



**Community
Safety
Knowledge
Alliance**

Research to Practice to Alignment

Final Report

Revealing the Names of Homicide Victims: Understanding the Issues

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Prepared for the Edmonton Police Service

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About the Review

In order to enhance understanding of the various practices in use, the Edmonton Police Service (EPS) contracted the Community Safety Knowledge Alliance (CSKA) to examine the practice of naming homicide victims across Canada, using both quantitative and qualitative review strategies. Its purpose is to review practices within Canadian policing jurisdictions as well as key stakeholder perspectives to better understand the various arguments to support the Chief of the Edmonton Police Service in making a well-informed decisions in this regard.

About Community Safety Knowledge Alliance

CSKA supports governments and others in the development, implementation, and evaluation of new approaches to community safety and well-being. For further information about CSKA, please contact:

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1 Executive Summary

Since 2015 a growing number of Canadian police services have been withholding the names of homicide victims. In many cases, information containing the name of a victim is only released if there is an investigative need or after a victim's family has provided consent. However, this practice is not consistently applied across the nation and has proven to be controversial (Penney, 2018). There are significant differences in perspectives regarding the release of a victim's name following a homicide, and these differing arguments have been brought forward by police services, victim advocacy groups, privacy commissions, civil libertarians, researchers, and the media. A key consideration in these discussions relates to the importance of balancing the public's need to know about crimes occurring in their communities—which ensures the transparency of public services—with respect for the privacy of the families of murdered victims.

In order to enhance understanding of the various practices in use, the Edmonton Police Service (EPS) contracted the Community Safety Knowledge Alliance (CSKA) to examine the practice of naming homicide victims across Canada, using both quantitative and qualitative review strategies. First, representatives from victim advocacy groups and victim-serving agencies from across the country were invited to comment on this practice; 20 organizations provided their input in semi-structured interviews. Members of the media were also invited to participate in this process. Second, a survey was sent to 37 municipal police agencies serving populations over 100,000 residents (including agencies in nine English-speaking provinces and the two largest agencies in Quebec) to collect information about their practices; 28 of these agencies provided their input. Analysis of the survey results revealed that:

- More than one-third (36%) of the responding police services release the names of all homicide victims. More than one-half (54%) release the names depending on circumstances. Only 7% always withhold victim's names.
- Most agencies indicated that the integrity of the investigation was the most important factor relating to the decision to release any information, but several indicated they also considered privacy concerns and respecting the wishes of the victim's family members in relation to releasing a victim's name.
- More than three-quarters (77%) of the responding services indicated that the officers overseeing investigations made the decision to release victims' names.
- More than one-half (54%) of responding agencies said that the victims' families should be able to advise police about releasing names.

Respondents were also asked about feedback they received about their policies from stakeholders such as the media, victim advocacy groups, and victims' families. Few of these agencies reported receiving any responses from these stakeholders about their policies and when they did, they seldom received any negative feedback.

The 20 semi-structured interviews examined issues related to policies on releasing victims' names, privacy concerns, when information should be released, and the criteria for releasing the names of homicide victims. While most respondents supported releasing the names of homicide victims, what differed was the preferred approach or process. Respondents were divided primarily between police services releasing the name immediately and in every case and, in contrast, releasing the name in conjunction with the family's wishes. Respondents further indicated that ensuring appropriate guidance, time, and support reduces the stressors on affected family members and minimizes the risk of additional trauma.

Respondents were also divided on the issue of privacy. When it came to releasing names, some fully supported the notion that public interest outweighs a family's need for privacy. Others, however, were strongly opposed to this position and highlighted the need to protect traumatized families and to give them time to grieve and comprehend a very 'un-comprehensible' situation. Many respondents identified the need for comprehensive supports during this time to help inform and guide families about the process and possible outcomes after information about an offence is released to the media.

Participants on both sides of the argument agreed there is a need to establish a consistent, reliable policy/framework or criteria for releasing the names of homicide victims. Many indicated that the policy must be based on a victim-centered approach, ensuring that families are respected, informed, and supported through this process. Additionally, most respondents suggested that such a policy or framework cannot be solely created by police services; rather, it should be established and informed through engagement with the police, media, advocacy organizations, and the families of homicide victims. Many went a step further to suggest that it should be developed into national legislation so that all police services are adhering to the same standards and process.

One of the challenges associated with the official release of information about homicides, including naming victims, is that members of the public often release information about these cases on social media platforms such as Facebook. One-half (50%) of the police agencies in our survey reported that the names of homicide victims were "always or usually" reported on social media before their agencies could release information; 43% said that names were "sometimes" reported on social media before police could officially release that information. Moreover, almost all of the agencies that withheld names (or only released names on a case-by-case basis) indicated that the media would eventually report the victims' names, as that information is often available from family members and/or the courts if someone was charged with an offence.

A response submitted by the Media Coalition (2019) contends that EPS's current policy of not naming all homicide victims

[This policy] offends the strong presumption of disclosure of information held by public bodies, is inconsistent with a correct legal interpretation of FOIP, and is a substantial and unjustified infringement on the media and the public's Charter protected right of freedom of expression and openness of the criminal justice system. (p. 15)

This position is consistent with a portion of participants that also identified the need for a consistent policy that ensures immediate release of the names of all homicide victims.

Despite some notable differences in responses and perspectives, there were some significant commonalities that seemed to unite both sides. Participants on both sides of the argument agreed there is a need to establish a consistent and reliable policy/framework or criteria to release the names of homicide victims. Furthermore, there was agreement that such a policy or framework should not be solely created by police services; rather, it should be established and informed through community engagement with police, media, families of homicide victims, and elected government representatives. For some, this would include a victim-centered approach, ensuring families are respected, informed, and supported through the process.

2 Introduction

Since the 1990s there has been increasing attention paid to individuals and families who have been the victims of crime. While victims and their families may have more visibility and participation in the justice system today, some advocacy groups say they are still excluded and often uninformed about the processes and policies that comprise a very complex justice system. Despite increased awareness of this issue, many victims report being re-victimized during their encounters with criminal justice system personnel (Policy Centre for Victim Issues, 2014, p. 3). Although some of those issues were addressed after the introduction of the *Canadian Victims Bill of Rights*, which came into force in 2015, a review of the Office of the Federal Ombudsman for Victims of Crime (2019) statistics reveals that 453 issues were received by its complaints department in 2016/17.

One significant issue that has gained more media attention since 2015 relates to the release of names of homicide victims by police services across Canada. A review of the literature shows that while many families want to keep the identities of their loved ones private, others want their family members' names to be released to honour and memorialize them. Many organizations that provide support to female victims of intimate partner violence argue that information about these offences should be reported. The Alberta Council of Women's Shelters (2019, p. 1) observes that "the causes of femicide, the factors leading up to it and the naming of those killed contribute to public awareness and education of the public and helps to remove the stigma around domestic violence."

Within this debate there are a common set of arguments that are regularly brought forward by police services, victim advocacy groups, civil libertarians, researchers, and the media. A common theme in these discussions is balancing the public's need to know about crimes occurring in their communities and the importance of transparency of government services with respect for the privacy of the victim and their family members. Although the issue of privacy is well reported in the scholarly literature and in law reviews, almost no formal academic research has examined how and why the practice of releasing information about homicide victims varies across Canada. In order to shed light on this, a review of the literature was carried out and the following section describes the key emerging issues. Given the lack of recent scholarly or legal studies on this subject, the following section was informed by government reports, stakeholder publications, and media accounts published between 2015 and 2019.

2.1 Changing Policies Regarding the Release of Homicide Victim Names

Prior to 2010 Canadian police services routinely released the names of homicide victims. The exceptions to this practice were cases subject to publication bans, which were introduced to protect the identity of crime victims, their family members, and witnesses. Although police services choose to release information about homicides, publication bans are ordered by the courts pursuant to section 486.5 of the *Criminal Code of Canada* (CCC) which reveals "the names of victims, witnesses and justice system participants, where the order is deemed necessary for the proper administration of justice" (Ontario

Ministry of the Attorney General, 2019, para. 7). Temporary publication bans can also be issued for bail (section 517 CCC) and preliminary hearings (sections 539 and 542 CCC) and are routinely made in cases of sexual assault and child victims. The Supreme Court decision in *R. v. Mentuck* (2001) on publication bans held that they should be used rarely and Jacobsen (2015, p. 1) argued that “the Supreme Court of Canada has reiterated on several occasions that judges should only impose publication bans when absolutely necessary and on the clearest of evidence that a ban is required to advance the ends of justice.”

In some cases, the family members of homicide victims have petitioned the courts to lift publication bans so they can publicize their family member’s name (CTV News Atlantic, 2019; Sturgeon, 2018). As the Canadian Parents of Murdered Children (2018, p. 1) observed, speaking with the media can empower some family members. They summarized some of benefits of this involvement (originally prepared by the Canadian Resource Centre for Victims of Crimes):

- Changing public policy and awareness;
- Making others aware of how survivors are impacted by the murder of a loved one;
- Telling your side of the story can bring balance to the criminal justice system by sharing the perspectives of the survivor (as the media often focuses on the perpetrator);
- Educating the public to help prevent similar victimizations;
- Humanizing the situation by helping others see the direct impact of the crime;
- Empowering you to help you regain control over your life and to, possibly, influence change in the criminal justice system.

As highlighted earlier, there are different perspectives on this issue amongst victims’ families, and some family members may not want the name of a loved one released, regardless of the circumstances. The Canadian Resource Centre for Victims of Crimes (2011, p. 3) identified some potential risks of speaking with the media, including the intrusive or insensitive nature of some reporters, the publication of names and addresses, reporting inaccurate or sensationalized information, and the ‘rush’ to get a story broadcast or posted online.

A review of the English-language literature from Canada reveals there is virtually no mention about the issue of releasing the names of homicide victims prior to 2010. Most media accounts about this issue describe the changing police practices related to releasing this information. These accounts reveal that while privacy legislation has remained consistent, police services today are interpreting this legislation more conservatively in terms of respecting the wishes of family members of homicide victims to withhold their names. When approving the release of the names of homicide victims, spokespersons from the Royal Canadian Mounted Police (RCMP) often refer to section 8(2)(m)(i) of the federal *Privacy Act*, where “the public interest in disclosure clearly outweighs any invasion of privacy that could result from the disclosure,” or when the personal information is publicly available, which is defined in section

69(2) of the *Act*. Depending on the circumstances of a case, the RCMP will only release a name if the individual's family consents or if the disclosure aids in an investigation.

Not everybody with agrees the RCMP's approach. David Fraser, a lawyer who specializes in privacy law, is critical of the RCMP practice of withholding information about some crimes and reports how that organization tends to be secretive; he provided the example of the Kamloops detachment that took seven months to report that an individual had been murdered (Potkins, 2017).

All provincial and territorial governments have enacted privacy legislation. In Alberta, for example, the *Freedom of Information and Protection of Privacy Act* (FOIPA) refers to the disclosure of information harmful to personal privacy. Section 40(1)(b) allows the release of information "if the disclosure would not be an unreasonable invasion of a third party's personal privacy under section 17," although the disclosure must be reasonable and necessary. Section 40(1)(c) further allows the release of information for the purpose of which it was "collected or compiled or for a use consistent with that purpose."

To assist in establishing the right or obligation of a police service to reveal the names of homicide victims under the Alberta FOIPA, a legal opinion was sought from Chantal Bernier, National Practice Leader, Privacy and Cybersecurity, at Dentons Canada LLP and former Interim Privacy Commissioner of Canada and Assistant Deputy Minister for Community Safety at Public Safety Canada.

Different legal provisions apply depending on whether the disclosure occurs at the initiative of the police service or by the police service in response to an access to information request. The former comes under Part II of FOIPA (Protection of Privacy), at sections 40 and following, which prohibit the disclosure of personal information except in the limited circumstances specified the *Act*. The latter comes under Part I (Freedom of Information), section 17, which creates a mandatory exception from access in relation to personal information and prohibits giving access to personal information except in limited circumstances as stated in section 17.

