

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 2023

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;¹ 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(D). This public report is derived from information provided by Department Divisions and United States Attorneys' Offices.

A. Compulsory legal process authorized by the Attorney General (28 C.F.R. §§ 50.10(c)(3), and (d)(1) and (2)(ii))

None

B. Compulsory legal process, arrests, or charges authorized by the Deputy Attorney General (28 C.F.R. §§ 50.10(f)(1)² and (m)(1))

1. In connection with a wire fraud and money laundering prosecution, the Deputy Attorney General authorized the issuance of a subpoena for the trial testimony of a member of the news media who expressly agreed to provide the requested information at trial. The testimony related to a published article authored by the member of the news media. The Department's News Media Policy requires the authorization of the Deputy Attorney General to compel grand jury or trial testimony that has a nexus to the person's activities as a member of the news media, even if the subpoena is issued with the consent of the member of the news media. *See* 28 C.F.R. § 50.10(f). The member of the news media testified at trial pursuant to the subpoena.
2. In connection with the prosecution of an individual for offenses related to a motor vehicle collision, the Deputy Attorney General authorized the issuance of a subpoena for the trial testimony of a member of the news media who expressly agreed to provide the requested information at trial. The member of the news media was a witness to events while acting within the scope of newsgathering. The Department's News Media Policy requires the authorization of the Deputy Attorney General to compel grand jury or trial testimony that has a nexus to the person's activities as a member of the news media, even if the subpoena is issued with the consent of the member of the news media. *See* 28 C.F.R. § 50.10(f). The member of the news media testified at trial pursuant to the subpoena.

¹ In some instances, out of an abundance of caution, the Department presumed an authorization or consultation subject to be a member of the news media solely for purposes of evaluating a proposed investigative measure. All such consultations and authorizations are included in this report.

² Compulsory legal process reported in this section was also authorized by a Deputy Assistant Attorney General for the Criminal Division or by a United States Attorney or Assistant Attorney General responsible for the matter where applicable, pursuant to 28 C.F.R. §§ 50.10(c)(1) or 50.10(i)(1).

3. In connection with a prosecution related to the January 6, 2021 attack on the U.S. Capitol, the Deputy Attorney General authorized the issuance of a subpoena for the trial testimony of a member of the news media who expressly agreed to provide the requested information at trial. The member of the news media was a witness to events while acting within the scope of newsgathering. The Department's News Media Policy requires the authorization of the Deputy Attorney General to compel grand jury or trial testimony that has a nexus to the person's activities as a member of the news media, even if the subpoena is issued with the consent of the member of the news media. *See* 28 C.F.R. § 50.10(f). The member of the news media was not called to testify at trial.
4. In connection with the prosecution of an individual for criminal civil rights offenses, the Deputy Attorney General authorized the issuance of a subpoena to a member of the news media for trial testimony necessary to authenticate for evidentiary purposes information or records that had already been published. *See* 28 C.F.R. §§ 50.10(c)(1) and (f). The Department's News Media Policy requires the authorization of the Deputy Attorney General to compel grand jury or trial testimony that has a nexus to the person's activities as a member of the news media. The member of the news media testified at trial pursuant to the subpoena after the court denied the member of the news media's motion to quash.
5. In connection with a narcotics-related homicide prosecution, the Deputy Attorney General authorized the issuance of a subpoena for the trial testimony of a member of the news media who expressly agreed to provide the requested information at trial. The testimony related to a published article authored by the member of the news media. The Department's News Media Policy requires the authorization of the Deputy Attorney General to compel grand jury or trial testimony that has a nexus to the person's activities as a member of the news media, even if the subpoena is issued with the consent of the member of the news media. *See* 28 C.F.R. § 50.10(f). The member of the news media testified at trial pursuant to the subpoena.

C. Compulsory legal process, questioning, arrests, or charges authorized by Deputy Assistant Attorneys General for the Criminal Division (28 C.F.R. §§ 50.10(c)(1), (d)(1) and (2), (f)(2), (i)(2), (l)(1), and (m)(2)).

