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## **UNITED STATES DEPARTMENT OF JUSTICE**

### **GUIDELINES ON MEDIA RELATIONS**

*United States Department of Justice media guidelines are found in the U.S. Attorneys' Manual, Title 1, Section 1-7 and are attached at Appendix A. These guidelines are based on and are fully consistent with the underlying standards of balanced interests, i.e. the right of the public to know, an individual's right to a fair trial, and the government's ability to effectively enforce the administration of justice. In addition, Justice Department media guidelines are based on and are fully consistent with the provisions of 28 C.F.R. § 50.2, attached at Appendix B, which address release of information by personnel of the Justice Department relating to criminal and civil proceedings. The guidelines are given to the United States Attorneys for internal guidance purposes and do not create any rights enforceable in law or otherwise in any party.*

*Responsibility for all matters involving the local media is vested in the United States Attorney. The United States Attorney must exercise final authority over matters and cases being handled by her office. Any agency or department cooperating with the Office of the United States Attorney for the Western District of North Carolina in the issuance of a news release or participating in a news conference must abide by the guidelines established by the Department of Justice.*

*Final responsibility for all matters involving the news media and the Department of Justice is vested in the Director of the Justice Department's Office of Public Affairs. Matters of international/national/or major regional news are to be coordinated through the Justice Department's Office of Public Affairs by the United States Attorney's Office.*

*Suellen Pierce is the Public Information Officer (PIO) for the U.S. Attorney's Office for the Western District of North Carolina. Sharon Solochier is the Backup. In Suellen's absence, call Sharon Solochier or First Assistant U.S. Attorney Ed Ryan can be contacted.*

*Suellen Pierce, Public Information Officer, 704.338.3120*

*Sharon Solochier, Assistant Public Information Officer, 704.338.3122*

*Edward Ryan, First Assistant U.S. Attorney, 704.338.3131*

***MEDIA POLICY OF THE UNITED STATES ATTORNEY  
FOR THE  
WESTERN DISTRICT OF NORTH CAROLINA***

*The following Media Policy of the U.S. Attorney's Office for the Western District of North Carolina establishes the district's guidelines with regard to matters of public interest and in situations which may require contact with the media. The Media Policy of the U.S. Attorney for the Western District of North Carolina has been crafted according to Justice Department guidelines on media relations, the North Carolina State Bar Rules of Professional Conduct, and the Western District of North Carolina's Local Rule 23.1, all attached at Appendices A, C and D. The U.S. Attorney's media policy also reflects the desire of the U.S. Attorney to fully report well-coordinated law enforcement efforts in order that good law enforcement and prosecutorial work will be appropriately recognized and positively broadcast.*

***1. Preparation of Press Releases***

*When any division or component wishes to issue a news release or make contact with a member of the media relating to any case or matter which may be or is being prosecuted by the U.S. Attorney's Office, such release or other media contact shall be approved by the U.S. Attorney. Requests for press releases are welcomed by the U.S. Attorney's Public Information Officer (PIO), Suellen Pierce. Suellen's telephone number is 704-338-3120.*

*All press releases will be published on U.S. Attorney's Office letterhead. Any proposed draft press releases must be first presented to the U.S. Attorney's Office. The U.S. Attorney has final authority with regard to the contents of any press release, including comments or quotes by other law enforcement personnel, and any attachments thereto.*

*Once a draft press release has been approved by the U.S. Attorney, copies of that draft will be forwarded, before publication, to the agency head and/or the agency public information officer of each agency co-announcing the release. Suggestions for corrections or additions to the release within a brief period of time prior to the actual publication of the release will be accepted*

*and considered. If no communication is received from agency personnel by or before broadcast time, it is assumed that the draft release is approved by that agency.*

*Each news release made at the time of indictment or information will contain a statement explaining that charges are merely accusations and that defendants are presumed innocent until and unless proven guilty.*

*The U.S. Attorney and the public information officer are responsible for broadcasting releases (usually via facsimile) for timely media coverage. Suggestions/requests for specific broadcast areas or outlets are welcomed and honored by the PIO.*