With respect to disclosure at the initiative of the police service, section 40 of FOIPA prohibits the disclosure of personal information except where the information does not constitute an unreasonable invasion of privacy. Of relevance here, in conjunction with subsection 17(2), the following is deemed to not constitute an unreasonable violation of privacy:

- the purpose for disclosure is consistent with the purpose for which it was collected;
- the individual has consented;
- the disclosure is to the surviving spouse or adult interdependent partner or a relative of a deceased individual if, in the opinion of the head of the public body, the disclosure is not an unreasonable invasion of the deceased's personal privacy;
- the individual has been deceased for 25 years.

On the other hand, in conjunction with subsections 17(3) and (4), the following circumstances, relevant to the issue at hand, are presumed to constitute “unreasonable invasion of personal privacy”:

- the individual has requested that the information not be disclosed;
- the personal information constitutes medical information;
- the personal information is an identifiable part of a law enforcement record, except to the extent that the disclosure is necessary to dispose of the law enforcement matter or to continue an investigation;
- the personal information consists of the third party’s name when it appears with other personal information, or the disclosure of the name itself would reveal personal information about the third party.

To assist in determining whether disclosure is permissible or not, subsection 17 (5) states the following considerations be taken into account:

- Is the disclosure desirable for the purpose of subjecting the activities of the Government of Alberta or a public body to public scrutiny?
- Is the disclosure likely to promote public health and safety or the protection of the environment?
- Is the personal information relevant to a fair determination of the individual who requests access to the information?
- Would disclosure expose the individual unfairly to financial or other harm?
- Was the personal information supplied in confidence?
- Is the personal information likely to be inaccurate or unreliable?
- Would the disclosure unfairly damage the reputation of any person referred to in the record requested by the applicant, and
- Was the personal information originally provided by the individual requesting it?

Subsection 40(4) also provides interpretation guidance by stating that “a public body may disclose personal information only to the extent necessary to enable the public body to carry out the purposes described in subsections (1), (2) and (3) in a reasonable manner.”

With respect to the situation where the disclosure would arise in response to an access to information request, FOIPA creates a mandatory exception to access to personal information at section 17 stating that “the head of a public body must refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party’s personal privacy.”

The provisions mentioned above on defining “unreasonable invasion of privacy” apply here as well.

To specifically address the issue of the right or obligation of a police service to reveal the name of homicide victims, we turn to the Service Alberta *FOIP Guidelines and Practices* on the interpretation of

the relevant provisions. The following emerges from Chapter 7 on the Protection of Privacy and Chapter 4 on Exceptions to the Right of Access:

- Disclosure of personal information is exceptional and may only occur in the circumstances specified in the *Act*; for example, the Alberta Information and Privacy Commissioner (IPC) found in *Investigation Report 2001-IR-002* that personal information relating to “an investigation that was discussed at an in-camera council meeting should not have been disclosed to a journalist because it was not authorized by any provision of the *Act*”;
- The fact that an individual may have access to the personal information by other means does not authorize disclosure (IPC *Report of Findings 2002-IR-005*); this is particularly relevant in relation to the availability of information on social media and suggests that such availability does not allow disclosure by the police;
- Subsection 40(4) limits even disclosure that may be allowed to the strict limit of what is “necessary” and public bodies must document the disclosure;
- The notion of “unreasonable invasion of privacy” allows disclosure only after a complete analysis has been carried out;
- If disclosure “could affect someone’s health or safety, information should not be disclosed;”
- Disclosure of illness or death is only allowed to the spouse or interdependent partner;
- The permission to disclose to avoid imminent danger or health applies only where danger is “likely to arise immediately or very soon.”

The following provisions of FOIPA are particularly relevant:

- Subsection 17(2)(i) only allows the disclosure of a deceased person’s personal information after 25 years;
- Subsection 40(1) creates a prohibition to disclose except in the very limited circumstances specified in the *Act* and subsection 40(4) calls for a restrictive interpretation of the exceptions;
- Subsection 17(1) creates a mandatory exception to access in relation to personal information;
- Subsection 17(5) calls for consideration of potential harm to an individual even where there could be authority to disclose.

It therefore appears from the letter of FOIPA and from guidance in its interpretation from the Service Alberta *Guidelines* that the position of EPS to not reveal the names of victims of homicide corresponds to its obligations and to the rights of the victims and their families under FOIPA.

Faced with the challenge of interpreting the Alberta FOIP legislation, the Alberta Association of Chiefs of Police (AACP) (2017, pp. 3-4) developed a decision framework on naming homicide victims. AACP members consider the following factors:

- Whether it is in the ‘public good’ to release the name;
- That families of the victim(s) should be considered additional victims. As such, their wishes should be considered;
- How much and what kind of other information in relation to the homicide has already been released;
- Whether releasing the name of a victim will serve to disclose the identity or personal information of others;
- Whether the release of a victim’s name is necessary to ensure that information already in the public domain is accurate;
- Whether the information will be available to the public from other official sources in short order (excluding the media or other speculation);
- Whether knowing the circumstances of the homicide is relevant to public safety; and
- The timing of the release in terms of allowing for family notification and to allow for religious events.

The AACP (2017, p. 4) says that “once all considerations have been made under section 40(1)(b), the decision to release the victim(s) name or not can be made.”

Given how that framework is applied, some disparities in the release of names within the province have occurred. Penney (2018) gathered information about the release of victims’ names for the three largest police services that policed jurisdictions where 115 of the 118 homicides in Alberta occurred that year. With respect to naming the victims in these crimes:

- At Edmonton Police Service, 17 of 42 victims were not named
- At Calgary Police Service, all 27 victims were named
- At RCMP ‘K’ Division, 8 of 46 victims were not named

Penney (2018) argues that releasing the names of these victims is important because it is in the public’s interest as defined by privacy legislation. Like many other policy debates, there is not full agreement on the definition or meaning of terms such as ‘public interest.’

The debate over releasing the names of homicide victims is not unique to Alberta. After the *Local Authority Freedom of Information of Privacy Regulations* (LAFOIP) was introduced in Saskatchewan on January 1, 2018, the province’s privacy commissioner interpreted the legislation to mean that police services should withhold victim names, citing section 29 of the *Act* that places restrictions on providing information on deceased persons (equivalent to subsection 17(2)(i) of FOIPA mentioned above). This led to the Regina Police Service (RPS) to withhold the names of several homicide victims—their policy was to release names “in situations where it will help an investigation, to protect someone’s health or safety,

after the first court appearance of someone charged in the crime, or if it's in the public interest" (Canadian Press, 2018b).

There was some media backlash about this practice, although a review of newspaper accounts did not reveal a significant public interest in this matter. Ultimately, the RPS decided to release names on a case-by-case basis; that also appears to be the practice of the municipal police services and the RCMP. A Saskatchewan RCMP spokesperson (referring to the federal privacy act) said, "There are exemptions under that act and when we do lay charges in a homicide investigation, any information relating to that investigation is available through the court process." However, like most municipal police services, the RCMP will name victims to aid in investigations "any time we want to further an investigation and naming the victim would be helpful, that would be a time that we would do it" (Cowan, 2018, para. 24, 25). According to the *Privacy Act*, deceased persons retain the right to privacy. As such, the operational policy of the RCMP (2019) for releasing the names of deceased individuals (from all causes, including homicide) is summarized as follows:

- Confirm with the coroner/medical examiner that the identity of the deceased has been verified and that their name may be released.
- The name of the deceased may be released (e.g., to the news media) after the next of kin (NOK) notification, in the following circumstances:
 - It will further the investigation, or,
 - If there is a police or public safety concern, or,
 - The identity of the deceased has been made publicly available through other means, such as, but not exclusive to, social media sites.

In an exception to this policy, the release of the person's identity may be disclosed when, in the opinion of the investigator, public interest clearly outweighs any invasion of privacy that could result from the disclosure.

One question that has emerged after the development of the AACP's framework for decision-making is *who* makes the decision about *how* and *when* information about homicide cases is made public. In Alberta, police services make that determination. In British Columbia, by contrast, victims' names had previously been released by municipal police services and the BC Coroners Service, but the Coroners Service stopped that practice in 2017 (Lupick, 2017), and the RCMP does not release the name of every homicide victim. In the past, police oversight agencies such as the British Columbia Independent Investigations Office would also release the names in cases they investigated; however, that is no longer their practice, and they joined four other civilian oversight agencies in a joint statement describing how they would not release these names (Canadian Civilian Oversight Agencies, 2015).

Some police services and other agencies have fairly strict policies on releasing the names of homicide victims. A Sûreté du Québec spokesperson observed that "once the victim has been formally identified

by the coroner and with the consent of the family, we will release the name of the homicide victim” (as cited in Gallant, 2015, para. 12).

While police services routinely release the names of homicide victims, other provincial agencies affiliated with the justice system appear to be discontinuing the practice. The joint submission from the five civilian oversight agencies—in Alberta, British Columbia, Manitoba, Nova Scotia, and Ontario—describes why they will not release a victim’s name unless the family approves that action or the information is needed to investigate the case. Most of the cases investigated by these oversight agencies involve individuals that have been seriously injured or killed in interactions with the police or while in police custody. The leadership of those agencies contend that the public’s need to be fully informed is secondary to the needs of the family members and “we will continue to err on the side of compassion and human decency by empowering complainants and their families with the decision to release or not release” (Canadian Civilian Oversight Agencies, 2015, p. 2). A similar stance has been taken by the Alberta Domestic Violence Death Review Committee (Alberta Council of Women’s Shelters, 2019).

Though individual police services have different practices in terms of releasing homicide victims’ names, neither the Canadian Association of Chiefs of Police nor the Canadian Association of Police Governance have policy positions on the practice. The First Nations Chiefs of Police Association also does not have a uniform policy for their members, and agencies release names according to the investigative priorities of the case and then on a case-by-case basis, which may include respecting the wishes of the family members to withhold the victim’s name.

2.2 Arguments for Releasing Homicide Victims’ Names

A diverse range of stakeholder groups argue that the release of the names of homicide victims is important for the transparency of police operations, to reduce speculation and rumour, and to honour the memories of the homicide victims. The following points summarize their arguments:

- Advocacy groups, such as the Alberta Council of Women’s Shelters (ACWS), say that withholding victims’ names contributes to stigmatizing family violence. ACWS’s executive director, Jan Reimer, observed that “family know, their friends know, the schools know, the workplace knows. It’s not like this is a secret. It’s also important for the public to know” (as cited by Maimann, 2019).
- Academics argue for the full disclosure of information about homicides in order to carry out research. Peter Jaffe, the academic director of the Centre for Research and Education on Violence Against Women says that researchers need all of the information in order to “find improvements in risk assessment, safety planning, and risk management” (as cited by Maimann, 2019). Steven Penney, a University of Alberta law professor, observes that

withholding victim names is “a troubling practice that departs from Canada’s long-standing tradition of having an open, transparent and accountable criminal justice system” (as cited by the Canadian Press, 2018a).

- Almost all journalists contend that the public interest in releasing victims’ names outweighs the privacy concerns of their family members. Their position is articulated by professors such as Lisa Taylor from Ryerson University who says, “A homicide is also a crime against society, and therefore the public has a right to know who was killed” (as cited by Gallant, 2015).
- Civil libertarian groups, such as Pivot Legal Services in Vancouver, say that withholding names “hurts transparency and accountability” (as cited by Lupick, 2017).

In some cases, the official release of information by police services about homicide offences lags behind the unofficial release of information on social media; family members and/or friends or acquaintances of the victim will post information about these acts before a police service officially releases any names. Bein (2017, para. 26) observes that “journalists can mine information from social media, especially Facebook, to track down family and friends, they can cover court proceedings where names are made public, or they can work their sources in the community to get around police obstacles.” As a result, withholding a victim’s name may only serve as a temporary barrier to the release of information by the media.