1. In connection with a child exploitation prosecution, a Deputy Assistant Attorney General for the Criminal Division authorized a United States Attorney's Office to charge and arrest a member of the news media for possession, receipt, distribution, and transportation of child sexual abuse material. The charges/arrest had no nexus to the defendant's activities as a member of the news media. *See* 28 C.F.R. § 50.10(m).
2. In connection with a fraud prosecution, a Deputy Assistant Attorney General for the Criminal Division authorized a United States Attorney's Office to charge members of the news media with aggravated identity theft, wire and securities fraud, and conspiracy to commit these offenses; and to arrest a member of the news media based on those charges. The charges/arrest had no nexus to their activities as members of the news media. *See* 28 C.F.R. § 50.10(m). A Deputy Assistant Attorney General for the Criminal Division also authorized an application for a warrant to search electronic

- devices belonging to the members of the news media, the issuance of subpoenas for financial records of a member of the news media, and an application for a search warrant to obtain geolocation information for the purpose of determining the location of a member of the news media. The members of the news media were targets of the investigation and suspected of having committed an offense and were not acting within the scope of newsgathering. *See* 28 C.F.R. § 50.10(d)(1)(i). All third parties complied with the compulsory legal process.
3. In connection with the prosecution of individuals involved in the January 6, 2021 attack on the U.S. Capitol, a Deputy Assistant Attorney General for the Criminal Division authorized a United States Attorney's Office to arrest and charge a member of the news media for conduct related to the attack that had no nexus to the defendant's activities as a member of the news media. *See* 28 C.F.R. § 50.10(m). A Deputy Assistant Attorney General for the Criminal Division also authorized the issuance of subpoenas to third-party service providers for non-content account information and an application for a warrant to search the residence and electronic devices of the member of the news media. *See* 28 C.F.R. § 50.10(d)(1)(i). The third-party service providers complied with the subpoenas.
 4. In connection with an investigation into a data breach, a Deputy Assistant Attorney General for the Criminal Division authorized the issuance of a subpoena to a member of the news media not acting within the scope of newsgathering for information related to public comments by readers, viewers, customers, or subscribers, over which the member of the news media did not exercise editorial control prior to publication. *See* 28 C.F.R. § 50.10(d)(1)(iv). The member of the news media complied with the subpoena.
 5. In connection with an investigation into payroll tax violations, a Deputy Assistant Attorney General for the Criminal Division authorized the issuance of subpoenas to members of the news media for financial and tax-related records. The members of the news media were subjects of an investigation and suspected of having committed offenses and were not acting within the scope of newsgathering. *See* 28 C.F.R. §§ 50.10(d)(1)(i) and (iii). The members of the news media complied with the subpoenas.
 6. In connection with a child exploitation investigation, a Deputy Assistant Attorney General for the Criminal Division authorized a United States Attorney's Office to apply for a warrant to search electronic devices belonging to a member of the news media. The member of the news media was the target of an investigation and suspected of having committed an offense and was not acting within the scope of newsgathering. *See* 28 C.F.R. § 50.10(d)(1)(i).
 7. In connection with a financial fraud investigation, a Deputy Assistant Attorney General for the Criminal Division authorized the issuance of subpoenas to financial institutions for records relating to accounts belonging to a member of the news media. The member of the news media was the subject of an investigation and suspected of having committed an offense and was not acting within the scope of newsgathering.

See 28 C.F.R. §§ 50.10(d)(1)(i) and (iii). The financial institutions complied with the subpoenas.

8. In connection with an investigation into a member of the news media's involvement in an attempt to kidnap and assassinate an individual, a Deputy Assistant Attorney General for the Criminal Division authorized the issuance of subpoenas to third parties, including service providers, for phone account and credit bureau information, and an application for a pen register/trap-and-trace order for the member of the news media's phone and email accounts. The member of the news media was the target of the investigation and suspected of having committed an offense and was not acting within the scope of newsgathering. *See* 28 C.F.R. § 50.10(d)(1)(i). All third parties complied with the compulsory legal process.
9. In connection with an investigation into the interstate transmission of threats by an unknown target, a Deputy Assistant Attorney General for the Criminal Division authorized the issuance of a subpoena to a member of the news media not acting within the scope of newsgathering for records of public comments by readers, viewers, customers, or subscribers over which the member of the news media did not exercise editorial control prior to publication, related to a threatening public comment. 28 C.F.R. § 50.10(d)(1)(iv). The member of the news media did not comply with the subpoena, and the United States Attorney's Office did not move to compel.
10. In connection with a civil enforcement lawsuit under the Sherman Antitrust Act, a Deputy Assistant Attorney General for the Criminal Division authorized the issuance of cross-notice subpoenas seeking deposition testimony, with no nexus to newsgathering, from employees of three members of the news media. The News Media Policy requires that a Deputy Assistant Attorney General for the Criminal Division authorize compelled testimony when the testimony has no nexus to the person's or entity's activities as a member of the news media. *See* 28 C.F.R. § 50.10(f)(2). All members of the news media complied with the subpoenas and were deposed.
11. In connection with a civil enforcement lawsuit under the Sherman Antitrust Act, a Deputy Assistant Attorney General for the Criminal Division authorized the issuance of subpoenas to 18 members of the news media not acting within the scope of newsgathering for advertising-related records and data. The members of the news media were victims of the alleged wrongdoing. *See* 28 C.F.R. § 50.10(d)(1)(v). Fifteen members of the news media complied with the subpoenas, while the remaining three were either not served or did not produce any records in response to the subpoena.
12. In connection with a child exploitation investigation, a Deputy Assistant Attorney General for the Criminal Division authorized a U.S. Attorney's Office to apply for multiple warrants to search the accounts of a member of the news media and to issue subpoenas to third parties for non-content information or accounts associated with the member of the news media. The member of the news media was a target of an investigation and suspected of having committed an offense and was not acting within