*The U.S. Attorney's public information officer's name appears on each press release as a point of contact for further inquiries from the media with regard to information supplied in or attached to an official release. The U.S. Attorney traditionally provides all disclosable information (see pp. 8-9; see also Appendix A) available to the media either in the body of the press release or by attaching a copy of the charges and/or a list of the defendants and their biographical data. This effectively reduces followup questions. The PIO in the U.S. Attorney's Office is responsible for answering followup questions.*

## ***2. Preparation for Press Conferences***

*In instances where any division or component wishes to call a press conference relating to any case or matter which may be or is being prosecuted by the U.S. Attorney's Office, such press conference shall be approved by the U.S. Attorney. Suggestions for press conferences or requests for planning of a press conference are welcomed by the U.S. Attorney's PIO or by the U.S. Attorney.*

*Once it has been determined that a press conference is appropriate, the U.S. Attorney's PIO and the agency counterpart/s must coordinate the event to ensure (1) desirable timing with regard to other events taking place in the case, i. e. a defendant roundup or a sentencing hearing, (2) presence of all involved agency personnel, and (3) attendance by all local and interested media.*

*The U.S. Attorney and the involved agency heads, together with their respective PIO will coordinate development of any accompanying press release and accompanying documents (indictment, affidavit, complaints, biographical data, etc.) into a press kit, if desired. They will also coordinate such basic points as date, time, and location of the press conference. Once the basics have been established, the PIO will work hand-in-hand notifying any and all necessary agency personnel of the plans for the event and notifying media outlets in sufficient time for them to plan to attend with sufficient (though highly limited) information to assure their presence at the event. Various tools exist for successful and professional notification of the media regarding such events. Decisions surrounding such plans will be made on a case-by-case basis with final approval coming from the U.S. Attorney working in conjunction with the involved agency heads.*

### ***3. Comments on open pending cases***

*There will be cases on public record in which no press release has been published, but in which some media interest develops. The Department of Justice guidelines regarding information which can and cannot be disclosed must be considered when such inquiries come in (see pp. 8-9; see also Appendix A). All media calls are to always be referred to the PIO in the U.S. Attorney's Office.*

### ***4. Comments on matters under general or grand jury investigation and comments on cases which are filed "under seal"***

*At no time shall any component or personnel furnish any statement or information that he or she knows or reasonably should know will have a substantial likelihood of materially prejudicing an adjudicative proceeding, endangering the overall successful completion of an investigation, or endangering the lives of involved law enforcement personnel or potential witnesses. At no time shall any component or personnel furnish any statement or information in response to media inquiries that reveals information about the existence or non-existence of any investigation. Nor shall they comment on the nature or progress of any investigation, including such things as the issuance of, or serving of, grand jury subpoenas, search warrants and accompanying affidavits, and seizure warrants or lis pendens, if such documents are on file "under seal," or have not yet been docketed (placed on the public record).*

*If such documents exist unsealed in an open public record, and if a case remains in the investigative stage (pre-indictment or information), such documents must be allowed to stand on their own with no further comments made or explanation given as to the meaning of their existence or their contents.*

*At no time shall any component or personnel furnish any statement or information in response to media inquiries that reveals information about the existence or non-existence of any indictment or information on file officially "under seal."*

*At no time shall any press release or official media notification issue with regard to any indictment or information unless and until the indictment or information has been officially "unsealed" by court order.*

*Agency personnel and U.S. Attorney's Office personnel may neither confirm nor deny the existence of investigations, ongoing investigations, or court documents filed "under seal."*

*Particular note should be made of the fact that pre-sentence reports (PSR' s) prepared by the U.S. Probation Office are always filed under seal and are never a subject for public comment.*

## **5. Comments on closed cases**

*With more and more frequency, press releases are published at the time of sentencing given appropriate circumstances. All such comments (written or oral, regarding the defendant, the general nature of the charge, or of any related prior charges, and the sentence itself) must come from information that has previously been made a part of the public record, either by officially filed documentation or by oral testimony presented at pre-trial hearings, a court trial, or the sentencing hearing itself. The prosecuting Assistant U.S. Attorney is authorized, post sentencing, to address the media.*

