



## **DEPARTMENT OF JUSTICE**

### **28 CFR Part 50**

**[Docket No. OAG193; AG Order No. 6251-2025]**

#### **Policy Regarding Obtaining Information from, or Records of, Members of the News Media; and Regarding Questioning, Arresting, or Charging Members of the News Media**

**AGENCY:** Office of the Attorney General, Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** This rule amends the Department of Justice regulations regarding obtaining information from news media to bring the regulations back into alignment with the decades-long practices in place before dramatic changes were adopted in 2022. The purpose of these regulations since their first adoption more than 50 years ago has been to strike the proper balance between the public's interest in the free dissemination of ideas and information and the public's interest in effective law enforcement and the fair administration of justice. But after several years under these changes, the Department has concluded that the current policy strikes the wrong balance, undermining the Department's ability to safeguard classified, privileged, and other sensitive information, and that the earlier, longstanding practices related to news media records were more optimal. The rule therefore rescinds the amendments of 2022 and adopts a modified version of the 2014 regulations, revised to better align with what had been longstanding Department practice.

**DATES:** This rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Ashley Dugger, Director, Office of Enforcement Operations, Criminal Division, (202) 514-6809. Although not required by 5 U.S.C. 553(b)(4), a summary of this rule may be found in the docket for this rulemaking at [www.regulations.gov](http://www.regulations.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Discussion**

On April 25, 2025, the Attorney General issued a memorandum revoking an earlier memorandum issued by then-Attorney General Garland on July 19, 2021 (“2021 AG Memo”). The revoked 2021 AG Memo was a significant departure from the Department’s decades-old practices regarding the use of compulsory legal process for the purpose of obtaining information from, or records of, members of the news media and directed the Deputy Attorney General to promulgate regulations to codify those new policies. Accordingly, the Department published a final rule implementing those policies on November 3, 2022. *Policy Regarding Obtaining Information From or Records of Members of the News Media; and Regarding Questioning, Arresting, or Charging Members of the News Media*, 87 FR 66239 (Nov. 3, 2022).

Since the promulgation of those regulations, there have been growing concerns about Federal government employees intentionally disseminating confidential, privileged, or otherwise protected information to the media for the purpose of undermining Executive agencies’ legal obligations and policies. The Attorney General has determined that the constraints imposed by the 2022 amendments to 28 CFR 50.10 have unduly hindered the Department’s efforts to subpoena journalists who have coordinated with Federal employees to leak protected materials. Accordingly, the Attorney General has revoked the 2021 AG Memo and is issuing regulations that will allow the Department of Justice to better safeguard the security of protected government information.

The Attorney General is issuing this final rule to revise the existing provisions in the Department’s regulations at 28 CFR 50.10. These revisions implement the Attorney General’s April 25, 2025, directive.

### **II. Regulatory Certifications**

#### *A. Administrative Procedure Act*

Because, for purposes of the Administrative Procedure Act, this regulation concerns general statements of policy, or rules of agency organization, procedure, or practice, notice and comment and a delayed effective date are not required. *See* 5 U.S.C. 553(b)(A), (d).

*B. Regulatory Flexibility Act*

Because this final rule is not promulgated as a “final rule under [5 U.S.C.] 553” and is not required under that section to be published as a proposed rule, the requirements for the preparation of a regulatory flexibility analysis under 5 U.S.C. 604(a) do not apply. In any event, the Attorney General, in accordance with 5 U.S.C. 605(b), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities because it pertains to administrative matters affecting the Department.

*C. Executive Orders 12866 and 13563—Regulatory Planning and Review*

This action has been drafted and reviewed in accordance with section 1(b) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, and with section 1(b) of Executive Order 13563 of January 18, 2011, Improving Regulation and Regulatory Review.

This rule is limited to agency organization, management, or personnel matters as described by section 3(d)(3) of Executive Order 12866, and therefore is not a “regulation” as defined by that Executive Order. Regardless, out of an abundance of caution, this action has been reviewed by the Office of Management and Budget.

*D. Executive Order 12988—Civil Justice Reform*

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 of February 5, 1996, Civil Justice Reform.

*E. Executive Order 13132—Federalism*

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132

of August 4, 1999, Federalism, this rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

*F. Unfunded Mandates Reform Act of 1995*

This rule will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995, Public Law 104-4.

