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**Association of Chief Police Officer of England,
Wales & Northern Ireland**

**GUIDANCE ON THE RELEASE
OF IMAGES OF SUSPECTS
AND DEFENDANTS**

Status: This Presidential Business Area Guidance has been produced jointly by ACPO, CPS and the Office for Criminal Justice Reform to provide guidance to prosecutors and force media officers in the release of images of suspects and defendants to the media. It has been agreed by ACPO Cabinet. It is disclosable under the FOIA 2000 and has been registered and audited in line with ACPO requirements and is subject to Copyright.

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1. Objectives

This document has been produced jointly by ACPO, CPS and the Office for Criminal Justice Reform to provide guidance to prosecutors and force media officers in the release of images of suspects and defendants to the media. This guidance aims to ensure consistent practices across police forces, however, it remains the responsibility of each force to justify the release of images. Each case should be reviewed on its individual merits.

Images include CCTV, photographs and other similar media.

The objectives of this guidance are:

- to encourage the release of images to the media where appropriate and at the earliest opportunity
- to ensure greater openness in the reporting of criminal investigations and proceedings.
- to encourage joint decision making between forces and the CPS as appropriate
- to ensure a more uniform approach across forces

Data Protection Act and Human Rights Act considerations will be relevant to any decision to release an image and appendix A provides an outline of the of the legal context. Appendix B contains a check list of questions that should help to ensure that any decisions are defensible and compliant with the requirements of the Human Rights Act.

2. General considerations

As with any issues which impact on Human Rights, there must be a balance between the rights of an individual suspect and those of the wider community. Any decision to release an image must be for a legitimate purpose, be necessary, and proportionate.

The risk to the public from a dangerous or prolific offender will almost always support the release of images in certain circumstances.

Any decision to release an image must take into account any impact on victims or witnesses.

a) Legitimate purpose

The release of images to the media must be necessary for a legitimate purpose. Each Force/CPS Area will need to make a decision on a case by case basis, and early consultation with criminal justice partners, where appropriate, is encouraged.

A legitimate purpose will include, but is not limited to:

- The prevention and detection of crime
- The apprehension of suspects
- Encouraging witnesses and/or victims to come forward
- Discouraging offenders
- Reassuring and informing the public
- Reinforcing confidence in the criminal justice system
- The apprehension of people unlawfully at large

b) Necessity

The release of the image must be necessary in pursuit of the legitimate purpose (ie in order to apprehend a suspect the image needs to be released as other means of tracing the purpose have failed or are not viable)

Another relevant factor is that the details released must be the minimum necessary to achieve the intended purpose (for example, releasing a photograph of person, but not of them and their family).

c) Proportionality

Any decision to release an image must also be proportionate. All the circumstances of the case may be relevant in deciding whether it is proportionate to release an image. In particular, the nature of the offence will be highly relevant. The more serious the offence, the easier it will be to show that any decision to release an image is proportionate, but it does not follow that the offence, in itself, needs to be a serious one. Where the offence is not serious, any decision to release may still be proportionate if one of the following factors is present:

- National interest, or,
- Vulnerable victims, or,
- Prevalent local crime, or,
- Community interest.

3. Specific scenarios

a) Wanted Suspects

Police forces can release images of both known and unknown suspects to the media.

An image of a person police want to interview in relation to a particular incident or crime can be issued prior to arrest or charge. Care must be taken when releasing images of unknown people to ensure that the wording accompanying the image is accurate. With known people other means of tracing the person should have first been tried where practical. Where an image has been released and a suspect has been subsequently arrested the media should be notified.

With known people other means of tracing the person should have first been tried where practical.

Where identification issues exist (Code D Police and Criminal Evidence Act 1984) the CPS should be consulted prior to the release of an image.

b) Unlawfully at large

People who have escaped or absconded from custody can have their images released to the media.

People wanted on warrant for an offence or for failing to appear can have their image released to the media but other means of tracing the person should have first been tried where practical.

c) Pre-trial or pre-verdict briefings

A Force may decide to issue images of individuals as part of planned, pre-verdict briefings in important cases. This must always be done in liaison with the CPS. This is the subject of separate ACPO Media Advisory Group (MAG) guidance.

d) Post Conviction

Post conviction there is likely to be much demand from the media and from the public for information and this may include releasing an image. Forces are

encouraged to engage with the media and be as open as possible. The release of images at this stage in the criminal justice process could assist with deterring potential criminals and preventing subsequent crime as well as encouraging other victims and witnesses to come forward.

e) Anti-social behaviour orders

Where an Anti-social Behaviour Order (ASBO) is issued and no court order or reporting restrictions exist in relation to the subject of that order, the police may consider issuing an image. There are no automatic reporting restrictions on ASBOs made in court and the presumption is that an ASBO can be reported.

