

**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**

**Annual Report: Calendar Year 2019**

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). This public report, which encompasses authorizations during calendar year 2019, 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 connection with an investigation of a member of the news media for offenses arising from newsgathering-related activities, the Attorney General authorized a U.S. Attorney's Office to obtain and serve subpoenas, a pen register order, and a search warrant on third parties maintaining custody of the target's communications and business records, all aimed at obtaining information related to the target's suspected criminal activities. When executing the investigative measures, the U.S. Attorney's Office and the investigating agency employed a filter team in an effort to minimize the review of news media-related materials and safeguard any such materials in a manner consistent with Department policy. *See* 28 C.F.R. § 50.10(d)(7).<sup>1</sup>

**B. Questioning, arrests, or charges authorized by the Attorney General (28 C.F.R. § 50.10(f))**

1. In connection with an investigation of employees of a news media entity for offenses arising from newsgathering-related activities, the Attorney General authorized a U.S. Attorney's Office to interview, on a voluntary basis, two members of the news media employed by a media entity.

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<sup>1</sup> In 2020, the U.S. Attorney's Office's submitted a subsequent request for approval to seek a search warrant for the target's email account, a warrant for the target's premises and devices, and also authorization to interview the target. Information obtained through the prior Attorney General authorization and other investigative measures revealed that the target was not involved in investigation or newsgathering. Based on the information obtained, it was determined that the target was not in fact a member of the news media at the time of the criminal conduct under investigation. Consequently, the Department's News Media Policy was determined to be inapplicable to further investigative steps, including any charges that may be brought against the target.

**C. Subpoenas, applications for court orders, search warrants, questioning, arrests, or charges authorized by a Deputy Assistant Attorney General for the Criminal Division (28 C.F.R. §§ 50.10(d)(4) and (g))**

1. In connection with an investigation of an extortion scheme, Department attorneys obtained authorization to apply for a search warrant for the seizure and search of a member of the news media's mobile device. Because the member of the news media's suspected illegal conduct was not based on, or within the scope of, newsgathering activities, Attorney General authorization was not required to apply for the warrants. Rather, a Deputy Assistant Attorney General for the Criminal Division authorized Department attorneys to apply for the proposed warrant to seize and search the device for evidence of the alleged extortion-related offenses pursuant to the suspect exception of the Privacy Protection Act. *See* 28 C.F.R. § 50.10(d)(4). When executing the warrant, the Department attorneys and the investigating agency employed a filter team in an effort to minimize the review of news media-related materials and safeguard any such materials in a manner consistent with Department policy. *See* 28 C.F.R. § 50.10(d)(7).
2. In a child pornography investigation, a U.S. Attorney's Office obtained authorization to apply for a warrant to search the premises, including electronic storage devices, of a member of the news media suspected of receipt, distribution, and possession of child pornography. Because the member of the news media's suspected illegal conduct was not based on, or within the scope of, newsgathering activities, Attorney General authorization was not required to apply for the warrant. Rather, a Deputy Assistant Attorney General for the Criminal Division authorized the U.S. Attorney's Office to apply for the proposed warrant to search the premises for evidence of the alleged child pornography-related offenses, pursuant to the suspect exception of the Privacy Protection Act. *See* 28 C.F.R. § 50.10(d)(4). When executing the warrant, the U.S. Attorney's Office and the investigating agency employed a filter team in an effort to minimize the review of news media-related materials and safeguard any such materials in a manner consistent with Department policy. *See* 28 C.F.R. § 50.10(d)(7).
3. In a child pornography investigation, a U.S. Attorney's Office obtained authorization to apply for a warrant to search the contents of, and obtain other information associated with, a personal email account of a member of the news media suspected of the receipt, distribution, and possession of child pornography. Because the member of the news media's suspected illegal conduct was not based on, or within the scope of, newsgathering activities, Attorney General authorization was not required to apply for the warrant. Rather, a Deputy Assistant Attorney General for the Criminal Division authorized the U.S. Attorney's Office to apply for the proposed warrant to search the contents of the email account for evidence of the alleged child pornography-related offenses pursuant to the suspect exception of the Privacy Protection Act. *See* 28 C.F.R. § 50.10(d)(4). When executing the warrant, the U.S. Attorney's Office and the investigating agency employed a filter team in an effort to minimize the review of news media-related materials and safeguard any such materials in a manner consistent with Department policy. *See* 28 C.F.R. § 50.10(d)(7).