*G. Congressional Review Act*

This action pertains to agency management and is a rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties; accordingly, this action is not a “rule” as that term is used in the Congressional Review Act, 5 U.S.C. 801 *et seq.* Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

*H. Executive Order 14192—Regulatory Costs*

This regulation is excepted from Executive Order 14192 of January 31, 2025, Unleashing Prosperity Through Deregulation, because it is related to agency organization, management, or personnel.

**List of Subjects in 28 CFR Part 50**

Administrative practice and procedure, Crime, News, Media, Subpoena, Search warrants.

Accordingly, for the reasons stated in the preamble, part 50 of title 28 of the Code of Federal Regulations is amended as follows:

**PART 50—STATEMENTS OF POLICY**

1. The authority citation for part 50 continues to read as follows:

**Authority:** 5 U.S.C. 301; 18 U.S.C. 1162; 28 U.S.C. 509, 510, 516, and 519; 42 U.S.C. 1921 *et seq.*, 1973c; and Pub. L. 107-273, 116 Stat. 1758, 1824.

2. Revise § 50.10 to read as follows:

**§ 50.10 Policy regarding obtaining information from, or records of, members of the news media; and regarding questioning, arresting, or charging members of the news media.**

(a) *Statement of principles.* (1) Because freedom of the press can be no broader than the freedom of members of the news media to investigate and report the news, the Department's policy is intended to provide protection to members of the news media from certain law enforcement tools, whether criminal or civil, that might unreasonably impair lawful newsgathering activities. The policy is not intended to extend special protections to members of the news media who are the focus of criminal investigations for conduct not based on, or within the scope of, such activities.

(2) In determining whether to seek information from, or records of, members of the news media, the approach in every instance must be to strike the proper balance among several vital interests: protecting national security, ensuring public safety, promoting effective law enforcement and the fair administration of justice, and safeguarding the essential role of the free press in fostering government accountability and an open society.

(3) The Department views the use of certain law enforcement tools, including subpoenas, court orders issued pursuant to 18 U.S.C. 2703(d) or 3123, and search warrants to seek information from, or records of, non-consenting members of the news media as extraordinary measures, not standard investigatory practices.

(4) Investigative activities pursuant to this policy may also be subject to the Privacy Protection Act of 1979, 42 U.S.C. 2000aa.

(b) *Scope—*(1) *Covered individuals and entities.* (i) The policy governs the use of certain law enforcement tools to obtain information from, or records of, members of the news media.

(ii) Regardless of affiliation with the news media, the protections of the policy do not extend to any individual or entity who is or is reasonably likely to be—

(A) A foreign power or agent of a foreign power, as those terms are defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801);

(B) A member or affiliate of a foreign terrorist organization designated under section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a));

(C) Designated as a Specially Designated Global Terrorist by the Department of the Treasury under Executive Order 13224 of September 23, 2001 (66 FR 49079);

(D) A terrorist organization as that term is defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi));

(E) Committing or attempting to commit a crime of terrorism, as described in 18 U.S.C. 2331(5) or 2332b(g)(5);

(F) Committing or attempting to commit a crime involving the provision of material support or resources to a terrorist organization; or

(G) Aiding, abetting, or conspiring in illegal activity with a person or organization described in paragraphs (b)(1)(ii)(A) through (F) of this section.

(2) *Covered law enforcement tools and records.* (i) The policy governs the use by law enforcement authorities of subpoenas or, in civil matters, other similar compulsory process such as civil investigative demands (collectively “subpoenas”) to obtain information from members of the news media, including documents, testimony, and other materials; and the use by law enforcement authorities of subpoenas, or court orders issued pursuant to 18 U.S.C. 2703(d) (“2703(d) orders”) or 18 U.S.C. 3123 (“3123 orders”), to obtain from third parties communications records or business records of members of the news media.

(ii) The policy also governs applications for warrants to search the premises or property of members of the news media pursuant to Federal Rule of Criminal Procedure 41, or to obtain from third-party communication service providers the communications records of members of the news media, pursuant to 18 U.S.C. 2703(a) and (b).