One of the challenges of using information about crimes coming from non-police sources involves the dissemination of inaccurate information. Weyburn Police Chief Marlo Pritchard notes that the official release of information “stops the rumour mill” (Canadian Press, 2019). Writing about the official release of information by police, the Radio and Television Digital News Association (2015, para. 3) observed that “in the absence of such credible sources, erroneous information often shared in social media and neighbourhood gossip could remain unchecked.” As a result, the release of names by police services is more accurate than the unofficial information conveyed by social media and may be less traumatizing to family members.

3 Methodological Strategies

This review of the practices related to the release or withholding of homicide victim names employed a mixed-method approach. This included a 17-question online survey that was shared with Canada’s largest police services. This survey solicited information about their policies surrounding the release of victims’ names and sought information about how and why these decisions were made, as well as the feedback these agencies received about their policies from families of homicide victims and various stakeholder groups.

In addition, this review employed a series of semi-structured interviews with representatives from victim advocacy groups and victim-serving agencies. Participants included representatives from national groups as well as Alberta (provincial) and Edmonton agencies that reached out and expressed an interest in participating. Additional stakeholders, such as members of the media, were also included in the interview process. The interviews included the following questions:

- 1) Does your organization have a policy or position on the release of names of homicide victims to the media following NOK notification? If so, what is the policy or position?
- 2) What privacy issues or concerns does your organization feel needs to be considered when making a decision on the release of a homicide victim's name to the media?
- 3) Are there specific instances where other considerations should be recognized and respected despite the police service's policy regarding the release of names of homicide victims? (e.g., age of the victim, cultural context)
- 4) What, if any, criteria should police services consider to determine whether the name of a victim of homicide should be released to the media?
- 5) Is there anything else you wish to add now or submit in writing?

4 Survey Results

An online survey was sent to 37 municipal police services throughout Canada on March 13, 2019; it remained open until April 5, 2019. Twenty-eight agencies responded for a response rate of 76%. The survey was comprised of 17 questions with most allowing for additional comments. The results and selected comments are reported below.

Q1. What is your agency's current policy on releasing the names of homicide victims?

Our agency releases the names of all homicide victims	36%
Our agency releases the names of some victims	54%
Our agency releases the names of no victims	7%
Prefer not to answer	4%

Q2. Relative to this policy, on what rationale is this position based? (Selected comments):

- *We do not name young persons and consider victims of murder/suicide occurrences on a case-by-case basis.*
- *The public has a right to know circumstances, however the victim's family has rights and wishes should also be respected. Our officers ask family members regarding this issue and explain that media may obtain those details by other means if not released by police, regardless of the family's wishes.*
- *We have never been asked (by family members) to not release the name of a victim. I feel that in the event of unsolved homicides, the police service should release the name of the victim(s). It is essential to garner the assistance of the community in determining victim association and patterns by letting the community know who has been murdered.*
- *Media gets the name from social media. We are trying to lessen the burden on the family and assist in dealing with media with and for them.*
- *It depends on the circumstances of a case, including what the victim's family wants, where we are in the investigation, and any other factors we may have to consider in unique homicide cases.*
- *A combination of victim (family) rights and the effect on the investigative integrity.*
- *As a rule we don't release the names. However, if there was an investigative need for example, we may, depending on the circumstances.*
- *Case-by-case basis.*

Q3. If information is only released for some victims, who in the organization makes a decision on the release?

Chief or executive officer	19%
Public information officer	0%
Prefer not to answer	4%
Other	77%

Other positions/decision-makers identified by the respondents included:

- Major case manager/team commander/officer-in-charge of the Criminal Investigative Division
- Homicide inspector (or officer responsible for the homicide unit)
- Consultation with different police service leaders within the organization

Q4. Has your agency received feedback about your policy on releasing names from the media?

Yes	43%
No	54%
Prefer not to answer	4%

Q5. If your agency has received feedback from the media, would you describe it as:

Positive: Most feedback supports our policy on releasing victims' names	35%
Mixed results: A mixture of positive and negative feedback	25%
Negative: Most feedback is critical of our policy on releasing victim names	0%
Prefer not to answer	10%
Other	30%

Selected comments:

- *In some incidents, the victims' names may not have been initially released when asked by the media. The victim's name has often been released at a later date after next of kin were notified and consented or investigative requirements were met, which has satisfied the media concerns but delayed the publishing of victims' names.*
- *Media often have the name before we release it (as we want to ensure next of kin have been notified first) and we will not confirm until the time is right. The media rarely appreciates this process and often puts the name out before we are ready.*
- *The media does not ask anymore...they know we will not release the name.*
- *Never have received feedback from the media.*

Q6. Has your agency received feedback about your policy from victims' advocacy groups?

Yes	14%
No	82%
Prefer not to answer	4%

Q7. If your agency has received feedback from victims' advocacy groups, would you describe as:

Positive: Most feedback supports our policy on releasing victim's names	6%
Mixed results: A mixture of positive and negative feedback	13%
Negative: Most feedback is critical on our policy of releasing victim's names	0%
Prefer not to answer	25%
Other	57%

Selected comments:

- *Have not received feedback from victims' advocacy groups. I would always be willing to listen to any group or family member in regard to these issues.*
- *The initial response was negative, however that came from a lack of understanding on how the policy would be applied. The reality is our policy change to comply (with freedom of information legislation) has very little effect on the releasing of homicide victims' names. We do, in almost all cases, release the name.*

Q8. Has your agency received feedback about your policy from victims' family members?

Yes	68%
No	29%
Prefer not to answer	4%

Q9. If your agency has received feedback from victims' family members, would you describe it as:

Positive: Most feedback supports our policy on releasing victim names	29%
Mixed results: A mixture of positive and negative feedback	38%
Negative: Most feedback is critical of our policy on releasing victim names	0%
Prefer not to answer	4%
Other	29%

Selected comments:

- *Most family members realize that the name of the victim will eventually be revealed by the media whether they want it or not. The sad reality is that the media will do this oblivious of the impact it has on the family. It is best to work with the family in releasing the information in a controlled manner that still maintains some form of dignity to the deceased.*
- *Usually the family members understand the need for names to be released. On occasion we have received request for non-disclosure of the names. We usually have had positive experiences once we discuss this element with the family members.*
- *Feedback is provided on a case-by-case basis with emphasis placed on working with family members before any major decisions about the release of information is made. We have had no negative feedback in recent history.*
- *We do not release the names—the Integrated Homicide Investigation Team makes that decision. They will usually confirm who the victim is within a few days.*

Q10. Do you feel your agency's policy on releasing names has had a negative impact on police investigations into these crimes?

Strongly agree	0%
Agree	4%
Neither agree nor disagree	18%
Disagree	46%
Strongly disagree	29%
Prefer not to answer	4%

Q11. Do you feel your agency's policy on releasing names has had a negative impact on public trust?

Strongly agree	4%
Agree	4%
Neither agree nor disagree	18%
Disagree	39%
Strongly disagree	32%
Prefer not to answer	4%

Q12. Do you feel there are circumstances when the victims' families should have the ability to advise police if they would like the name released?

Yes	54%
No	11%
Prefer not to answer	4%
Other	32%

Selected comments:

- *There should be consultation, however, the family must understand there are reasons that police need to do what they need to do for the needs of the investigation.*
- *Our agency consults with the families of homicide victims. We make the final decision to release the name of the victim, but do consider the wishes of the family.*
- *I agree I will listen to their concerns. I also agree that there are circumstances that releasing the name is not beneficial or needed to be released.*
- *Each investigation is different, and it would be on a case-by-case basis. However, I cannot see a time when at some point the name would not be released.*

- *It is worth discussing with the family. In most cases social media is the first instance that the names are released by friends or extended family, and then the police are left to confirm the information.*

Q13. Under what (if any) circumstances should a victim's family wishes to release a victim's name be respected? (Selected comments: No multiple choice options)

- *In this day and age most victims' identities are released by way of social media anyway so we don't entertain their wishes.*
- *Would have to be considered on a case-by-case basis.*
- *Under all circumstances.*
- *If families have not been able to notify their requested family members and close friends. If they wish their privacy respected. Again this has not happened and the media would usually be able [to] obtain victim identification regardless, so families usually agree to release.*
- *If in the event of a familial homicide involving children followed by a suspect suicide, there would be no investigative benefit to releasing the names of the victims.*
- *If the release would pose a future verifiable risk to someone's safety.*
- *Case-by-case. But I have not come across an example yet.*
- *We still believe it needs to be adjudicated on a case-by-case basis. Oftentimes the age of the deceased, domestic relationship, etc. dictates the family's wishes. This should make up the factors that are considered by the Chief.*
- *As long as it does not interfere with the integrity of the investigation.*
- *It should be up to them.*
- *If there is no benefit to the safety of the community and the investigation will see no benefit from the name being released. It is a balance.*

Q14. How often do members of the public using social media such as Facebook release information about the names of homicide victims before your agency has the opportunity to release that information?

Always	11%
Usually	39%
Sometimes	43%
Rarely	7%
Never	0%

Q15. If your agency does not release the names of homicide victims, how often does the media release their names?

Always	4%
Usually	19%
Sometimes	22%
Rarely	7%
Never	0%
Not applicable: Our agency releases victims' names	48%

Q16. Additional selected comments:

- *I strongly believe that family of victims should be part of the decision to release the name in order to respect their wishes and requests for privacy.*
- *As stated earlier, in the event of an unsolved homicide, I feel that it is imperative to get the name of the victim out there. This stimulates the collective memory of the community and can lead to tips that would otherwise not be called in. As any homicide investigator will tell you, as long as the information is still coming in, there is hope.*
- *I really believe it is a policy that should be fluid. I think that most often in today's world the name is out anyway. Using the media properly ensures that police can still control the message.*
- *Investigative integrity is of the utmost importance (i.e., obtaining all information possible), however, we also will weigh family wishes in how we proceed. To date it has not been an issue.*
- *We do not typically release the names of police-involved shootings. The civilian oversight body usually takes over the investigation and it would no longer be the police's decision to release the name.*
- *Releasing the name leads to credibility, versus not commenting—when it is usually already known in the world of social media.*
- *The media would prefer the [agency] release the names officially, but in cases where we do not, they will typically confirm identity in social media posts with family members.*
- *I feel it needs to be a balanced approach. No right or wrong answers as there are a plethora of solid reasons on both sides of this discussion. At the end of the day, with social media, oftentimes our hands are tied regardless and the names will be released if we have that desire or not. It can be beneficial if we have the opportunity to get in front of the release and guide the public story on the resulting information.*

Q17. In what province is your agency located?

British Columbia	18%
Alberta	11%
Saskatchewan	7%
Manitoba	4%
Ontario	54%
Quebec	4%
New Brunswick	0%
Nova Scotia	4%
Prince Edward Island	0%
Newfoundland and Labrador	0%

5 Interview Results

5.1 Participating Agencies

To gain a better understanding of the policies and perspectives held by key stakeholders from various victim advocate agencies across Canada, 20 individuals from different stakeholder groups were interviewed using a semi-structured question format. The agencies and organizations interviewed include

University of Alberta
Edmonton John Howard Society
Office of the Federal Ombudsmen, Victims of Crime
Today Family Violence Help Centre
Valleyview Funeral Home – Homicide Support Group & BC Bereavement Helpline
City of Edmonton, Family and Community Support Service Section
Metis Child and Family Service Society
Victims of Homicide of Edmonton Support Service
Wings of Providence
Air India Victims' Families Association
Provincial Association of Transition Houses (PATHS)
Canadian Parents of Murdered Children (CPOMC) and Survivors of Homicide Victims
Aboriginal Counseling Services Edmonton
Victim Justice Network
Edmonton Police Service
Edmonton Police Service Media Relations Unit

Calgary Homicide Support Society
Western University, Faculty of Education/Centre for Research and Education on Violence Against
Women and Children
Alberta Council of Women's Shelters

5.2 Emerging Themes

The following themes are organized according to the five questions that were asked of each participant. The themes that emerged after analyzing these responses are discussed below.