4. In a cyber-stalking and harassment investigation, a U.S. Attorney's Office obtained authorization to apply for warrants for prospective cell-site location information, and to search the contents of two email accounts, two Skype accounts, a Facebook account, and a smartphone used by the target of the investigation, a journalist working for an overseas media outlet. Unrelated to the target's employment with the news media organization, the journalist engaged in a lengthy campaign of suspected cyber-stalking and harassment of two individuals. Because the journalist's illegal conduct was not based on, or within the scope of, newsgathering activities, Attorney General authorization was not required to apply for the warrants. Rather, a Deputy Assistant Attorney General for the Criminal Division authorized the U.S. Attorney's Office to apply for the proposed warrants to obtain evidence of the alleged stalking and harassment pursuant to the suspect exception of the Privacy Protection Act. *See* 28 C.F.R. § 50.10(d). When executing the warrant, the U.S. Attorney's Office and the investigating agency employed a filter team in an effort to minimize the review of news media-related materials and safeguard any such materials in a manner consistent with Department policy. *See* 28 C.F.R. § 50.10(d)(7).
5. In a child pornography and enticement investigation, a U.S. Attorney's Office obtained authorization to apply for a warrant to search the contents of and obtain other information associated with a personal email account used by a member of the news media charged with attempted child enticement. Because the target's conduct was not based on, or within the scope of, such individual's newsgathering activities, Attorney General authorization was not required to apply for the warrant. Rather, a Deputy Assistant Attorney General for the Criminal Division authorized the U.S. Attorney's Office to apply for the proposed warrant to obtain evidence of attempted child enticement, production of child pornography, and receipt and possession of child pornography, pursuant to the suspect exception of the Privacy Protection Act. *See* 28 C.F.R. § 50.10(d)(4). The service provider complied with the warrant.
6. In a cyber-stalking investigation, a U.S. Attorney's Office obtained authorization to apply for a warrant to search the contents of personal email accounts used by a member of the news media who was the target of the investigation. Because the target's conduct was not based on, or within the scope of, such individual's newsgathering activities, Attorney General authorization was not required to apply for the warrant. Rather, a Deputy Assistant Attorney General for the Criminal Division authorized the U.S. Attorney's Office to apply for the proposed warrant to obtain evidence of stalking, pursuant to the suspect exception of the Privacy Protection Act. *See* 28 C.F.R. § 50.10(d)(4). The service provider complied with the warrant.

**D. Subpoenas and applications for court orders authorized by Assistant Attorneys General or United States Attorneys (28 C.F.R. §50.10(c)(3))**

1. In the prosecution of an individual charged with obstructing the investigation into Russian interference in the 2016 presidential election, a United States Attorney authorized the issuance of a subpoena to a member of the news media for testimony. The member of the news media expressly agreed to testify pursuant to the subpoena. Because the member of the news media expressly agreed to testify, Attorney General

authorization was not required. *See* 28 C.F.R. § 50.10(c)(3)(i)(A). The prosecution team did not call the member of the news media at trial.