(3) *Definitions--(i) Communications records.* (A) Communications records include the contents of electronic communications as well as source and destination information associated with communications, such as email transaction logs and local and long distance telephone

connection records, stored or transmitted by a third-party communication service provider with which the member of the news media has a contractual relationship.

(B) Communications records do not include information described in 18 U.S.C. 2703(c)(2)(A), (B), (D), (E), and (F).

(ii) *Communication service provider.* A communication service provider is a provider of electronic communication service or remote computing service as defined, respectively, in 18 U.S.C. 2510(15) and 18 U.S.C. 2711(2).

(iii) *Business records.* (A) Business records include records of the activities, including the financial transactions, of a member of the news media related to the coverage, investigation, or reporting of news, which records are generated or maintained by a third party with which the member of the news media has a contractual relationship. Business records are limited to those that could provide information about the newsgathering techniques or sources of a member of the news media.

(B) Business records do not include records unrelated to lawful newsgathering activities, such as those related to the purely commercial, financial, administrative, or technical operations of a news media entity.

(C) Business records do not include records that are created or maintained either by the government or by a contractor on behalf of the government.

(c) *Issuing subpoenas to members of the news media, or using subpoenas or court orders issued pursuant to 18 U.S.C. 2703(d) or 3123 to obtain from third parties communications records or business records of a member of the news media.* (1) Except as set forth in paragraph (c)(3) of this section, members of the Department must obtain the authorization of the Attorney General to issue a subpoena to a member of the news media; or to use a subpoena, 2703(d) order, or 3123 order to obtain from a third party communications records or business records of a member of the news media.

(2) Requests for the authorization of the Attorney General for the issuance of a subpoena to a member of the news media, or to use a subpoena, 2703(d) order, or 3123 order to obtain communications records or business records of a member of the news media, must be approved by the United States Attorney or Assistant Attorney General responsible for the matter.

(3) Exceptions to the Attorney General authorization requirement may be made as follows:

(i)(A) A United States Attorney or Assistant Attorney General responsible for the matter may authorize the issuance of a subpoena to a member of the news media (e.g., for documents, video or audio recordings, testimony, or other materials) if the member of the news media expressly agrees to provide the requested information in response to a subpoena. This exception applies, but is not limited, to both published and unpublished materials and aired and unaired recordings.

(B) In the case of an authorization under paragraph (c)(3)(i)(A) of this section, the United States Attorney or Assistant Attorney General responsible for the matter shall provide notice to the Director of the Criminal Division's Office of Enforcement Operations within 10 business days of the authorization of the issuance of the subpoena.

(ii) Authorization of the Attorney General will not be required of members of the Department in the following circumstances:

(A) To issue subpoenas to news media entities for purely commercial, financial, administrative, or other information unrelated to lawful newsgathering activities; or for information or records relating to personnel not involved in lawful newsgathering activities.

(B) To use subpoenas to obtain information from, or to use subpoenas, 2703(d) orders, or 3123 orders to obtain communications records or business records of, members of the news media who may be perpetrators or victims of, or witnesses to, crimes or other events, when such status (as a perpetrator, victim, or witness) is unrelated to their lawful newsgathering activities.

(iii) In the circumstances identified in paragraphs (c)(3)(ii)(A) and (B) of this section, the United States Attorney or Assistant Attorney General responsible for the matter must—



(A) Authorize the use of the subpoena or court order;

(B) Consult with the Criminal Division regarding appropriate review and safeguarding protocols prior to issuing a subpoena or requesting a court order; and

(C) Provide a copy of the subpoena or court order to the Director of the Office of Public Affairs and to the Director of the Criminal Division's Office of Enforcement Operations within 10 business days of the issuance of the subpoena or court order.

(4) Considerations for the Attorney General in determining whether to authorize the issuance of a subpoena to a member of the news media, or whether to authorize the use of a subpoena, 2703(d) order, or 3123 order to obtain from third parties the communications records or business records of a member of the news media.

(i)(A) In criminal matters, there should be reasonable grounds to believe, based on public information, or information from sources other than the member of the news media who would be the target of the requested compulsory process, that a crime has occurred, and that the information sought is essential to a successful investigation or prosecution. The subpoena or court order should not be used to obtain peripheral, nonessential, or speculative information.