1) Does your organization have a policy or position on the release of names of homicide victims to the media following next of kin notification? If so, what is the policy or position?

Release the names in consultation with the families to reduce re-victimization

Although a number of organizations did not have a formal policy or position, they did share their perspective on the matter. The most common response from participants interviewed was that the name of a homicide victim should ultimately be released; however, they identified the need to include families in this process. Specifically, respondents shared that there is the risk of additional trauma or even re-victimization when families are not informed or involved in the process of releasing a victim's name. It was shared that following a homicide, families are feeling incredibly overwhelmed and have very little control over the situation. Participants suggested that allowing the families a brief period of time to notify other relatives, become acquainted with the release of name process, and understand what supports are available to them evokes a sense of control, reducing the likelihood of further trauma.

"It should allow for victims' family to have a say, their privacy must be considered. If not it re-victimizes when media releases names. Police should consult with the family to gain their thoughts about the release of the name(s), then release to the media. It is a true balancing act. Need flexibility despite rigid policy and community agencies need to support police services when they 'pause' for victims. It's a very delicate balance."

"We need a 'victim-centered' approach, but it is also important for the public to know of the crimes committed in the community. We need to talk about violence and confront it to prevent it. We must name it. But families should be able to take the lead in the decision where possible."

"We have surveyed our 100 plus members and have heard from victims that immediately releasing the name re-victimizes the family. Police really need to withhold the name until all family have been notified...just give families 2 to 3 days before releasing the name. Giving them this time and respect allows them to catch their breath and deal with the enormity of the circumstances."

“When you lose your family you lose total control over everything.”

Always release the names

Many participants felt that there should never be a reason to withhold the name of a homicide victim from the public or the media. These individuals believed strongly that the names should be released consistently in every homicide that occurs unless there are extenuating circumstances where the investigation would be compromised or if a court-ordered media ban was issued. Participants said that the release of names increases awareness and also ensures transparency within police services.

“Unless concrete investigative need or court or a ban in line with criminal code—then police should always release names to media.”

“The release of names increases awareness and a response to the issue.”

“We do support the release of names to the media by the police. This increases public awareness about domestic violence and reduced tolerance towards domestic violence and ‘femicide.’ We need more awareness and need to do more to name it to help educate the public.”

“It is important to share/release the names 100% of the time. Next of kin notification first, then information needs to be released as long it does not interfere with the police investigation.”

“Release 100% of the time—when there is a homicide, the name should always be released.”

Do not release the names at all

A small number of participants felt that releasing a homicide victim’s name did not add any value to public knowledge. They contend that when a homicide occurs, the public should know that a crime has been committed in the community; however, they felt strongly that sharing the victim’s name did not add any value to the story and as such should be omitted to protect the privacy of the victim and their family.

“No names released under any circumstances. The right for privacy must be upheld.”

“Naming homicide victims serves no purpose...releasing the names re-traumatizes family...seeing their loved ones’ details blasted on the news and in the papers re-victimizes and can unfortunately perpetuate things like racism.”

Varies between families

One participant noted that homicide and the decision to release is incredibly complex and varies between families, depending on their perspectives.

“The nature of homicide is so complex...it is not cut and dry and is so difficult for victims and families, and the uniqueness of each family and their perspective on the release of names adds to the complexity and makes it difficult to have a definite position either way.”

2) What privacy issues or concerns does your organization feel needs to be considered when making a decision on the release of a homicide victim’s name to the media?

Families’ privacy should be upheld and respected

Many participants stated that given the trauma experienced by family members following a homicide, the decision to release the name should ultimately be left up to the families. The rationale for this position related again to the potential for re-victimization and the significant amount of stress incurred when the name is released. That said, participants also felt that families would likely inevitably release the names but could do so with the appropriate time, respect, and supports operationalized by the respective police service.

“Repercussions to the family are immeasurable—the release of the homicide victim’s name does so much damage to the family members...ridicule, lack of empathy, lack of understanding. We must protect families first. To have to fight media when you’re in trauma is a huge re-victimization and causes so much damage.”

“When you can, you should be mindful of the impact of the media on the family. Need flexibility—police should be sharing with public because of the seriousness of the crime—we must name it, especially violence against women. But police can help convey the need for the family’s privacy to the media.”

“Releasing the name immediately after the homicide adds additional stress to the family...privacy should not be taken away just because there is the opinion that the public has the right to know. There is no value added by releasing the victims’ names immediately. Police should notify family, then give the family some time to process and inform other family members. Families also want the opportunity to talk to the media so that they get the details right—many families have experienced a rush by the media to get the story and then hear on the news that they have many key facts wrong...then amidst grieving, the family finds themselves chasing around after the media to set them straight and get the story right about their loved one.”

The public's right to know outweighs the family's need for privacy

A similar number of participants stated that the common good of society and the public's right to know outweighs the need for a family's privacy. In fact, many argued that once an individual is deceased, they no longer have rights to privacy. Moreover, the expectation for privacy is illusive given the fact that court documents (if someone is charged with the offence) are public knowledge, coupled with the influx of social media platforms that often have information posted about the deceased prior to its release by the police or media. Despite this strong stance, many noted the exception to this rule in cases whereby the investigation would be jeopardized or other operational issues related to the safety of the family (families) involved.

"[There are] a lot of reasons why privacy interests shouldn't be considered, because by definition a deceased individual cannot have privacy—so there has been an overreach of privacy to protect third parties and privacy in this context is misleading. The rule of law trumps the need for families' privacy."

"Public interest and public safety trumps families' need for privacy."

"If there are safety issues or risk of harm to the loved ones of victims (operational reasons), otherwise release the names."

"There is not an expectation for privacy once you have passed—it already becomes public knowledge through court documents, obituaries, and social media."

Release the names, but provide adequate support to families

Some participants reiterated that the importance of releasing names should be balanced with appropriate supports to the families involved. Their expectation is that police services carrying out the NOK notification also ensure that sufficient supports are in place to help the family understand and cope with the events that occur following the release of their loved one's name.

"Police should provide media support to families and liaise on their behalf where possible, because no one is prepared to deal with a homicide of their loved one."

"There are privacy concerns, but these can be dealt with. Engagement with surviving family members by police is key. Victim Services needs to be a support and help to safeguard the family from release through the appropriate sharing of key information, such as the benefits of releasing the name, the details and information that should be shared."

Appropriate release of information

A small number of participants shared their concerns about the way some victims are portrayed by the media. For some, this represented the disparity that can occur in terms of sensitivity if a victim of homicide is a member of a marginalized social group (as compared to middle-class victims). As such, a reporter's account may perpetuate social stigmas and be disrespectful to the victim. Others had concerns about the level of detail of information released and shared by the media, highlighting the potential safety risks when unnecessary information is being shared.

"With social media today, everyone is a journalist and it is hard to maintain privacy. This, with the fact that the media are fickle, sometimes results in a disparity between concern for someone considered to be 'worthy' of that concern and respect and someone who is 'not worthy'—for example, an affluent individual who has been murdered compared to a street girl."

"Families worry about the safety of their other family members—they worry about retaliation. With media attention, the perpetrator knows everything about the family. Too many details are released—where families work, go to school, live, and so on."

3) Are there specific instances where other considerations should be recognized and respected despite the police service's policy regarding the release of names for homicide victims? (e.g., age of the victim, cultural context)

Consider implications of age and culture

Many respondents identified two key areas that should be considered when releasing the names of homicide victims:

- 1) If there are child victims involved, and
- 2) If there are cultural considerations that could pose an additional threat to the victim's community.

Thus, some contend that the release of names could have more significant impact on different ethnocultural groups, including Indigenous peoples. However, despite these concerns, many still felt that ultimately the names should be released and stay in accordance with a 'policy' to release. Because there is a lack of a national policy to release names—and even variation within some provinces—many expressed their desire for a consistent and established policy that would drive these decisions.

"Yes cultural considerations, for example in tight knit communities where both the victim and the perpetrator come from, this event divides the community and releasing the name can add fuel to the fire and create stigma to those individuals who share the same race but are not part of that community. Must consider these circumstances carefully."

“Circumstances that involve children should be considered to minimize harm, however there needs to be a clear and consistent policy on this, not a case-by-case basis approach. The provincial government should establish consistent policy/legislation that all police services would abide by in the province. These decisions should not be made by individual police services. If there were an overarching provincial policy, it would mitigate this gray area and ensure safe and fair transparency.”

“Yes when there are minors or children involved, we need to be careful because of the stigmatization that can happen. However, if there is a policy to release, then they should release 100% of the time...no case-by-case considerations. Culture, race, or religion shouldn’t matter. So what is needed is a consistent policy on children so that everyone adheres to the same policy...we need consistency in the province.”

“We must consider the impact on children and the stigma attached when they return to school and the way information spreads on social media.”

Balanced approach – release of names with adequate time, information and support for families

Some participants again raised the need for police services to be flexible and work *with* the families prior to releasing a victim’s name to the public. It was noted that this approach would allow families to have some input into the process and address any concerns they may have before information is released.

“There is a need for balance and flexibility. Yes we need to release names, but we also need to be flexible and supportive to the victims. Police need to meet with family and inform, support, and explain—again a victim-centered approach.”

“There should be a policy across the board that allows families a 3-day grace period of time to process the trauma incurred and then have the detailed information released to the media...this process needs to be victim-centered.”

NOK notification and then release

Several participants felt that a delay beyond NOK notification was not necessary and should be avoided.

“A short delay to notify NOK is ok for a few hours or a day but cannot and should not be used to extend beyond a reasonable amount of time; the general public interest and media interest in the story takes precedence.”

“Bottom line is police need to solve the crime and when the name isn’t released, the potential for evidence through public awareness is lost...potential witnesses or people with key information are lost.”

No need to release victim’s name

Alternatively, a few participants felt there was no need to report the victim’s name and should not be done without the family’s consent.

“Do not release at all—you can report the seriousness of the crime without releasing the names.”

“No release of name under any circumstances—only way is if the family chooses to release. The media can report the seriousness of the crime but can omit the names. They do not need the names, again, unless it helps to catch the perpetrator.”

“Consider the family and their wishes.”

4) What, if any, criteria should police services consider to determine whether the name of a victim of homicide should be released to the media?

Need for a consistent policy/framework or criteria

Participants identified the importance of developing a consistent policy or framework that would guide the decisions of police services about releasing a homicide victim’s name. Many felt this would provide better support to families, increase public confidence in police services, and ensure the public that accountability and transparency are being upheld. Criteria identified for consideration included factors such as

- developing a consistent process following a homicide, including NOK notification;
- consulting with the family;
- providing appropriate support services for families;
- prioritizing investigation needs; as well as
- developing specialized protocols to manage cases where children are involved.

Furthermore, many respondents shared the need for police officers to receive training on this protocol so they are able to carry out these requirements in a consistent and professional manner.

“We need consistent policy with criteria. It would be ideal if it were universal and not just province-by-province. Policy should include: next of kin and extended family MUST be notified; family needs to be consulted; family needs to have choice about the release of name; supports in place to guide family and help them understand the release of name process; consider if the release of name will impact investigation; consider the size of the community; and there should

be special protocol for when children are involved.”

“A policy protects police and ensures accountability, but it must include several things: family needs are a priority; supports for families to guide them through the process and help them frame a response if they choose to release; include victims’ services; need to consider the uniqueness of each case such as family wishes, culture, and if children are involved.”

“Policy or framework needs to consider informing the family—‘guide’, not tell them; give the families some control; considering the involvement of children, balance investigative needs and providing adequate supports for the family, perhaps through victim services; and having police officers trained to appropriately execute such policy.”