## **6. Quotes or comments by law enforcement agency heads, personnel or local law enforcement officials**

*Quotes or comments to the media by agency heads, agents, or local law enforcement officials on open, pending cases should not be made without first consulting with the U.S. Attorney' s Office. Quotes or comments by agency heads or local law enforcement officials*

*appearing in official press releases must be approved by the U.S. Attorney in advance. The United States Department of Justice vests responsibility for all matters involving the local media in the United States Attorney.*

## **7. Comments on arrest activity**

*The United States Attorney's policy with regard to circumstances immediately surrounding an arrest adhere to the U.S. Department of Justice Guidelines as set forth in 28 C.F.R. § 50.2, paragraph (3)(iv), see Appendix B.*

*Paragraph (3)(iv) states:*

*Personnel of the Department of Justice, subject to specific limitations imposed by law or court rule or order, **may make public** the following information: (iv) The circumstances immediately surrounding an arrest, including the time and place of arrest, resistance, pursuit, possession and use of weapons, and a description of physical items seized at the time of arrest.*

***Disclosures** should include only incontrovertible, factual matters, and **should not include subjective observations**. In addition, where background information or information relating to the circumstances of an arrest or investigation would be highly prejudicial or where the release thereof would serve no law enforcement function, such information should not be made public.*

## **8. Involving the news media in law enforcement activities**

*In cases in which a search warrant or arrest warrant is to be executed, no advance information will be provided to the news media about actions to be taken by law enforcement personnel, nor shall media representatives be solicited or invited to be present. This prohibition will also apply to operations in preparation for the execution of warrants, and to any multi-agency action.*

*If news media representatives are present, they may be asked to withdraw voluntarily if their presence puts the operation or the safety of individuals in jeopardy. If the news media declines to withdraw, immediate cancellation of the action should be considered by supervisory personnel if that appears to be a reasonable and practical alternative.*

## **RELEASE OF INFORMATION IN CRIMINAL AND CIVIL MATTERS**

*The following policies shall apply to the release of information relating to all criminal and civil matters by components and personnel of the Department of Justice to the news media.*

### ***1. Non-Disclosure of Information***

*At no time shall any component or personnel of the Department of Justice furnish any statement or information that he or she knows or reasonably should know will have a substantial likelihood of materially prejudicing an adjudicative proceeding.*

## **INFORMATION WHICH CANNOT BE RELEASED**

*Certain information has the potential to create prejudice without serving a law enforcement function. Department of Justice policy outlines the following as such information:*

- a. Observations about a defendant's character.*
- b. Statements, admissions, confessions, or alibis attributable to a defendant or the refusal of the accused to make a statement.*
- c. Reference to investigative procedures such as fingerprints, polygraph examinations, ballistic or laboratory tests or the refusal of the defendant to submit to such tests or examinations.*
- d. Statements concerning the identity or credibility of prospective witnesses.*
- e. Statements concerning evidence or arguments in the case, whether or not it is anticipated that such evidence or arguments will be used at trial.*
- f. Any opinion as to the accused's guilt, the possibility of a plea of guilty to the offense charged or the possibility of a plea to a lesser offense.*
- g. Information concerning a defendant's prior criminal record.*
- h. Photographs of the defendant should not be made available unless it serves a law enforcement function.*
- i. Addresses or names of victims and/or witnesses.*

## **2. Disclosure of Information**

*The Department of Justice guidelines on news releases stipulate the following as information which may be made public, subject to specific limitations imposed by law or court rule or order:*

### **INFORMATION WHICH CAN BE RELEASED**

- a. The defendant's name, age, residence, employment, marital status, and similar background information.*
- b. The substance or text of the charge, such as a complaint, information, or indictment.*
- c. The identity of the investigating and/or arresting agency and the length and scope of an investigation.*
- d. The circumstances immediately surrounding an arrest, including the time and place of arrest, resistance, pursuit, possession and use of weapons, and a description of physical items seized at the time of the arrest.*

*In **civil cases**, Department of Justice personnel may release similar identification material regarding defendants, the involved government agency or program, a short statement of the claim, and the government's interest. At no time shall any statement or information be furnished that would have a substantial likelihood of materially prejudicing an adjudicative proceeding or which relates to:*