2. In a counterterrorism investigation, a United States Attorney authorized the issuance of a subpoena to a news media entity for a recording of an interview that had been conducted with the target of the investigation, after the news media entity expressly agreed to produce the requested material in response to a subpoena. Because the news media entity expressly agreed to provide the information in response to a subpoena, Attorney General authorization was not required. *See* 28 C.F.R. § 50.10(c)(3)(i)(A). The news media entity provided some footage of the interview in response to the subpoena.
3. In a kidnapping investigation, a United States Attorney authorized the issuance of a subpoena to a local news affiliate for video of an interview with the target of the investigation that was conducted by one of its news reporters, after the affiliate expressly agreed to produce the requested material in response to a subpoena. Because the news network expressly agreed to provide the information in response to a subpoena, Attorney General authorization was not required. *See* 28 C.F.R. § 50.10(c)(3)(i)(A). The news affiliate complied with the subpoena.
4. In a financial fraud investigation into the leadership of a labor union, a United States Attorney authorized the issuance of a grand jury subpoena for documents and testimony to a member of the news media for information unrelated to any newsgathering activities. Because the information was not related to newsgathering, Attorney General authorization was not required. *See* 28 C.F.R. § 50.10(c)(3)(ii)(A). The member of the news media produced records pursuant to the subpoena, but was not called to testify.
5. In a fraud investigation, a United States Attorney authorized the issuance of a grand jury subpoena to several news media entities for copies of print advertisements and financial records associated with those advertisements. Because the information was not related to newsgathering, Attorney General authorization was not required. *See* 28 C.F.R. § 50.10(c)(3)(ii)(A). The subpoena was issued, but was returned as undeliverable, and no records were returned.
6. In an investigation concerning violations of a gag order that had been placed in a federal case, a United States Attorney authorized the issuance of a grand jury subpoena to a newspaper entity for records related to the user of an account that had posted comments on the newspaper website in violation of the gag order. Because the information related to public comments over which the newspaper entity did not exercise editorial control prior to publication, Attorney General authorization was not required. *See* 28 C.F.R. § 50.10(c)(3)(ii)(B). The newspaper complied with the subpoena.
7. In the prosecution of a fraud scheme in which the defendant, a member of the news media, made material misrepresentations to investors in, and lenders to, a startup newspaper, a United States Attorney authorized the issuance of grand jury and trial subpoenas to the defendant and the newspaper for financial records, as the information sought was unrelated to newsgathering activities. Because the information was not related to newsgathering, Attorney General authorization was not required. *See* 28

C.F.R. § 50.10(c)(3)(ii)(A). The defendant and the newspaper complied with the grand jury subpoenas and the defendant was charged by indictment. The trial subpoenas never came due, as the defendant pleaded guilty.

8. In an investigation concerning a missing person, a United States Attorney authorized the issuance of grand jury subpoenas to two local news media entities for video and audio recordings of statements made by a person of interest that aired on the entities' broadcasts, after the entities had expressly agreed to provide the requested information in response to a subpoena. Because the news media entities expressly agreed to provide the information in response to a subpoena, Attorney General authorization was not required. *See* 28 C.F.R. § 50.10(c)(3)(i)(A). After the service of the subpoenas, both entities withdrew their express agreement and the U.S. Attorney's Office withdrew the subpoenas.
9. In the prosecution of a conspiracy involving internet sex trafficking, a United States Attorney authorized the issuance of a trial subpoena to a media entity for segments of news broadcasts that were related to coverage of the website accused of illicit sex trafficking, after the entity had expressly agreed to provide the requested materials in response to a subpoena. Because the news media entity expressly agreed to provide the information in response to a subpoena, Attorney General authorization was not required. *See* 28 C.F.R. § 50.10(c)(3)(i)(A). The news media entity complied with the subpoena.
10. In the prosecution of an individual acting as an agent of a foreign government, a United States Attorney authorized the issuance of grand jury and trial subpoenas, as well as interviews of an interviewer and videographer for a documentary, after the members of the news media agreed to expressly provide the requested information in response to a subpoena. Because the members of the news media expressly agreed to provide the information in response to a subpoena, Attorney General authorization was not required. *See* 28 C.F.R. § 50.10(c)(3)(i)(A). The members of the news media complied with the issued subpoenas and the videographer provided law enforcement with a copy of the videotape of the interviews conducted for the documentary.
11. In an investigation of a threat to a federal judge, a United States Attorney authorized the issuance of a grand jury subpoena to a member of the news media for testimony unrelated to any newsgathering activities. Because the subject of the testimony was not related to newsgathering, Attorney General authorization was not required. *See* 28 C.F.R. § 50.10(c)(3)(ii)(A). The member of the news media testified before the grand jury pursuant to the subpoena.
12. In a bribery investigation, a United States Attorney authorized the issuance of a grand jury subpoena to a news media publication for the Internet Protocol address of an individual who had posted comments to a news article in the publication. Because the information sought related to public comments over which the publication did not exercise editorial control prior to publication, Attorney General authorization was not required. *See* 28 C.F.R. § 50.10(c)(3)(ii)(B).