“Needs to be criteria for investigators to follow, particularly when it relates to sitting down with the family and explaining why the name should be released and preparing them for what might happen next once the name is released.”

“Time and support and permission...this is what families require when considering the release of the name.”

Consult with families

Several participants felt that the police should consult with the families prior to the release of any names to the public (although the survey results suggest this is already occurring). These respondents said that this consideration would constitute the ‘main criteria’ prior to release. This issue was especially relevant if the release of their loved one’s name was not integral to the investigation.

“There should be a consult with family, and it should be balanced with the ongoing investigation.”

“The families need to have some choice and support and some protection for the families from the media. Homicide victims should be honoured. But the public needs to know what is happening in the police/justice system. For example, interpersonal violence, this cannot be hidden. Some families want names released, some don’t...police need to work with them.”

“The name should only be released if the family would like the name(s) released—families should have the last say. If it is imperative to the investigation, police should explain this to the family, however, the family should still have the choice. Families are re-victimized by the release of names—it is so difficult, and they are re-traumatized every time the names and images pop up in the media...even years later. If you have never lost a loved one in this manner then it would be hard to understand and empathize.”

"Families should have the lead, should have a choice. That choice should not be taken away. They need to have a voice."

Police should not define or decide on criteria

Some participants expressed concern about allowing police services to create or define policy or criteria related to the release of names. They felt there was a great need to engage key stakeholders in the community and work collaboratively to identify and develop policy and police practices around the release of victim names. Another felt that any judgements related to policy on this matter should be overseen by elected public officials whose perspectives are independent and based in law and legislation established through a democratic process.

"I am concerned by this. You will hear different views from different stakeholders, which is to be used to develop a framework to inform police and achieve optimal balance with regards to this issue...perhaps a case-by-case basis. The problem is that police services should not be making that decision because police services are not equipped to be deciding what information is newsworthy or in the public interest. They are not impartial like a judge who has decided based on law that a publication ban should be put in place. These judgements are based on laws that have been established by a democratic process by elected representatives. This is an independent decision that the public can trust and that is in the best interest of the public. The police should not be given the discretion to decide if this is in the public's interest."

"I am not comfortable with the police making decisions about release by themselves. There needs to be a community engagement process."

"Police cannot decide this all on their own. We need to bring together police, the media, and the families affected as a bit of a 'think tank.' Homicides can be an opportunity to educate and prevent."

Always release

A small number of participants identified the need for police services to always release the name of a homicide victim, even in cases involving children.

"NOK notification, then always release names. Even in instances where children are involved, must release. With domestic violence cases, there are almost always children involved, but the names and information still must be released to increase public awareness of this issue and educate people that domestic homicide happens in every level of socio-economic status and every walk of life. Police also need to ensure supports are in place for families, preparing them for the release to the media and explaining the 'how' and 'when' that will take place."

“Should release 100% of the time.”

5) Is there anything else you wish to add now or submit in writing?

Need for adequate supports and to respect and protect families (flexibility needed)

Participants used this opportunity to reiterate the need for better supports for families who are trying to manage the loss of their loved one and the uncharted waters of having information about them appear in media releases. Support, respect, guidance, and time were all identified as components of a ‘flexible’ process that acknowledged the victims’ families.

“One size doesn’t fit all...we must balance public safety with victims’ needs. Less rigidity and more flexibility.”

“We do not want to minimize the impact on families, but how this issue is approached is key. Police services should work with advocacy groups to better support families experiencing grief and trauma—perhaps bring in victim service agencies to help them cope with the entire process, including the release of names to help them to see the value in the greater social good. Overall, all names should be released, and there should be an established support system policy for impacted families.”

“A victim-centered approach requires just some time for families to catch their breath and grieve and plan a funeral and process the trauma...even just 2 to 3 days that’s it, then go ahead and release the name. Also I know many domestic violence groups advocate for the names to be released, but there are so many families whose loved one was murdered randomly. Domestic violence is not everyone’s journey, and so we should also have a say in the need for some privacy.”

“The victims are the experts here—we live this story. Go to the people who are directly impacted to make the right decisions.”

“Remember that these families have lost all control of their lives—they need support and help.”

Public awareness balanced with respectful journalism

Participants again acknowledged the need for public awareness following a homicide, which includes the release of the name of the victim. However, they also identified the need for human dignity and respect when information is shared with the media for public release. This balanced approach would require journalists to report stories in a restrained and respectful manner, using the opportunity for appropriate education and awareness on the seriousness of crime and violence in the community.

“Naming murder victims increases awareness—we have seen this with the release of names of murdered and missing Aboriginal women. Releasing their names reminds society that these are real people that have been lost to violence.”

“We need to balance respect for the victims with the need for information to really understand the issue at hand...we need to educate the public about the risk factors and increase awareness. We collect a lot of data just through media reports. But journalists need to have ethics...get the story yes, but be respectful of the families’ needs. Telling these families’ stories must be linked with prevention to help reduce similar crimes in the future.”

Need for consistent provincial and/or national legislation

Some participants took this opportunity to reiterate the need for consistent legislation in this area so that all police services are abiding by the same policy and processes.

“Ideally would be province-wide legislation so that nothing is left to interpretation. But because that is not on the horizon, then there needs to be a strong policy directive by [Police Service] to release names and only withhold in limited circumstances, such as for investigative purposes or NOK notification. Police need to explain to families it is in the public’s interest to release.”

“Everyone (every police service) should be adhering to the same policy across the board. In Canada, we have one criminal code, and we need a nationwide policy on the release of names. Would not be difficult for the Chiefs of Police in Canada to accomplish this.”

No value added

One participant felt there was still a lack of value in releasing the names at all and felt that the public does not always understand or empathize with families who have lost loved ones to homicide.

“They want the names printed but have never had their family members murdered and do not understand the pain of survivors. It is selfish to just get the details to make a story. There is no value added by sharing the names—it causes more harm than anything.”

5.3 Media Coalition Submission

Members of the media wished to share their position on this matter and provided an extensive report clearly outlining their position. This position was corroborated with supporting sources from both literature and legislation. See Appendix A for the entirety of the report.

Overall, the Media Coalition (2019) disagrees with EPS’s current policy of not naming all homicide victims, and their report states

[This policy] offends the strong presumption of disclosure of information held by public bodies, is inconsistent with a correct legal interpretation of *FOIP*, and is a substantial and unjustified infringement on the media and the public's *Charter* protected right of freedom of expression and openness of the criminal justice system. (p. 15)

Additional recommendations by the Media Coalition (2019) included

The Media Coalition respectfully requests that Chief McFee adopt a policy that is consistent with the above objective, which ought to be a policy of immediate disclosure of the names of homicide victims. Only in rare circumstances should a name be temporarily withheld for compelling reasons directly relating to the criminal investigation. (p.15)

Canadian law enforcement agencies and the criminal justice system were intended to be, and for the most part are, open and transparent. The EPS policy is out of step with the principles of openness and transparency as recognized by the vast majority of the law enforcement agencies across the country. (pp. 15–16)

The Media Coalition's position aligns with a number of participants who, through the interview process, identified the need for a consistent policy that ensures immediate release of the names of all homicide victims.

5.4 Considerations

Subsequent analysis of interview data revealed that many participants identified the need to feel included, informed, and supported in the events following a loved one's murder. This is consistent with the notion of procedural justice. There is increasing interest in procedural justice and how police and justice system personnel treat individuals they encounter, including the families of homicide victims, and how those interactions influence peoples' experiences with the criminal justice system.

According to the National Initiative for Building Community Trust and Confidence, "procedural justice is based on four central principles: treating people with dignity and respect, giving citizens 'voice' during encounters, being neutral in decision-making, and conveying trustworthy motives" (2019, para. 2). Those notions were expressed by many of the respondents in the interviews. Proponents of this approach contend that when people are treated in a fair and reasonable manner, they are more likely to express satisfaction with their treatment. Moreover, there is some evidence that psychological distress is reduced when individuals are treated in this manner (Wemmers, 2013).

Elements of procedural justice are also associated with a greater degree of trust and confidence in the criminal justice system. When the police take time with the victims—in this case, the family members of the victim—and provide support and guidance, including providing information that helps explain and

navigate a very complicated system, the literature acknowledges that families' experiences are more favourable and that this process may minimize re-victimization. In fact, some researchers have indicated that procedural justice for victims can be more important, or just as important, as outcomes of a case in terms of maintaining or increasing confidence in the criminal justice system (Bradford, 2011; Rottman, 2007; Wemmers, van der Leeden, & Steensma, 1995). Given the relevance to the data gathered in this review, this may be an area for further consideration when reviewing police practices and policy development.

6 Summary of Key Findings

Based on the quantitative and qualitative data collected and analyzed, the following summary of key findings is listed below.

6.1 Surveys

The analyses of survey data from 28 municipal police agencies from the largest Canadian cities revealed that

- More than one-third (36%) of the responding police services release the names of all homicide victims. More than one-half (54%) release the names depending on circumstances. Only 7% always withhold victims' names.
- Most agencies indicated that the integrity of the investigation was the most important factor relating to the decision to release any information, but several indicated they also considered privacy concerns and respecting the wishes of the victim's family members in relation to releasing a victim's name.
- More than three-quarters (77%) of the responding services indicated that the officers overseeing investigations made the decision to release victims' names.
- More than one-half (54%) of responding agencies said that the victims' families should be able to advise police about releasing names.

Respondents were also asked about feedback they received about their policies from stakeholders such as the media, victim advocacy groups, and victims' families. More specifically, respondents indicated that

- About 43% of police services had received feedback from the media on their policies. From that feedback, 35% of responses were positive and 25% were mixed (positive and negative feedback). No agency reported receiving negative feedback from the media.

- Only four (14%) of the municipal police services had received any feedback from victim advocacy groups regarding their policy on releasing names; most of the feedback they received was supportive of the agency's policy.
- About two-thirds (68%) of responding agencies had received feedback from the family members of victims regarding their policies on releasing names; no police service reported receiving critical feedback.
- When asked about their agency's policy on releasing names, almost three-quarters (71%) of respondents disagreed that their policies had a negative impact on public trust.
- One-half of agencies (50%) reported that the names of homicide victims were "always or usually" reported on social media before their agencies could release information; 43% said that names were "sometimes" reported on social media before police could officially release that information.

Altogether, the survey results show there is some inconsistency when it comes to the release of homicide victims' names across Canada. In order to better understand the nuances of these survey findings, 20 semi-structured interviews were carried out. The results of these interviews are presented below.

6.2 Interviews

- Overall, the majority of respondents acknowledged the value of releasing the name of homicide victims. However, two large subsections of the participants differed significantly on their views with respect to *how* and *when* names would be released. One group felt that the release of names should occur immediately following NOK notification, while the other predominant majority identified the need to give victims' families time, information, support, and respect before the name was released. There were also a small number of participants who felt the release of a name did not add any value and that releasing information about the circumstances of the crime should suffice.
- Participants were divided in their responses pertaining to privacy. Some felt the right to information and the needs of the public "trump" the rights of families, while families felt they should have a right to privacy.

- Many respondents felt there is potential for families to be re-victimized and incur additional trauma if police services do not provide them with proper support, such as sharing key information about the nature of a media release, providing accessible supports, respecting the grieving process, and allowing them to feel included in the process.
- Participants identified the need for families to be consulted prior to the release of a loved one's name, particularly if the release of the name is not integral to the investigation.
- A number of respondents indicated that children and cultural sensitivities should be given special consideration within any existing police service policy on the release of names. However, they also stated that a consistent and reliable policy or framework must be established to ensure that police services remain transparent and accountable. That said, a small number of participants also felt there should not be any special considerations made beyond NOK notification when there is a policy in place to release the victim names 100% of the time.
- The importance of creating a consistent policy or framework that would provide transparency on the decision to release the names of homicide victims was also a key theme. Feedback suggested this would significantly help to ensure that the type and timing of needed family supports are available, increase transparency and accountability within police services, and increase public confidence in knowing a dependable process is in place.
- Many respondents felt that police services should not be making these policies in isolation; rather they should be working to engage key community stakeholders, such as homicide victims' families and the media. Many others felt that these types of policies should be consistent across provincial legislation, and preferably, national legislation.
- Participants identified key criteria that should be considered when creating a policy or framework on this issue. These criteria included developing a consistent process that police adhere to following a homicide: notifying next of kin, consulting with the family, providing appropriate support services to families, prioritizing investigation needs, and developing specialized protocols to manage cases where children are involved.
- To ensure police services are able to consistently adhere to the processes established in a policy or framework, some participants suggested that all police officers/investigators within homicide units receive adequate policy training.

