freedom of expression and the central role that this right plays in democracy. It also highlights the specific role played by the press in a democracy, ensuring that members of the public are informed and can exercise their rights as citizens.

In terms of approach, some modules specifically target members of security forces, while others envisage joint training sessions for members of security forces and journalists. These joint sessions aim to promote greater mutual understanding of the reality and the needs of, respectively, members of security forces and journalists in a democracy.