(B) In civil matters, there should be reasonable grounds to believe, based on public information or information from sources other than the member of the news media who would be the target of the requested compulsory process, that the information sought is essential to the successful completion of the investigation or litigation in a case of substantial importance. The subpoena should not be used to obtain peripheral, nonessential, cumulative, or speculative information.

(ii) The government should have made all reasonable attempts to obtain the information, communications records, or business records from alternative sources.

(iii)(A) The government should have pursued negotiations with the affected member of the news media, unless the Attorney General determines that such negotiations would pose a

substantial threat to the integrity of the investigation, risk grave harm to national security, or present an imminent risk of death or serious bodily harm.

(B) The requirement that members of the Department secure authorization from the Attorney General to question a member of the news media, as required in paragraph (f)(1) of this section, does not apply to negotiations described in paragraph (c)(4)(iii)(A) of this section. Accordingly, members of the Department do not need to secure authorization from the Attorney General to pursue such negotiations.

(iv) In investigations of unauthorized disclosures of national defense information or of classified information, where the relevant Department or agency head certifies to the Attorney General the significance of the harm raised by the unauthorized disclosure and that the information disclosed was properly classified, and reaffirms the Department's or agency's continued support for the investigation and prosecution, the Attorney General may authorize the Department of Justice, in such investigations, to issue subpoenas to members of the news media. The Attorney General may also authorize the Department, in such investigations, to use subpoenas, 2703(d) orders, or 3123 orders to obtain communications records or business records of a member of the news media.

(v) The proposed subpoena or court order should be narrowly drawn. It should be directed at material and relevant information regarding a limited subject matter, should cover a reasonably limited period of time, should avoid requiring production of a large volume of material, and should give reasonable and timely notice of the demand.

(vi) If appropriate, investigators should propose to use search protocols designed to minimize intrusion into potentially protected materials or newsgathering activities unrelated to the investigation, including but not limited to keyword searches (for electronic searches) and filter teams (reviewing teams separate from the prosecution and investigative teams).

(d) *Applying for warrants to search the premises, property, or communications records of members of the news media.* (1) Members of the Department must obtain the authorization of the

Attorney General to apply for a warrant to search the premises, property, or communications records of a member of the news media.

(2) All requests for authorization of the Attorney General to apply for a warrant to search the premises, property, or communications records of a member of the news media must be approved by the United States Attorney or Assistant Attorney General responsible for the matter.

(3) In determining whether to authorize an application for a warrant to search the premises, property, or communications records of a member of the news media, the Attorney General should take into account the considerations identified in paragraph (c)(4) of this section.

(4) In executing a warrant authorized by the Attorney General or by a Deputy Assistant Attorney General for the Criminal Division, investigators should use search protocols designed to minimize intrusion into potentially protected materials or newsgathering activities unrelated to the investigation, including but not limited to keyword searches (for electronic searches) and filter teams (reviewing teams separate from the prosecution and investigative teams).

*(e) Notice to affected member of the news media.* (1)(i) When the Attorney General has authorized the use of a subpoena, court order, or warrant to obtain from a third party communications records or business records of a member of the news media, the affected member of the news media shall be given reasonable and timely notice of the Attorney General's determination before the use of the subpoena, court order, or warrant, unless the Attorney General determines that, for compelling reasons, such notice would pose a substantial threat to the integrity of the investigation, risk grave harm to national security, or present an imminent risk of death or serious bodily harm.

(ii) The mere possibility that notice to the affected member of the news media, and potential judicial review, might delay the investigation is not, on its own, a compelling reason to delay notice.

(2) When the Attorney General has authorized the use of a subpoena, court order, or warrant to obtain communications records or business records of a member of the news media, and

the affected member of the news media has not been given notice of the Attorney General's determination before the use of the subpoena, court order, or warrant, the United States Attorney or Assistant Attorney General responsible for the matter shall provide to the affected member of the news media notice of the order or warrant as soon as it is determined that such notice will no longer pose a substantial threat to the integrity of the investigation, risk grave harm to national security, or present an imminent risk of death or serious bodily harm. In any event, such notice shall occur within 45 days of the government's receipt of any return made pursuant to the subpoena, court order, or warrant, except that the Attorney General may authorize delay of notice for an additional 45 days if he or she determines that, for compelling reasons, such notice would pose a substantial threat to the integrity of the investigation, risk grave harm to national security, or present an imminent risk of death or serious bodily harm. No further delays may be sought beyond the 90-day period.