- Support, respect, guidance, and time were all identified as components of a ‘flexible’ process that acknowledged the victims’ families.
- When information about a homicide is shared with the media for public release, participants acknowledged the need to balance the value of public awareness with the need for human dignity and respect. This would encourage journalists to respectfully report the story in a way that enhances education and awareness and contributes to the prevention of serious violent crime in the community.
- Some participants noted that journalists need to be cognizant of the type of information shared about homicide victims, such as implied lifestyle details that can generate stigma, disrespect the deceased, and minimize the seriousness of the crime.
- A small number of participants felt that there was no value added for the public in knowing the name of the victim. They felt the public could still be adequately informed that a serious crime had occurred in the community without releasing the name of the homicide victim.

7 Conclusions

Obtaining the perspectives of key stakeholders reaffirmed that there are reasonable arguments on both sides of this issue. As such, it is difficult to ascertain a single ‘right’ answer that will satisfy the petitions of every constituent. Although there are a number of differences regarding the timing and procedure for releasing the name of homicide victims, there are also some commonalities.

Overall the majority of individuals interviewed supported releasing the names of homicide victims. Where they differed was in their recommended approach to doing so. Responses were primarily divided between police services releasing the name immediately and 100% of the time without wavering and, by contrast, releasing the name after consultation with the family and ensuring that appropriate guidance, time, and supports were provided to affected family members in order to minimize the risk of additional trauma. The results of the police survey also suggest that fewer family members oppose the practice once the police explain to them the circumstances surrounding the release of information (i.e., that in most cases names are eventually publicized by the media or social media). In other words, the families may change their position on releasing names after speaking with the police and gaining a more fulsome understanding of the issues. Moreover, some family members may want the names to be released so the memories of their loved ones are not forgotten. That said, there were a small number of individuals who did not deem the release of the homicide victim’s name necessary and felt a media release could be made to the public about the circumstances of the crime, without revealing the identity of the deceased.

The results of the survey of police agencies reveal that presently about one-third (36%) of police services release the names of all homicide victims, and over one-half (54%) release the names of some homicide victims (depending on the circumstances of the offence or the wishes of the families); only two surveyed agencies (7%) do not release the names of any victims. Many of the police agencies that returned our survey indicated that decisions to release information are made on a case-by-case basis, although the need to carry out a thorough investigation is the primary factor in any decision to release information about any homicide. About two-thirds (68%) of the police services that responded to the survey said that they had received feedback from victims' families about releasing names but that no families were critical of their policies.

However, analyses of the interview data indicated that respondents were divided on the issue of privacy. Some fully supported the notion that public interest outweighs a family's need for privacy. Others, however, were strongly opposed to this and highlighted the responsibility to protect traumatized families and respect the time needed to grieve and comprehend a very 'un-comprehensible' situation. Furthermore, many respondents identified the need for responsive supports during this time to help guide and inform families about the process of releasing information to the media.

Respondents also acknowledged that there are specific instances where considerations should be made by police services, despite their policy to release information. Again, the responses were divided, with many recommending release once NOK notification had taken place. However, many others argued that police services must consider the family's wishes and ensure they are provided adequate time, information, and supports to better cope with the potential impacts associated with the release of their loved one's name to the media. This would help families feel more 'in control' of the information released and establish an appropriate and accurate representation of their loved one to the public.

Unfortunately, regardless of a police service's policy relative to the release of a homicide victim's name, information is often shared by friends, acquaintances, and family members on social media. One-half (50%) of the agencies responding to the survey indicated that information about victims "always or usually" appeared on social media prior to the official release of information by the police service; 43% of the police services surveyed indicated that information was "sometimes" released on social media prior to official police communications. As a result, despite the best intentions of police services, information about victims is likely to be reported through unofficial methods. The challenge is that information posted on social media can be misconstrued and lead to an inaccurate representation of the victim, which can ultimately be damaging and evoke significant stress on the families. When provided an opportunity to share openly, the majority of respondents acknowledged the need for public awareness to be balanced with respectful journalism. Many families want to honour their loved ones and promote education and awareness that could lead to the prevention of serious crime. However, respondents

believe this process needs to be conducted in a safe and respectful manner that acknowledges the needs and rights of the families.

A significant commonality that seemed to unite both sides was the need for consistent policy. Participants on both sides of the argument agreed there is a need to establish a consistent and reliable policy/framework or criteria to release the names of homicide victims. Furthermore, there was agreement that such a policy or framework should not be solely created by police services; rather, it should be established and informed through community engagement with police, media, families of homicide victims, and elected government representatives. An area of divergence included the call by many participants to have a policy that would include a victim-centered approach, ensuring families are respected, informed, and supported through the process. This policy or framework would ensure that special considerations related to children and cultural issues would be handled in a consistent, accountable, and transparent manner. Many went a step further to suggest that this type of policy should be developed into provincial or national legislation so that all police services adhere to the same standards and process. Ultimately the decision to release crime-related information may be decided by the courts. Speaking about privacy legislation, Ron Kruzeniski, Saskatchewan's Privacy Commissioner, stated, "Each police force is going to have to look at it and sort out their position on it...I guess if it gets really difficult, there will be a court decision, which will give everybody guidance" (Cowan, 2018).

This review was able to gather the perspectives and positions of many key stakeholders regarding the release of homicide victim names. Although not exhaustive, it provided an opportunity for many to share their views and make important contributions for understanding the complexities and sensitivities associated with this topic.

Moving forward the feedback collected in this review suggests there is a willingness on every key stakeholder's part to make progress in clarifying this issue. EPS can consider that, overall, stakeholders are not opposed to releasing the names of homicide victims if progress can be made in satisfying the need for sensitivity and respect to victims' families, consistency in policy and procedure, and the inclusion and engagement of key community stakeholders in the creation of such a policy and procedure.

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Appendix A

Media Coalition Submission

Submission of

CTV News, a division of Bell Media Inc., Canadian Broadcasting Corporation, The Globe and Mail Inc., Postmedia Network Inc., and Global News, a division of Corus Television Limited Partnership

with respect to review of Edmonton Police Service (“EPS”) policy to not name victims of homicide

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A. Introduction

[1] Public release of the names of homicide victims is vital to the public interest in allowing the public to receive important information about their local community and understand the broader social context in which they live. A policy which presumptively prohibits public release of the names of homicide victims is inconsistent with the *Charter* protected right to an open justice system and is out of step with the Canadian sense of community.¹ CTV News, a division of Bell Media Inc., Canadian Broadcasting Corporation, The Globe and Mail Inc., Postmedia Network Inc., and Global News, a division of Corus Television Limited Partnership strongly support a policy which is presumptively open, requiring EPS to name victims of homicide, in most cases, subject only to rare circumstances where there may be a compelling investigative reason to temporarily not name the victim. The media plays a vital role in the criminal justice system. The public relies on the media to convey important information about the investigations and prosecutions of homicide, which often have a profound impact on the communities where they occur.

B. The Legislation

[2] The *Freedom of Information and Protection of Privacy Act (Alberta)* (“*FOIP*”) addresses important fundamental principles regarding access to information for Albertans including the right of access to any person to the records in the custody or control of a public body, subject only to *limited* and *specific* exceptions.² Much like the open court principle in Canada, the public is presumptively entitled to information within the control of a public body.³ Secrecy is the exception and not the rule.

[3] On a correct legal interpretation, *FOIP* does *not* contain the presumption relied upon by EPS when it adapted its “no-naming policy” in January, 2017. A correct reading of the law requires the opposite: public bodies are compelled to release a person’s name if it is clearly in

¹ See: [Senator wants Edmonton police to release homicide victims’ names](#) (December 30, 2018), online: CTV News [TAB A];

² [FOIP: A Guide](#), Government of Alberta, ISBN: 0-7785-3699-8 (Revised November, 2006) at p. 1 [TAB 1].

³ [Qualicare Health Service Corporation v Alberta \(Office of the Information and Privacy Commissioner\)](#), 2006 ABQB 515 at para 62 [TAB 2].

the public interest.⁴ That interpretation was endorsed by Alberta's former Information and Privacy Commissioner.⁵

[4] Even if one was to accept the position of the AACP Decision Framework on Naming Homicide Victims ("AACP Framework"),⁶ and their reliance upon ss 17(4) and 40(1)(b), the Media Coalition submits that those provisions in conjunction with ss 17(5) of *FOIP* also favor the disclosure of the names of homicide victims. Even if that interpretation is not accepted, the "public interest override" provided in s 32 *requires* EPS to disclose homicide victim's names.

a. Section 17

[5] According to the AACP Framework, s 17(4) of *FOIP* "makes it clear that the disclosure of a homicide victim's name is presumed to be an unreasonable invasion [of privacy]." Section 17(4) lists circumstances in which disclosure is "presumed to be an unreasonable invasion of privacy." However, that section must be read in conjunction with s 17(5), which requires that when determining under s 17(4) whether a disclosure of personal information constitutes an unreasonable invasion of privacy, the head of a public body *must* consider *all relevant circumstances*. In other words, the public body is statutorily required to consider other interests when making a determination of whether the presumption ought to apply. Circumstances that *must* be considered include:

17(5) ...

- (a) The disclosure is desirable for the purposes of subjecting the activities of the Government of Alberta or a public body to public scrutiny,
- (b) The disclosure is likely to promote public health and safety or the protection of the environment,

⁴ [Freedom of Information and Protection of Privacy Act](#), RSA 2000 c F-25, s 32 [*FOIP*] [TAB 3].

⁵ Paula Simons, [Silent as the Grave: Edmonton police refusal to name homicide victims a willful misreading of FOIP](#) (May 1, 2017), online: Edmonton Journal [TAB B].

⁶ AACP Decision Framework on Naming Homicide Victims, created in July, 2017 [TAB 4]. Note that former Chief of Police Rod Knecht also cited the supposed "presumption" as a reason why EPS was precluded from releasing names of homicide victims under FOIP: Rod Knecht, [Opinion: Edmonton Police doing what's right by withholding names of homicide victims](#) (February 1, 2018), online: Edmonton Journal [TAB C]; see also Caley Ramsay, [Edmonton police chief defends policy not to name all homicide victims](#) (February 1, 2018), online: Global News [TAB D]; Paula Simons, [Surreal homicide secrecy leaves Edmonton in the dark](#) (December 27, 2017), online: Edmonton Journal [TAB E].

(c) The personal information is relevant to a fair determination of the applicant's rights,

...

[6] Each of the above considerations weigh strongly in favour of naming victims of homicide, as described in Section C below.

b. Section 40

[7] The AACP Framework also relies heavily on s 40(1)(b):

40(1) A public body may disclose personal information only

(b) if the disclosure would not be an unreasonable invasion of a third party's personal privacy under s 17,

[8] This section provides that in determining whether a disclosure would be an "unreasonable invasion" of privacy, the head of a public body *must* consider s 17(5)(a)-(c), as set out above. However, the AACP framework, while noting that s 40(1)(b) requires that all relevant considerations be taken into account, fails to mention the appropriate considerations set out in s 17(5). Instead it lists additional considerations which it says *may* be considered in connection with s 40(1)(b), such as the nature of the homicide, what additional information about the homicide has already been released, and whether the family of the victim wishes the victim's name to be released. To be expressly clear, however, none of the considerations listed at para 7 of the AACP Framework (including the aforementioned examples) are statutorily required to be considered by the public body. This list represents a list of considerations which the AACP have determined may be relevant to whether the disclosure is an unreasonable invasion of privacy, but they are not prescribed by statute. The only considerations which *must* be considered are those listed in s 17(5)(a)-(i).

