

Department of Justice Use of Certain Law Enforcement Tools to Obtain Information from, or Records of, Members of the News Media; and Questioning, Arresting, or Charging Members of the News Media

Amendment to Annual Report: Calendar Year 2018

The Department of Justice (Department) is committed to making public, on an annual basis, data regarding its use of certain law enforcement tools to obtain information from, or records of, members of the news media; and regarding questioning, arresting, or charging members of the news media, pursuant to 28 C.F.R. § 50.10. *See* Justice Manual (JM) 9-13.400(L)(4). In conjunction with issuing the public report for calendar year 2020, the Department issues this amendment to the public report for calendar year 2018 that includes several matters authorized in that year and not previously reported. This information is derived from information provided by Department Divisions and United States Attorneys' Offices.

A. Subpoenas and applications for court orders or search warrants authorized by the Attorney General (28 C.F.R. §§ 50.10(c) and (d))

1. In the prosecution of individuals for rioting and conspiracy to riot, the Attorney General authorized the issuance of grand jury subpoenas *duces tecum* to two news media entities for the unedited and original version of footage of one of the defendants assaulting a female victim. The edited version of the footage was included in a video story that a news media entity had published to its website. The news media entity ultimately sold this content to a second news media entity. Attorney General authorization was required because the news media entity that initially published the content deferred to the entity to which it ultimately sold the content, which refused to provide the requested material voluntarily. The Attorney General authorized the subpoenas to both entities because they had no effect on newsgathering and because they were necessary to the successful prosecution of the defendant, who claimed that he had acted in self-defense.
2. In connection with an investigation into an alleged conspiracy involving persons or entities associated with a foreign government hacking the computers of a United States political party's central organization, the Deputy Attorney General, acting as Attorney General, authorized the issuance of a grand jury subpoena *duces tecum* for the production of toll records from a cellular service provider for a telephone used by a member of the news media suspected of participating in the conspiracy, as well as an application for a search warrant to search the member of the news media's internet cloud and email accounts. Following the initial authorization, the Deputy Attorney General, acting as Attorney General, later authorized a voluntary interview of, and the issuance of a testimonial grand jury subpoena to, the member of the news media. All of this information was necessary to further the investigation of whether the member of the news media was involved in the conspiracy to unlawfully obtain and utilize the information from the hacked political party or other victims.