In general, a decision about how and where an image is issued should reflect the need to protect and inform the public as well as prevent further offences. The Home Office have issued guidance in relation to publicising anti-social behaviour orders. This is available at:

www.respect.gov.uk/members/article.aspx?id=7844&terms=publicity&searchtype=2&fragment=False

f) People Under 18

People under 18 are not usually identified during the court process and therefore images should not normally be released. However, for those aged between 15 and 18 the court may allow them to be identified once they are convicted for a serious crime, such as murder. In these circumstances, the same criteria listed above will apply.

Images of juveniles, where there is no Section 39 order, may be issued where there are concerns for their safety. E.g. missing people.

4. Record Keeping

All decisions, including the reasons, to release images should be recorded. Where appropriate any risk assessment should also be recorded. Care should be taken to ensure any image released and accompanying details are as accurate and up to date as possible. Rationales and other records relating to the release of images as part of an investigation may be subject to disclosure under the Criminal Procedures and Investigations Act.

5. Review

This guidance will be reviewed annually, or more often if deemed necessary (for example following a relevant stated case). It has been agreed that ACPO, through the Media Advisory Group, will be responsible for managing the review process.

6. Further Guidance

There is further guidance on media issues available in the ACPO/CPS/Media Protocol – *Publicity and the Criminal Justice System Protocol for Working Together*.
<http://www.cps.gov.uk/Publications/agencies/mediaprotocol.html>

7. Agreement of Joint Guidance

(Title & Name)
For and On Behalf of the Association of Chief Police Officers

(Title & Name)
For and On Behalf of the Crown Prosecution Service

Appendix A - Legal Context

European Convention on Human Rights

Article 6

Article 6 of the ECHR governs the right to a fair trial. Article 6 considerations are most likely to arise where identification is thought to be an issue. The publication of an image, however, will not necessarily undermine a fair trial or breach the individual's Article 6 rights. It should still be possible to bring a successful prosecution where public protection has necessitated the release of an image.

Article 8

Article 8 of the ECHR covers the right to respect for private and family life and is relevant in any decision to release a person's details, including a photograph. Article 8(2) allows the state to interfere with that right if it is necessary and proportionate to do so in the interests of public safety or for the prevention of crime or disorder. In considering the HRA, it is necessary in each case to balance the rights of the individual, including his or her immediate family, to privacy with the right of the community to be protected. In doing so, the following principles apply:

- Is the reason for releasing the photograph the prevention or detection of crime or the apprehension or prosecution of offenders?
- Is the release of the photograph necessary? For example, are more conventional methods inappropriate or ineffective or have been tried and failed? Is it likely to really assist in the prevention or detection of crime or prosecution or apprehension of offenders?
- Is publishing the photograph proportionate to the aim being pursued, bearing mind any risk to the public and/or the seriousness of the crime? Are the details to be released the minimum necessary to achieve the intended purpose?

Where the public is clearly at risk from a dangerous offender, the balance between the rights of the individual and the rights of the general public to be protected will almost always justify release of the photograph.

Article 10

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 right does not place any specific obligation on forces to provide particular information, and will be of relevance for the media rather than the police or CPS.

The Human Rights Act needs to be considered but, provided the questions in the checklist at appendix (ii) are addressed satisfactorily, should not prevent the issuing of an image.

Data Protection Act 1998

Images of people in the possession of the police are classed as personal data under the Data Protection Act (DPA). The Act must therefore be complied with unless an exemption applies. This may be, for example, where this is necessary for the administration of justice or other grounds under Schedule 3 (See DPA Schedule 3 paragraph 7 and other grounds under the Processing of Sensitive Data Order 2000) or where complying with the Act would prejudice the prevention or detection of crime or the apprehension or prosecution of offenders (DPA Section 29).

Appendix B - Checklist

Below are the questions that a decision maker will need to consider when deciding whether an image should be released. In any particular case, there may be other relevant questions or factors depending upon the circumstances, but the questions below will always be central to any decision to release the image. If the steps below are followed, then any decision to release an image will normally be lawful and comply with the relevant legislation.

1. Purpose in releasing image

- a) What is the purpose in releasing the image?
- b) Is it for a legitimate purpose such as the prevention or detection of crime or the prosecution or apprehension of offenders? or
- c) Does it reinforce confidence in the Criminal Justice System or reassure the law abiding public?

2. Necessity

- a) Have alternatives ways of achieving this purpose been tried?
 - If not have they been considered?
 - If considered but not tried, why have they been rejected? Are they not viable or unlikely to be effective?
- b) Are the details to be released the minimum necessary to achieve its intended purpose (are the details accurate and up to date) ?
- c) Would the release of the image be likely to achieve the legitimate purpose?