[9] The Media Coalition submits that ss 17(4) and (5) and 40(1)(b) of *FOIP* also favor the disclosure of the names of homicide victims. Even if that interpretation is not accepted, it is clear that the "public interest override" provided in s 32 *requires* EPS to disclose homicide victims' names.

c. Section 32

[10] Section 32(1) of *FOIP* provides that “whether or not a request for access is made, the head of a public body must, without delay, disclose to the public, to an affected group of people, to any person or to an applicant... information the disclosure of which is... clearly in the public interest.” This is an override provision. *FOIP* requires the release of information which is clearly in the public interest notwithstanding any other provisions of *FOIP*.⁷ (Emphasis added)

[11] While EPS considers that a balancing of interests is required in determining whether or not to invoke s 32, such balancing is inconsistent with the purpose and intent of the public interest override. In *Criminal Lawyers’ Association v Ontario (Ministry of Public Safety and Security)*, the Ontario Court of Appeal specifically noted that the Alberta legislation does not allow the public body to balance any other interests, such as privacy, against the public interest.

I would first note that the public interest overrides in those two statutes apply to the entire Act. There are, however, two other substantive differences between those provisions and the public interest override in the Ontario Act that are also worth noting:

- (i) The lack of need for an application: the head of a public body “must” disclose information “whether or not a request for access is made.”
- (ii) There is no balancing between the public interest and the exemption: the test is whether disclosure is “clearly in the public interest.”⁸

[12] Timing is important. If disclosure of information is in the “public interest”, such information must be disclosed “without delay”.

[13] The EPS “no-naming policy” was founded upon an unjustifiable and arbitrary statement about what was in the “public interest”. It is not enough to simply state, without any analysis, that the “public interest” militates in favour of victim’s privacy to prevent the public identification of a victim of homicide. Similarly, it is arbitrary to conclude that if the public identification of a victim of homicide serves an investigative purpose, the naming of victims may be in the public interest. It also bears noting that the AACP Framework pays little account to s 32, despite its clear relevance to this circumstance, and its special “override” status. The

⁷ [FOIP](#) at s 32(2) [TAB 3].

⁸ [The Criminal Lawyers’ Association v. Ontario \(Public Safety and Security\)](#), 2007 ONCA 392 [TAB 5].

AACP Framework suggests that a law enforcement agency ought to consider the “public good”, which is respectfully, does not equate to “public interest” which is required under s 32, as “public good” implies a higher bar to meet to favor disclosure.

[14] The meaning of “public interest” must be given a full and fair interpretation, based upon principles of the *Charter*, the consideration of “public interest” by Canadian courts, and the governing legislation in Alberta. The Supreme Court of Canada has said that the “public interest” must be given a broad and liberal interpretation. To be of public interest, the subject matter “must be shown to be one inviting public attention, or about which the public has some substantial concern because it affects the welfare of citizens, or one to which considerable public notoriety or controversy has attached”.⁹ More recently, the Supreme Court of Canada has confirmed that there was a “tangible, immediate utility” to CBC’s posting of the identifying information of a young victim of homicide, being the “public’s interest” in CBC’s right to express that information and in freedom of the press.¹⁰

C. Victims of homicide ought to be named

[15] For the reasons discussed below, the Media Coalition submits that each of the below considerations demonstrates that it is in the “public interest” to publicly name victims of homicide. Accordingly, s 32 of *FOIP* requires the head of the public body to release homicide victims’ names, without delay.

a. Knowledge of the name of homicide victims impacts community safety

[16] Knowing the identity of homicide victims as soon as possible impacts public perception of safety and security and also enables members of the public to address and take steps to mitigate risks to their own personal safety. Through knowledge of the victim’s identity, the public is able to relate to the victim, and to identify situations in which they or their loved ones may be at risk. Public awareness of the victim’s identity undoubtedly can assist in policing in

⁹ [Grant v Torstar Corp.](#), 2009 SCC 61 at para 105 [TAB 5].

¹⁰ [R v Canadian Broadcasting Corporation](#), 2018 SCC 5 at para 20 [TAB 6].

some cases, through identifying suspects and potential witnesses, and by encouraging the public to make prudent decisions about safety where a dangerous suspect is at large.

[17] The public depends on media coverage of crime to know what is going on in their communities. Public disclosure of the name of a homicide victim can assist in preventing rumours, misinformation and conjecture. The media depends on accurate and fulsome information about homicide so that it can report the real facts and carry out its mandate of reporting news to the public.

b. “investigative purpose” is not a prerequisite to disclosure

[18] Despite EPS statements to the contrary, the decision to name a homicide victim should not be confined to a narrow view of “investigative purpose”, as the public interest exists whether or not “investigative necessity” demands it.¹¹ EPS has said in the past that “if the perpetrator of the homicide is known, if it’s an isolated act and there is no risk to the public, then there is no need to release the name of the victim unless there is an investigative reason to do so”.¹² This statement implies that once police have identified a suspect in relation to a homicide, there is no investigative purpose to release the name of the victim. This statement is belied by the fact that the accused person has not yet been proven guilty in a court of law on the high “beyond a reasonable doubt” standard.

[19] Community awareness of the identity of a homicide victim can only serve to assist the investigative process. A police investigation undoubtedly demands that police gather as much information as possible about the victim, the accused, the circumstances surrounding the crime, and alternative theories about its commission. This is a central reason why the Vancouver police release the names of homicide victims, as “releasing the names can assist in maintaining public safety and their level of fear. Homicide victims are not able to speak for themselves, so we hope by sharing details of the offence we will generate tips that could lead

¹¹ “Investigative necessity” has been cited as one reason why public disclosure of a victim’s name may be disclosed, as noted in s 40(1)(c) of [FOIP \[TAB 3\]](#).

¹² Paula Simons, [Silent as the Grave: Edmonton police refusal to name homicide victims a willful misreading of FOIP \[TAB E\]](#).

to the identity of those responsible for their death.”¹³ There is a public interest in ensuring the right accused is found guilty, and ensuring the prosecution has access to all of the information, evidence and witnesses to effectively prosecute the crime. Further, there is undoubtedly a public interest in ensuring police investigations are carried out promptly, with integrity, and according to the rule of law.

[20] Former EPS Chief Knecht’s statement that EPS is “required by law to only release as much personal information as necessary to solve crimes” is with respect, a misstatement of the law, and is inconsistent with a proper interpretation of what is “clearly in the public interest”. Such a position undermines an important function of policing: to solve, *and to prevent* crime. Requiring that the public’s knowledge of a homicide victim’s identity must assist in solving crime in order for that identity to be released is an impermissibly narrow interpretation of “public interest”, one that is not justified by any law or legal principle. The question must be: “Are the important facts related to a homicide in the public interest?” The answer is, unequivocally, yes. There is a strong and compelling public interest leaning in favour of disclosure of important facts surrounding a homicide, including the identity of the victim.

c. The community is a victim in every homicide

[21] The name of a victim of homicide is not merely *of interest* to the public. It is not a matter of mere curiosity. It is a vital component in acknowledging, addressing, and denouncing a crime which is morally offensive to our community. It is about enabling a community to come together to grieve, to pay their respects to all those affected by tragedy, and to reflect on broader social issues impacting society.¹⁴ It is a vital element of the context in the community, where the crime occurred. It is a vital element in public support for policing activities, and funding those activities.

¹³ Janice Johnston, [‘Out of Step’: Edmonton police alone in selectively naming homicide victims](#) (March 11, 2019), online: CBC News [TAB F].

¹⁴ See also [Editorial: Homicide is a public matter; the names should be too](#) (May 10, 2017), online: Edmonton Journal [TAB G].

[22] The family and friends of the victim of homicide undoubtedly shoulder the devastating lifetime impact of an unlawful death. But in addition, every homicide has a profound and long-lasting impact on the victim's community and is an affront to society. In contemporary society, the members of an individual's community can no longer be defined by those who personally knew the deceased, or only those within a close geographical proximity. The concept of "community" is instead related to a shared social identity amongst members of overlapping communities of faith, sexuality, interest, and ethnicity. Community awareness, grief, and support are dependent upon the public's knowledge of the murder victim. Prompt police disclosure of the victim's name is required to allow the victim's community to identify and mourn the loss of one of their own. The broader community cannot express its condolences to family members of unidentified victims.

[23] It is vital then, that the public and media know the identity of the victims of homicide to foster community cohesion and support. This broader social concern underpins the Vancouver police policy to name victims. According to Vancouver Const. Jason Doucette, "we never want to live in a society where someone can be murdered in secret."¹⁵

d. Refusing to name homicide victims is inconsistent with the Charter and legislation dealing with restrictions on publication of identifying information

[24] The concept of open justice is a hallmark of Canadian democratic society and is deeply rooted in Canadian society. It is inextricably tied to the rights guaranteed by s 2(b) of the *Charter*, which guarantees freedom of expression and freedom of the press.¹⁶ Indeed, the open courts principle is a constitutionally guaranteed right, and applies to every phase of the criminal justice process. There is a sound rationale for the rule: it is only through openness that citizens can engage in open discussion of opinions and criticisms of court practices and proceedings.¹⁷ Furthermore, the open court principle ensures that all members of the public, as participants in

¹⁵ Janice Johnston, [‘Out of Step’: Edmonton police alone in selectively naming homicide victims](#) [TAB F], Paula Simons, [Shhhh. Don’t worry. It’s just a little private homicide](#), (July 18, 2018), online: Edmonton Journal [TAB H].

¹⁶ [Edmonton Journal v Alberta \(Attorney General\)](#), 1989 CanLII 20 (SCC) [TAB 7].

¹⁷ [Canadian Broadcasting Corp v New Brunswick \(Attorney General\)](#), [1996] 3 SCR 480 (SCC) at paras 21-22 and 26 [TAB 8].

the justice system, have the benefit of discussing, commenting on, criticizing, or supporting what goes on in our criminal justice system, inside and outside of court.

[25] There is a *prima facie* case that s 2(b) requires disclosure of information in the hands of a public body where it is shown that, without the desired access, meaningful public discussion and criticism of matters of public interest would be impaired.¹⁸ In fact, s 17(5) of *FOIP* requires that the head of public body consider whether the disclosure of information is desirable to subject any government body to scrutiny, to promote public health and safety and is relevant to a fair determination of the applicant's rights. The Media Coalition submits there is overwhelming support to conclude that the name of a homicide victim fosters meaningful community dialogue on matters of safety and security, enables public awareness of matters of social importance, and upholds public trust in police, which are mandatory considerations under s 17(5). Undoubtedly, the applicant's rights contemplated under s 17(5)(c) include the public and media's *Charter* protected rights to freedom of the press guaranteed by s 2(b) of the *Charter*.

[26] Either the federal or provincial government could have enacted legislation to prohibit naming the victims of any crime, including homicide. The fact that neither has done so is instructive of the fact that such information *ought not to be withheld* from the public during any stage of a criminal proceeding. The name of all participants in the justice system, including victims of homicide, is presumptively public information. All documents filed in court, including criminal informations which set out the criminal charge and the complainant, are a matter of public record. Any member of the public or media can easily obtain this information and share it publicly.

e. Refusing to name homicide victims undermines public confidence in the justice system

[27] Undoubtedly, police response to homicide plays a vital role in instilling public confidence and reassurance in the affected community. Disclosing the identity of homicide victims allows

¹⁸ [*Ontario \(Public Safety and Security\) v Criminal Lawyers' Association*](#), 2010 SCC 23 at para 37 [TAB 9].

communities to know and follow what police are doing to investigate crime. Social reaction to homicide is not only related to police response and investigation to each individual crime, but also through policing policies that impact public perception of the effectiveness of police. A policy that presumptively withholds information of vital concern to the community calls into question the legitimacy of police process, and undermines trust in police. Public disclosure of the names of homicide victims only serves to strengthen important values that underpin the open court principle including transparency, police, prosecution and judicial accountability, and freedom of expression.

