



*Protection from reprisal.  
Your Right. Our Mission.*

# **MEDIA POLICY**

July 2013

# Media Policy

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## **Purpose**

This policy sets out guidelines for the use of electronic and wireless devices during the Public Servants Disclosure Protection Tribunal's (Tribunal) hearings. This policy does not apply to persons who require electronic devices to accommodate a disability.

## **Scope**

### Definitions:

*"Audio recording"*: means the recording or storage of sound on any device;

*"Broadcast"*: means the transmission or communication of an audio recording and/or a video recording;

*"Electronic device"*: means any device capable of transmitting and/or recording data or audio, including smartphones, cellular phones, computers, laptops, tablets, notebooks, personal digital assistants, or other devices;

*"Media"*: means media professionals representing media organizations;

*"Hearing room"*: means a room in which a hearing takes place before a Tribunal member or a panel of three Tribunal members;

*"Publicly accessible live communication"*: means the act of using an electronic device to transmit information from the hearing room to a publicly accessible medium (e.g. Twitter or live blogs);

*"Video recording"*: means the recording or storage of moving images on any device, but does not include capture of still images.

### Application:

This policy applies to all persons attending or participating in a location where Tribunal hearings are being conducted or transmitted.

### **Transparency**

The Tribunal is an independent quasi-judicial tribunal that operates in most respects like a court. It is required by law to decide cases impartially and must send information received in an application to all parties. It applies legal principles and considers evidence in making its determinations and decisions.

The Tribunal recognizes that transparency is well served when media coverage of proceedings is accurate, balanced and complete.

Media coverage of legal proceedings is one of the main ways that the public receives information about what transpires in the courts and tribunals of the country. Thus, members of the Tribunal and its Registry staff have a duty, consistent with their roles, to facilitate the media to perform their role for providing coverage of the Tribunal's work.

In light of the foregoing, the purpose of this policy is to set out a general framework for relations between the Tribunal, the parties involved, the media and the general public. However, this policy does not bind the Tribunal as the Tribunal can either derogate from or modify this policy.

### **The Open Court Principle**

In order to protect the integrity of the judicial process, courts and this Tribunal are bound by the common law "open court principle" which is protected by the Constitution. The general rule is that court and tribunal hearings are open to the public and the media unless it is in-camera or there is a publication ban.

The principle of open court is deeply connected to transparency and the public trust in the systems that are in place to adjudicate rights and duties of parties. The Tribunal published a [Statement on Openness and Privacy](#) which can be found on its website.

## **Tribunal Discretion**

This policy in no way interferes with the discretion of the presiding member to resolve issues that arise in a specific case or matter.

In exceptional circumstances and at the presiding member's discretion, the Tribunal can depart from the open court principle during a hearing and can take certain measures to exclude sensitive information.

## **Tribunal hearings**

Hearings of the Tribunal are open and accessible to the public and the media, as are, on request, public documents filed with the Registry. However, case management conferences, settlement conferences and dispute resolution conferences are not open to the public.

Information regarding the date, time and place of a hearing is located on the Tribunal website: <http://www.psdpt-tpfd.gc.ca/CasesAffaires/HearingSchedule-eng.html>. For quick reference, please see the [Tribunal's Media Guidelines](#).

Seating space in the hearing room may be limited. For security purposes, the size of the hearing room will be taken into account when admitting the public and media to Tribunal proceedings at the presiding member's discretion.

When attending a hearing conducted by the Tribunal, members of the media and the public shall conduct themselves appropriately at all times, being respectful of the dignity of the proceedings and safety of the participants. Doors to the hearing room should be closed gently and quietly. There should be silence in the hearing room at all times when hearings are in session. The basic principle is that the conduct of the hearing is not to be disturbed.

From time to time a member of the Tribunal may order that no one enters or leaves the hearing room in order not to disturb the testimony of a witness or address of counsel or when a member of the Tribunal is delivering his or her decision/directions.