3. Proportionality

Taking into account all the relevant factors is releasing the image proportionate. Relevant factors will include (but are not limited to)

- nature of the offence
- potential risk to the public
- any relevant victim or witness issues
- potential impact on the person to be identified (and their immediate family).

**SECTION C - ACPO EQUALITY IMPACT ASSESSMENT TEMPLATE
(DIVERSITY AUDIT) AS AGREED WITH THE CRE**

C1. Identify all aims of the guidance/advice

C.1.1 Identify the aims and projected outcomes of the guidance/advice: Provide advice to Force Press offices in their dealings with the media in relation to when images can be released.
C.1.2 Which individuals and organisations are likely to have an interest in or likely to be affected by the proposal?
Media, CPS, Force press offices

C2. Consider the evidence

C.2.1 What relevant quantitative data has been considered?	
Age	N/A
Disability	N/A
Gender	N/A
Race	N/A
Religion / Belief	N/A
Sexual Orientation	N/A
C.2.2 What relevant qualitative information has been considered?	
Age	N/A
Disability	N/A
Gender	N/A
Race	N/A
Religion / Belief	N/A
Sexual Orientation	N/A
C.2.3 What gaps in data/information were identified?	
Age	N/A
Disability	N/A
Gender	N/A
Race	N/A
Religion / Belief	N/A
Sexual Orientation	N/A
C.2.4 What consideration has been given to commissioning research?	
Age	N/A
Disability	N/A
Gender	N/A
Race	N/A
Religion / Belief	N/A
Sexual Orientation	N/A

C3. Assess likely impact

C.3.1 From the analysis of data and information has any potential for differential/adverse impact been identified?	
Age	N/A
Disability	N/A
Gender	N/A
Race	N/A
Religion / Belief	N/A
Sexual Orientation	N/A
C.3.2 If yes explain any intentional impact:	
Age	N/A
Disability	N/A
Gender	N/A
Race	N/A
Religion / Belief	N/A
Sexual Orientation	N/A
C.3.3 If yes explain what impact was discovered which you feel is justifiable in order to achieve the overall proposal aims. Please provide examples:	
Age	N/A
Disability	N/A
Gender	N/A
Race	N/A
Religion / Belief	N/A
Sexual Orientation	N/A
C.3.4 Are there any other factors that might help to explain differential /adverse impact?	
Age	N/A
Disability	N/A
Gender	N/A
Race	N/A
Religion / Belief	N/A
Sexual Orientation	N/A

C4. Consider alternatives

C.4.1 Summarise what changes have been made to the proposal to remove or reduce the potential for differential/adverse impact:	
N/A	
C.4.2 Summarise changes to the proposal to remove or reduce the potential for differential/adverse impact that were considered but not implemented and explain why this was the case:	
N/A	
C.4.3 If potential for differential/adverse impact remains explain why implementation is justifiable in order to meet the wider proposal aims:	
N/A	

C5. Consult formally

C.5.1 Has the proposal been subject to consultation? If no, please state why not. If yes, state which individuals and organisations were consulted and what form the consultation took:	
Age	N/A

Disability	N/A
Gender	N/A
Race	N/A
Religion / Belief	N/A
Sexual Orientation	N/A
C.5.2 What was the outcome of the consultation?	
Age	N/A
Disability	N/A
Gender	N/A
Race	N/A
Religion / Belief	N/A
Sexual Orientation	N/A
C.5.3 Has the proposal been reviewed and/or amended in light of the outcomes of consultation?	
N/A	
C.5.4 Have the results of the consultation been fed back to the consultees?	
N/A	

C6. Decide whether to adopt the proposal

C.6.1 Provide a statement outlining the findings of the impact assessment process. If the proposal has been identified as having a possibility to adversely impact upon diverse communities, the statement should include justification for the implementation:
N/A

C7. Make Monitoring Arrangements

C.7.1 What consideration has been given to piloting the proposal?
N/A
C.7.2 What monitoring will be implemented at a national level by the proposal owning agency and/or other national agency?
The Guidance will be monitored by the ACPO Media Advisory Group in consultation with Force Press Offices
C.7.3 Is this proposal intended to be implemented by local agencies that have a statutory duty to impact assess policies? If so, what monitoring requirements are you placing on that agency?
N/A

C8. Publish Assessment Results

C.8.1 What form will the publication of the impact assessment take?
<i>It is recommended that for publication on the ACPO website, the impact assessment be attached to the completed document as the first appendix. On the ACPO Intranet, the whole workbook will be attached to assist in the preparation of local audits.</i>