the scope of newsgathering. *See* 28 C.F.R. §§ 50.10(d)(1)(i) and (vi). All third parties complied with the compulsory legal process.

13. In connection with a financial fraud investigation, a Deputy Assistant Attorney General for the Criminal Division authorized a United States Attorney's Office to apply for a warrant to seize and search electronic devices belonging to a member of the news media and to conduct voluntary questioning of the member of the news media. The member of the news media was the target of an investigation and suspected of having committed an offense and was not acting within the scope of newsgathering. *See* 28 C.F.R. §§ 50.10(d)(1)(i) and (i)(2).

D. Compulsory legal process authorized by Assistant Attorneys General or United States Attorneys (28 C.F.R. § 50.10(i)(1))

1. In furtherance of a fraud investigation, a United States Attorney authorized the issuance of a grand jury subpoena to a member of the news media for a certified copy of a news broadcast about the target of the investigation. The member of the news media was not the subject or target of any investigation or suspected of having committed any offense. Because the member of the news media expressly agreed to provide the requested information in response to a subpoena, no other authorization was required. *See* 28 C.F.R. § 50.10(i)(1). The member of the news media complied with the subpoena.
2. In furtherance of a fraud investigation, a United States Attorney authorized the issuance of a grand jury subpoena to a member of the news media for information related to specified videos. The member of the news media was not the subject or target of any investigation or suspected of having committed any offense. Because the member of the news media expressly agreed to provide the requested information in response to a subpoena, no other authorization was required. *See* 28 C.F.R. § 50.10(i)(1). The member of the news media complied with the subpoena.
3. In furtherance of a fraud investigation, a United States Attorney authorized the issuance of a grand jury subpoena to a member of the news media for technical data maintained by the member of the news media. The member of the news media was not the subject or target of any investigation or suspected of having committed any offense. Because the member of the news media expressly agreed to provide the requested information in response to a subpoena, no other authorization was required. *See* 28 C.F.R. § 50.10(i)(1). The member of the news media complied with the subpoena.
4. In furtherance of an investigation into threats against law enforcement officers, a United States Attorney authorized the issuance of a grand jury subpoena to a member of the news media for information relating to individuals who posted on a website operated by/belonging to the member of the news media. The member of the news media was not a subject or target of any investigation or suspected of having committed any offense. Because the member of the news media expressly agreed to provide the requested information in response to a subpoena, no other authorization

was required. See 28 C.F.R. § 50.10(i)(1). The member of the news media complied with the subpoena.

5. In furtherance of an investigation into the introduction of unapproved new drugs into interstate commerce with the intent to defraud and mislead, the Principal Deputy Assistant Attorney General for the Civil Division authorized the issuance of a grand jury subpoena to a member of the news media for published and unpublished portions of an audio recording made by the member of the news media in connection with newsgathering. The member of the news media was not a subject or target of any investigation or suspected of having committed any offense. Because the member of the news media expressly agreed to provide the requested records in response to a subpoena, no other authorization was required. See 28 C.F.R. § 50.10(i)(1). The member of the news media complied with the subpoena.

E. News Media Consultations

1. Total number of consultations regarding questioning of a member of the news media on a voluntary basis (28 C.F.R. § 50.10(i)(1)): 100
2. Total number of other news media consultations conducted by the Office of Enforcement Operations, including mandatory consultations: 226