The Tribunal's Registrar is the principle contact for the media, readily available to provide factual information and explanations about the administration of the Tribunal and the legal context of decisions. The Registrar makes every effort to respond to enquiries as promptly as possible, but cannot predict or speculate on the outcome of a case.

## **Electronic Devices**

Note taking and communicating electronically are allowed during hearings. Laptop computers, BlackBerrys or similar devices are allowed in the hearing room provided they:

- a) do not interfere with hearing room decorum or otherwise disturb in any way the proceedings;
- b) do not interfere with the Tribunal's own electronic equipment;
- c) are not used to send publicly accessible live communications where to do so would breach a restriction on publication made in the proceeding. **Note:** Anyone using an electronic device to transmit publicly accessible live communications from the hearing room has the responsibility to identify themselves and to comply with any publication bans, or other restrictions that have been imposed either by statute or by Tribunal order;
- d) are not used to take photographs or videos unless the presiding member has explicitly granted permission to do so in the Media Guidelines pertaining to the specific hearing.

This applies to members of the media, counsels, parties and members of the public.

Electronic devices such as cell phones, pagers and similar devices are permitted in the hearing room provided they are set on silent or vibrate mode. Using these devices for voice communications is strictly prohibited.

Instantaneous communications such as e-mailing and live blogging may be permitted at the discretion of the presiding Tribunal member on a case by case basis, provided they do not present a distorted or incorrect picture of the proceedings.

### **Recording and photographing Tribunal proceedings:**

Members of the media holding valid credentials may make audio recordings of the hearings to verify their notes, but not for broadcast. For this purpose, persons representing the media are asked to keep their identification tags on their person at all times and produce them when so requested. All others wishing to make audio recording must obtain the Tribunal's permission to do so by making a request to the Registrar.

There shall be no recording of conversations between counsels or between counsel and their clients or witnesses at any time.

No photograph or video recording may be taken during the hearing, unless the presiding member has explicitly granted permission to do so in the Media guidelines pertaining to a specific hearing. A camera operator must not film nor photograph from a public area into the hearing room through a door or window.

In cases where video recording and/or still photography is explicitly permitted, the Tribunal reserves the right to limit the equipment being used in order to avoid disruption or intimidation of participants. This includes, but is not limited to, large equipment or equipment that produces light or sound.

Photo ops may be requested by contacting the Registrar in advance.

### **Enforcement**

Anyone who uses an electronic device in a manner that is inconsistent with this policy, any orders of the presiding member or that the presiding member determines to be unacceptable may be ordered to:

- a) turn off the device;

- b) leave the device outside the hearing room;
- c) leave the hearing room; and/or
- d) abide by any other order that the presiding member may make.

## **Publication bans**

Members of the media have standing to be heard and to raise objections when a party requests that a member of the Tribunal impose a non-statutory ban. In the exercise of their common law or discretionary authority to impose publication bans, members of the Tribunal shall weigh all competing *Charter* rights (*e.g.*, freedom of expression, right to a fair hearing) and only impose the minimal ban necessary to protect fundamental rights.

If counsel makes a motion for a publication ban, the motion will appear on the Tribunal's Website.

When a motion is filed, the media will have an opportunity to challenge the request for a publication ban and should contact the Registrar to arrange a hearing date.

## **Judicial comment on media reporting**

Members of the Tribunal will not grant interviews on the case subjects. However, they do take opportunities in appropriate forums to discuss the role of the Tribunal and its members, as well as broader issues, especially those relating to the administration of justice.

It may be necessary to correct misconceptions and errors, which, if left uncorrected, could have a damaging effect upon public respect for the administration of justice. Public confidence may be eroded and the administration of justice weakened by inaccurate reporting.

The Registrar shall, at the direction of the Chairperson of the Tribunal, respond to a case of inaccurate reporting if a member of the Tribunal is the subject of personal criticism or if information about the Tribunal or a particular decision is seriously misstated in media reports.

The Registrar shall act as the sole spokesperson for the Tribunal.