

OFFICE OF THE ATTORNEY GENERAL

Washington, D. C.

STATEMENT OF POLICY CONCERNING THE RELEASE OF INFORMATION
BY PERSONNEL OF THE DEPARTMENT OF JUSTICE
RELATING TO CRIMINAL PROCEEDINGS
[28 CFR § 50.2]

The availability to news media of information in criminal cases is a matter which has become increasingly a subject of concern in the administration of criminal justice. The purpose of this statement is to formulate specific guidelines for the release of such information by personnel of the Department of Justice.

While the release of information for the purpose of influencing a trial is, of course, always improper, there are valid reasons for making available to the public information about the administration of the criminal laws. The task of striking a fair balance between the protection of individuals accused of crime and public understanding of the problems of controlling crime depends largely on the exercise of sound judgment by those responsible for administering the criminal laws and by representatives of the press and other media.

Inasmuch as the Department of Justice has generally fulfilled its responsibilities with awareness and understanding of the competing needs in this area, this statement, to a considerable extent, reflects and formalizes the standards to which representatives of the Department have adhered in the past. Nonetheless, it will be helpful in ensuring uniformity of practice to set forth the following guidelines for all personnel of the Department of Justice.

Because of the difficulty and importance of the questions they raise, it is felt that some portions of the matters covered by this statement, such as the authorization to make available federal conviction records and a description of items seized at the time of arrest, should be the subject of continuing review and consideration by the Department on the basis of experience and suggestions from those within and outside the Department.

1. These guidelines shall apply to the release of information to news media from the time a person is arrested or is charged with a criminal offense until the proceeding has been terminated by trial or otherwise.

2. At no time shall personnel of the Department of Justice furnish any statement or information for the purpose of influencing the outcome of a defendant's trial.

3. Personnel of the Department of Justice, subject to specific limitations imposed by law or court rule or order, may make public the following information:

(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, indictment, or information.

(C) The identity of the investigating and arresting agency and the length of the 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 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 would be highly prejudicial and where the release thereof would serve no law enforcement function, such information should not be made public.

4. Personnel of the Department shall not volunteer for publication any information concerning a defendant's prior criminal record. However, this is not intended to alter the Department's present policy that, since federal criminal conviction records are matters of public record permanently maintained in the Department, this information may be made available upon specific inquiry.

5. Because of the particular danger of prejudice resulting from statements in the period approaching and during trial, they ought strenuously to be avoided during that period. Any such statement or release shall be made only on the infrequent occasion when circumstances absolutely demand a disclosure of information and shall include only information which is clearly not prejudicial.

6. The release of certain types of information generally tends to create dangers of prejudice without serving a significant law enforcement function. Therefore, personnel of the Department should refrain from making available the following:

(A) Observations about a defendant's character.

(B) Statements, admissions, confessions, or alibis attributable to a defendant.

(C) References to investigative procedures, such as fingerprints, polygraph examinations, ballistic tests, or laboratory tests.

(D) Statements concerning the identity, credibility, or testimony 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.

7. Personnel of the Department of Justice should take no action to encourage or assist news media in photographing or televising a defendant or accused person being held or transported in federal custody. Departmental representatives should not make available photographs of a defendant unless a law enforcement function is served thereby.

8. This statement of policy is not intended to restrict the release of information concerning a defendant who is a fugitive from justice.

9. Since the purpose of this statement is to set forth generally applicable guidelines, there will, of course, be situations in which it will limit release of information which would not be prejudicial under the particular circumstances. If a representative of the Department believes that in the interest of the fair administration of justice and the law enforcement process information beyond these guidelines should be released in a particular case, he shall request the permission of the Attorney General or the Deputy Attorney General to do so.

Nicholas deB. Katzenbach
ATTORNEY GENERAL

Date: April 16, 1965