- a. Evidence regarding the occurrence or transaction involved.*
- b. The character, credibility, or criminal records of a party, witness, or prospective witness.*
- c. The performance or results of any examination or tests or the refusal or failure of a party to submit to such.*
- d. An opinion as to the merits of the claims or defenses of a party, except as required by law or administrative rule.*

### **3. Disclosure of Information Concerning Ongoing Investigations**

a. *Except as provided below, components and personnel of the Department shall not respond to questions about the existence of an ongoing investigation or comment on its nature or progress, including such things as the issuance or serving of a subpoena, prior to the public filing of the document.*

b. *In matters that have already received substantial publicity, or about which the community needs to be reassured that the appropriate law enforcement agency is investigating the incident, or where release of information is necessary to protect the public interest, safety, or welfare, comments about or confirmation of an ongoing investigation may need to be made (see Appendix A: Section 1-7.401, paragraphs C and D and Section 1-7.530). In these unusual circumstances, the involved investigative agency will consult and obtain approval from the United States Attorney or Department Division handling the matter prior to disseminating any information to the media.*

### **4. Disclosure of Information Concerning Person's Prior Criminal Record**

*Personnel of the Department shall not disseminate to the media any information concerning a defendant's or subject's prior criminal record either during an investigation or at a trial. However, in certain extraordinary situations such as fugitives or in extradition cases, departmental personnel may confirm the identity of defendants or subjects and the offense or offenses. Where a prior conviction is an element of the current charge, such as in the case of a felon in possession of a firearm, departmental personnel may confirm the identity of the defendant and the general nature of the prior charge where such information is in part of the public record in the case at issue (See Appendix A: Section 1-7.540).*

### **5. Concerns of Prejudice**

*Because the release of certain types of information could tend to prejudice an adjudicative proceeding, Department personnel and all others involved should refrain from making available the following:*

- a. Observations about a defendant's character;*
- b. Statements, admissions, confessions, or alibis attributable to a defendant, or the refusal or failure of the accused to make a statement;*
- c. Reference to investigative procedures, such as fingerprints, polygraph examinations, ballistic tests, or forensic services, including DNA testing, or to the refusal by the defendant to submit to such tests or examinations;*
- d. Statements concerning the identity, testimony, or credibility of prospective witnesses.*
- e. Statements concerning evidence or argument in the case, whether or not it is anticipated that such evidence or argument will be used at trial;*
- f. Any opinion as to the defendant's guilt, or the possibility of a plea of guilty to the offense charged, or the possibility of a plea of a lesser offense.*

**ASSISTING THE NEWS MEDIA**

*A. Other than by reason of a court order, personnel shall not prevent the lawful efforts of the news media to photograph, tape, record or televise a sealed crime scene from outside the sealed perimeter.*

*B. In order to promote the aims of law enforcement, including the deterrence of criminal conduct and the enhancement of public confidence, personnel with the prior approval of the United States Attorney may assist the news media in photographing, taping, recording or televising a law enforcement activity. The United States Attorney shall consider whether such assistance would:*

- 1. unreasonably endanger any individual;*
- 2. prejudice the rights of any party or other person; and*
- 3. is not otherwise proscribed by law.*

**COORDINATION WITH THE DEPARTMENT OF JUSTICE, OFFICE OF PUBLIC  
AFFAIRS (DOJ-OPA)**

*In certain instances this office should coordinate its media activities with DOJ-OPA:*

- 1. DOJ-OPA should be informed about issues that may attract major regional, national, or international attention.*
- 2. DOJ-OPA must be informed of any press conferences of national significance.*
- 3. DOJ-OPA should be contacted regarding in-depth story requests, or requests for stories about matters affecting DOJ or national significance from national media organizations.*
- 4. DOJ-OPA should be contacted for guidance prior to commenting on new policies, legislative proposals, or the Department' s budgetary issues.*

**Sources:**

*28 C.F.R. § 50.2 (2003).*

*United States Attorneys' Manual, Title 1, §1-7.00, (November 2003).*