13. In a cyber-stalking investigation, a United States Attorney authorized the issuance of a grand jury subpoena to a news media entity for emails in its possession and non-content email login information of a former employee who was the target of the investigation. The United States Attorney also authorized applications for court orders to be served on two email providers for non-content account information for personal accounts used by the target of the investigation, who at the time, was a member of the news media. Because the records sought concerned criminal conduct not based on, or within the scope of, newsgathering activities, Attorney General authorization was not required. *See* 28 C.F.R. § 50.10(c)(3)(ii)(C). The news media entity and the email providers complied with the subpoena and court orders.
14. In an investigation concerning threats made over the internet, a United States Attorney authorized the issuance of a grand jury subpoena to a news media entity for subscriber and contact information for an individual who had posted public comments to an article published by the news media entity. Because the information sought related to public comments over which the publication did not exercise editorial control prior to publication, Attorney General authorization was not required. *See* 28 C.F.R. § 50.10(c)(3)(ii)(B). The news media entity complied with the subpoena.
15. In a fraud prosecution, a United States Attorney authorized the issuance of trial subpoenas to several local newspapers for the production of commercial advertisements related to a fraud scheme. Because the information was not related to newsgathering activities, Attorney General authorization was not required. *See* 28 C.F.R. § 50.10(c)(3)(ii)(A). The newspapers complied with the subpoenas.
16. In a fraud investigation, a Deputy Assistant Attorney General authorized the issuance of a grand jury subpoena to a commercial broadcast network for contracts and financial documents related to the target of the investigation, who was alleged to have defrauded investors of a minor league football business. Because the information was not related to newsgathering activities, Attorney General authorization was not required. *See* 28 C.F.R. § 50.10(c)(3)(ii)(A). The network complied with the subpoena.
17. In a human rights prosecution, a United States Attorney authorized the issuance of a trial subpoena to a victim, assumed to be a member of the news media, after the victim expressly agreed to testify at trial in response to a subpoena. Because the victim expressly agreed to testify, Attorney General authorization was not required. *See* 28 C.F.R. § 50.10(c)(3)(i)(A). The victim complied with the subpoena.
18. In an investigation into threats against FBI employees that were posted on a website purporting to be an investigative journalism platform, a United States Attorney authorized the issuance of a grand jury subpoena to the website for Internet Protocol address and subscriber information for the device used by the individual posting the threats. Because the information sought related to public comments over which website exercised no editorial control prior to publication, Attorney General authorization was not required. *See* 28 C.F.R. § 50.10(c)(3)(ii)(B). The operators of the website complied with the subpoena.

19. In the prosecution of a police officer for unlawfully striking an individual, a United States Attorney authorized the issuance of a trial subpoena to a former member of the news media who had observed the incident while the individual still employed by a news media company, after the individual expressly agreed to testify at trial in response to a subpoena. Because the former member of the news media expressly agreed to testify at the trial, Attorney General authorization was not required. *See* 28 C.F.R. § 50.10(c)(3)(i)(A). The former member of the news media complied with the subpoena.
  
20. In a wire fraud and money laundering prosecution, a United States Attorney authorized the issuance of a subpoena to a member of the news media who was in possession of communications related to the fraud, after the member of the news media expressly agreed to provide the communications in response to a subpoena. Because the member of the news media expressly agreed to provide the information in response to a subpoena, Attorney General authorization was not required. *See* 28 C.F.R. § 50.10(c)(3)(i)(A). The member of the news media complied with the subpoena.

**E. News Media Consultations (28 C.F.R. § 50.10(c)(3)(iii) and JM 9-13.400(M))**

Total Number of News Media Consultations conducted by the Office of Enforcement Operations in 2019: **150**