[28] Law enforcement plays a fundamental role in the proper functioning of the criminal justice system. The public depends on law enforcement to prevent and investigate crime and preserve public order with diligence, honesty and integrity. Public confidence in law enforcement is vital to carry out this mandate.

[29] Transparency, openness and accountability serve to strengthen public confidence in the justice system – including the public’s confidence in police. The Supreme Court of Canada has warned against secrecy, stating “in any constitutional climate, the administration of justice thrives on exposure to light – and withers under a cloud of secrecy”.¹⁹ Other legal commentators agree. Steven Penney, criminal law professor at the University of Alberta argues that the EPS policy goes against Canada’s constitutional principles and is a threat to public trust, accountability and transparency.²⁰

[30] Public perception of police also has a direct correlation to the efficacy of police.²¹ The public perception of police and the public’s attitude towards the criminal justice system are important components in measuring police performance.²² It is not surprising that the police depend on the confidence of the public to effectively discharge their duties: “police depend heavily on the public to provide vital information about criminal or suspicious activities and to

¹⁹ [Toronto Star Newspapers Ltd. v Ontario](#), 2005 SCC 41 at para 1 [TAB 100].

²⁰ Janice Johnston, [Edmonton police policy of not naming murder victims stands alone in Alberta](#) (May 3, 2017), online: CBC News [TAB I].

²¹ Anton Maslov, [Measuring the Performance of Police: The Perspective of the Public](#) (2015-R034), online: Public Safety Canada [TAB 11].

²² [Measuring the Performance of Police: The Perspective of the Public](#) [TAB 11].

serve as witnesses in trials, both of which are predicated upon positive police-community relations”.²³ A focus on the needs of the community and fostering public trust in police yields a better police service, one that is able to meet the needs of the community they serve.

[31] Public disclosure of the identity of homicide victims can only serve to strengthen police connection to the community, and in turn, public trust in police. Personalizing the victim enables the public to see police as trusted members of the community who will disclose important information about crime in our communities, and will keep the public apprised of risks to public safety and police measures to address those concerns.

[32] Privacy concerns for the victim and their loved ones, particularly where the family does not support disclosure, are often cited as a reason to withhold the name of a victim of homicide. It bears noting, however, that constitutional rights, such as the presumption of openness, and the right of the public to receive the media’s freedom of expression, must be given preferential status over privacy interests. Undoubtedly, the family members of some victims may also prefer that court proceedings against the accused be held to the exclusion of the public. Even in light of these concerns, the Supreme Court of Canada has emphasized the principle of openness and transparency in criminal proceedings.

[33] The EPS policy is further undermined by the reality that where an accused will stand trial, the victim’s name is publicly available in court documents, and will undoubtedly be the subject of media reporting. The victim’s community is also an immediate and reliable conduit of information. The prevalence of social media and instantaneous communication means that the identity of the victim is often public knowledge long before any court proceedings ensue. In reality, the utility in withholding the name of a homicide victim is low. This begs the question of why EPS takes measures to prevent early disclosure of accurate information of public interest to the community. Public trust in the EPS can only be diminished in response to such an arbitrary decision.

²³ [Measuring the Performance of Police: The Perspective of the Public](#) [TAB 11].

f. Naming victims of homicide gives the public an important opportunity to denounce society's systemic failures

[34] Homicide is one of the most serious crimes. It is a blatant and offensive affront to all Canadians to the fundamental right to life, liberty and security of the person and to all peoples' desire to live in a society of peace and justice. Withholding the names of victims of crime deprives society of an important opportunity to address the shortcomings of our communities and bring about social change.

[35] According to the former Information and Privacy Commissioner of Alberta, identifying homicide victims "... provides the public with information about social conditions, such as the level of violence in the city or a community and possibly the causes of such violence [such as information about] missing and murdered indigenous women where knowledge of trends in homicides exposes social issues."²⁴ Public awareness of the prevalence of domestic violence, through personalizing the victim rather than cloaking the victim in silence, can inspire an impassioned community response and drive much needed social change.²⁵

[36] The 2017 deaths of a 74-year-old man and 59-year-old woman in a suburban Edmonton home, the first case to be subject to the EPS policy to not name victims of homicide, illustrate the value in disclosing the identity of homicide victims, especially in the case of domestic abuse.²⁶ EPS confirmed that the woman's death was a homicide, and the man's death was non-criminal, implying suicide. Media reported that the home where the crime occurred was owned by a retired cardiologist, and his wife, a nurse. Police refused to name the victim, and the public will never know her true identity to honor her life and her contributions to her community. There will never be criminal charges laid, or a public prosecution in open court.

²⁴ Paula Simons, [Silent as the Grave: Edmonton police refusal to name homicide victims a willful misreading of FOIP](#) [TAB E].

²⁵ Editorial: [Edmonton Police needs to re-think policy of not naming homicide victims](#) (July 17, 2018), online: Edmonton Sun [TAB J]; Vinesh Pratap, [Women's shelters oppose Edmonton police policy to not name domestic homicide victims](#) (February 13, 2019), online: Global News [TAB K].

²⁶ Paula Simons, [Police refusal to release names in Riverbend murder-suicide sets troubling precedent](#) (January 20, 2017), online: Edmonton Journal [TAB L].

[37] But, society has much to learn from the crime. Domestic abuse is not a private or family matter; it is an abuse against the community. Perpetuating family violence of any kind rather than shining a light on this abhorrent crime is a threat to the safety of the public, and is offensive to basic human decency and sense of justice. Society lost an opportunity to learn how it might have prevented this tragedy, how it might have failed this victim, and how it might improve to prevent a similar tragedy in the future.²⁷

[38] All cases of homicide, not only domestic abuse, are worthy of public reflection. In many cases, the victim of homicide provides some insight into the effectiveness and oversight of important public services.

[39] For example, if a perpetrator has breached bail conditions which were intended to prevent contact with the victim, the public may rightfully be concerned about the efficacy of bail conditions. A very recent Edmonton homicide is one example of a case where the conditions of bail may have been related to the victim, or the location at which the crime was committed.²⁸ Without the name of the victim, however, it is impossible for the media to make those links. A pattern of similar cases may reveal broader concerns regarding the bail system and the effectiveness of enforcement of bail conditions.

[40] Similarly, the impact and prevalence of homicide amongst victims suffering from mental health illnesses can only be tracked if the victim's name is known. Without the victim's name, it would be difficult for the public to determine if mentally ill people are disproportionately victimized by violent crime. These important links can only be identified if the victim's identity is known. To maintain integrity and accountability of public services, the public depends on the media to investigate and report on those issues of significant public concern.

²⁷ See also: Liane Faulder, [*Advocates push to name victims of deadly domestic violence as privacy pressures mount*](#) (February 4, 2019), online: Edmonton Journal [TAB M].

²⁸ Dustin Cook, [*Man charged with second-degree murder in southeast Edmonton stabbing after turning himself in*](#) (March 25, 2019), online: Edmonton Journal [TAB N].

[41] Where an accused person faces criminal charges in relation to a homicide, knowing the name of the victim early in the investigative process enables the public and media to track the progress of the case.²⁹ The media plays an important role in keeping the public aware of the progress in investigating and prosecuting homicide cases. Lengthy delays in investigation and prosecution are hallmarks of Alberta's justice system, a system which is at risk of collapsing under restricted timelines to prosecute criminal cases. Diligently investigating and prosecuting crime without delay is vital following the Supreme Court of Canada's decision in *R v Jordan*.³⁰ Indeed many charges, including homicide charges, have been stayed due to unreasonable delay.³¹ Law enforcement agencies and the Crown prosecution service has become the target of the public's anger, however, the real culprit is lack of public funding to those agencies. Alberta's overburdened and underfunded justice system is an urgent public safety crisis. Only through exposing these flaws to the public through media reports can the public demand that legislators provide increased police and Crown resources to effectively investigate and prosecute crime.

D. The "no-naming policy" is inconsistent with other Canadian jurisdictions

[42] Other law enforcement agencies agree: a broad interpretation of "public interest" requires that victims of homicide ought to be named. In fact, Calgary Police Service ("CPS") spokesperson Emma Poole states that CPS policy "has always been with homicides, *because there is such compelling public interest*, that we do release the name [of the victim]."³²

[43] Statistical data collected by CBC indicates that eight of ten of Canada's large metropolitan cities released the names of all homicide victims in 2018. Edmonton, clearly the exception and not the rule, released the names of 11 homicide victims out of 28, being under

²⁹ Paula Simons, [Silent as the Grave: Edmonton police refusal to name homicide victims a willful misreading of FOIP](#) [TAB E].

³⁰ The Supreme Court of Canada's decision in [R v Jordan](#), 2016 SCC 27, requires the Crown to complete the prosecution of an accused person within 18 months in provincial court, or 30 months in superior court, failing which an accused person is entitled to have all charges against him or her stayed due to unreasonable delay [TAB 12].

³¹ [Edmonton Crown stays 15 criminal cases due to 'lack of resources'](#) (March 1, 2017), online: CBC News [TAB O].

³² Janice Johnston, [Edmonton police policy of not naming murder victims stands alone in Alberta](#) [TAB I].

40 per cent disclosure.³³ In 2017, almost half of Edmonton's homicide victims were not named.³⁴ In 2017, CPS released the names of all 4 homicide victims, and in 2018, CPS released the names of all 17 victims of homicide. As naming victims creates heightened community awareness, the stark contrast between the practice of CPS and EPS creates and fuels an unwarranted controversy about the number of homicides in each city, and the contrasting policies of CPS and EPS.

[44] The policy approach taken by EPS is even more surprising when measured against the practice of CPS, as CPS is subject to the same privacy legislation as EPS, yet that law enforcement agency takes a fundamentally different approach to naming victims of homicide. It is also a clear indication that the Alberta Association of Chiefs of Police committee framework does *not* require EPS to withhold the names of homicide victims.

E. Recommendations

[45] The Media Coalition urges Community Safety Knowledge Alliance to recommend that Chief McFee abandon the current EPS policy of not naming homicide victims. Such policy offends the strong presumption of disclosure of information held by public bodies, is inconsistent with a correct legal interpretation of *FOIP*, and is a substantial and unjustified infringement on the media and the public's *Charter* protected right of freedom of expression and openness of the criminal justice system.

[46] The Media Coalition respectfully requests that Chief McFee adopt a policy that is consistent with the above objective, which ought to be a policy of immediate disclosure of the names of homicide victims. Only in rare circumstances should a name be temporarily withheld for compelling reasons directly relating to the criminal investigation.

[47] Canadian law enforcement agencies and the criminal justice system were intended to be, and for the most part are, open and transparent. The EPS policy is out of step with the

³³ Janice Johnston, [‘Out of Step’: Edmonton police alone in selectively naming homicide victims](#) [TAB F].

³⁴ Janice Johnston, [Edmonton police policy of not naming murder victims stands alone in Alberta](#) [TAB I]

principles of openness and transparency as recognized by the vast majority of the law enforcement agencies across the country.

REYNOLDS MIRTH RICHARDS & FARMER LLP

Per:

A handwritten signature in blue ink, appearing to read 'T. Layton', is written over a horizontal line.

FRED KOZAK and TESS LAYTON

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12. Anton Maslov, [Measuring the Performance of Police: The Perspective of the Public](#) (2015-R034), online: Public Safety Canada
13. [R v Jordan](#), 2016 SCC 27



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