(3) The United States Attorney or Assistant Attorney General responsible for the matter shall provide to the Director of the Office of Public Affairs and to the Director of the Criminal Division's Office of Enforcement Operations a copy of any notice to be provided to a member of the news media whose communications records or business records were sought or obtained at least 10 business days before such notice is provided to the affected member of the news media, and immediately after such notice is, in fact, provided to the affected member of the news media.

*(f) Questioning members of the news media about, arresting members of the news media for, or charging members of the news media with, criminal conduct they are suspected of having committed in the course of, or arising out of, the coverage or investigation of news, or while engaged in the performance of duties undertaken as members of the news media.* (1) No member of the Department shall subject a member of the news media to questioning as to any offense that he or she is suspected of having committed in the course of, or arising out of, the coverage or investigation of news, or while engaged in the performance of duties undertaken as a member of the news media, without providing notice to the Director of the Office of Public Affairs and

obtaining the express authorization of the Attorney General. The government need not view the member of the news media as a subject or target of an investigation, or have the intent to prosecute the member of the news media, to trigger the requirement that the Attorney General must authorize such questioning.

(2) No member of the Department shall seek a warrant for an arrest, or conduct an arrest, of a member of the news media for any offense that he or she is suspected of having committed in the course of, or arising out of, the coverage or investigation of news, or while engaged in the performance of duties undertaken as a member of the news media, without providing notice to the Director of the Office of Public Affairs and obtaining the express authorization of the Attorney General.

(3) No member of the Department shall present information to a grand jury seeking a bill of indictment, or file an information, against a member of the news media for any offense that he or she is suspected of having committed in the course of, or arising out of, the coverage or investigation of news, or while engaged in the performance of duties undertaken as a member of the news media, without providing notice to the Director of the Office of Public Affairs and obtaining the express authorization of the Attorney General.

(4) In requesting the Attorney General's authorization to question, to arrest or to seek an arrest warrant for, or to present information to a grand jury seeking an indictment or to file an information against, a member of the news media for an offense that he or she is suspected of having committed in the course of, or arising out of, the coverage or investigation of news, or while engaged in the performance of duties undertaken as a member of the news media, a member of the Department shall state all facts necessary for a determination by the Attorney General.

(g) *Exigent circumstances.* (1) A Deputy Assistant Attorney General for the Criminal Division may authorize the use of a subpoena or court order, as described in paragraph (c) of this section, or the questioning, arrest, or charging of a member of the news media, as described in paragraph (f) of this section, if he or she determines that the exigent use of such law enforcement

tool or technique is necessary to prevent or mitigate an act of terrorism; other acts that are reasonably likely to cause significant and articulable harm to national security; death; kidnapping; substantial bodily harm; conduct that constitutes a specified offense against a minor (as those terms are defined in section 111 of the Adam Walsh Child Protection and Safety Act of 2006, 34 U.S.C. 20911), or an attempt or conspiracy to commit such a criminal offense; or incapacitation or destruction of critical infrastructure (for example, as defined in section 1016(e) of the USA PATRIOT Act, 42 U.S.C. 5195c(e)).

(2) A Deputy Assistant Attorney General for the Criminal Division may authorize an application for a warrant, as described in paragraph (d) of this section, if there is reason to believe that the immediate seizure of the materials at issue is necessary to prevent the death of, or serious bodily injury to, a human being, as provided in 42 U.S.C. 2000aa(a)(2) and (b)(2).

(3) Within 10 business days of a Deputy Assistant Attorney General for the Criminal Division approving a request under paragraph (g) of this section, the United States Attorney or Assistant Attorney General responsible for the matter shall provide to the Attorney General and to the Director of the Office of Public Affairs a statement containing the information that would have been given in requesting prior authorization.

(h) *Failure to comply with policy.* Failure to obtain the prior approval of the Attorney General, as required by this section, may constitute grounds for an administrative reprimand or other appropriate disciplinary action.

(i) *General provision.* This policy is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Dated: April 25, 2025.

Pamela Bondi  
Attorney General

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