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Department of Justice
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U.S. Department of Justice

Executive Office for United States Attorneys

Freedom of Information and Privacy Staff

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February 20, 2019

Re: Request Number: FOIA-2017-01148
Date of Receipt: January 21, 2017
Subject of Request: USAM / Media Relations Policy, 1.7000

Your request for records under the Freedom of Information Act/Privacy Act has been processed. This letter constitutes a reply from the Executive Office for United States Attorneys, the official record-keeper for all records located in this office and the various United States Attorneys' Office. To provide you with the greatest degree of access authorized by the Freedom of Information Act and the Privacy Act, we have considered your request in light of the provisions of both statutes.

All of the records you seek are being made available to you. We have processed your request under the Freedom of Information Act and are making all records required to be released, or considered appropriate for release as a matter of discretion, available to you. This letter is a full release.

This is the final action on this above-numbered request. If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal by creating an account on the following website: <https://foiaonline.regulations.gov/foia/action/public/home>. Your appeal must be postmarked or electronically transmitted within ninety (90) days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

You may contact our FOIA Public Liaison at the telephone number listed above for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001; e-mail

at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kevin Krebs", is written over a light pink rectangular background.

Kevin Krebs
Assistant Director

Enclosure(s)



OFFICES *of* THE
UNITED STATES ATTORNEYS

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1-7.000 - Media Relations

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1-7.001 - Purpose

The purpose of this policy statement is to establish specific guidelines consistent with the provisions of 28 CFR 50.2 governing the release of information relating to criminal and civil cases and matters by all components (FBI, DEA, INS, BOP, USMS, USAO, and DOJ divisions) and personnel of the Department of Justice. These guidelines are: 1) fully consistent with the underlying standards set forth in this statement and with 28 CFR 50.2; 2) in addition to any other general requirements relating to this issue; 3) intended for internal guidance only; and 4) do not create any rights enforceable in law or otherwise in any party.

1-7.110 - Interests Must Be Balanced

These guidelines recognize three principal interests that must be balanced: 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.

1-7.111 - Need for Confidentiality

Careful weight must be given in each case to protecting the rights of victims and litigants as well as the protection of the life and safety of other parties and witnesses. To this end, the Courts and Congress have recognized the need for limited confidentiality in:

- On-going operations and investigations;
- Grand jury and tax matters;
- Certain investigative techniques; and,
- Other matters protected by the law.

1-7.112 - Need for Free Press and Public Trial

Likewise, careful weight must be given in each case to the constitutional requirements of a free press and public trials as well as the right of the people in a constitutional democracy to have access to information about the conduct of law enforcement officers, prosecutors and courts, consistent with the individual rights of the accused. Further, recognition should be given to the needs of public safety, the apprehension of fugitives, and the rights of the public to be informed on matters that can affect enactment or enforcement of public laws or the development or change of public policy.

These principles must be evaluated in each case and must involve a fair degree of discretion and the exercise of sound judgment, as every possibility cannot be predicted and covered by written policy statement.

1-7.210 - General Responsibility

Final responsibility for all matters involving the news media and the Department of Justice is vested in the Director of the Office of Public Affairs (OPA). The Attorney General is to be kept fully informed of appropriate matters at all times.

Responsibility for all matters involving the local media is vested in the United States Attorney.

1-7.220 - Designation of Media Representative

Each United States Attorney's Office and each field office of the various components of the Department shall designate one or more persons to act as a point of contact on matters pertaining to the media.

In United States Attorneys' offices or field offices where available personnel resources do not permit the assignment of a full time point of contact for the media, these responsibilities should be assigned to a clearly identified individual. (This, of course, could be the United States Attorney or field office head.)

1-7.310 - Department of Justice Components

The public affairs officers at the headquarters level of the Federal Bureau of Investigation, Drug Enforcement Administration, Immigration and Naturalization Service, Bureau of Prisons, United States Marshals Service, Office of Justice Programs, and Community Relations Service are responsible for coordinating their news media effort with the Director of OPA.

1-7.320 - United States Attorneys

Recognizing that each of the 93 United States Attorneys will exercise independent discretion as to matters affecting their own districts, the United States Attorneys are responsible for coordinating their news media efforts with the Director of OPA in cases that transcend their immediate district or are of national importance.

[cited in [USAM 1-3.000](#); [1-7.401](#)]

1-7.330 - Procedures to Coordinate with OPA

In order to promote coordination with the OPA, all components of the Department shall take all reasonable steps to insure compliance with the following:

- A. **International/National/Major Regional News.** As far in advance as possible, OPA should be informed about any issue that might attract international, national, or major regional media interest. However, the OPA should be alerted not to comment or disseminate any information to the media concerning such issues without first consulting with the United States Attorney.
- B. **News Conferences.** Prior coordination with OPA is required of news conferences of national significance.

- C. **Requests from National Media Representatives (TV, Radio, Wire Service, Magazines, Newspapers).** OPA should be informed immediately of all requests from national media organizations, including the television and radio programs (such as the nightly news, Good Morning America, Meet the Press and Sixty Minutes), national wire services, national news magazines and papers (such as the New York Times, U.S.A. Today, and the Wall Street Journal) regarding in-depth stories and matters affecting the Department of Justice, or matters of national significance.
- D. **Media Coverage Affecting DOJ.** When available, press clippings and radio/television tapes involving matters of significance should be forwarded to OPA.
- E. **Comments on Specific Issues (i.e., New Policies, Legislative Proposals, Budget).** OPC should be consulted for guidance prior to commenting on new policies and initiatives, legislative proposals or budgetary issues of the Department. This should not be interpreted to preclude recitation of existing well-established Departmental policies or approved budgets.

[cited in [USAM 1-3.000](#); [1-7.401](#)]

1-7.400 - Coordination With United States Attorneys—Issuance of Press Releases

By OPA or Headquarters. In instances where OPA or the headquarters of any division, component or agency of the Department issues a news release or conducts a news conference which may affect an office or the United States Attorney, such division, component, or agency will coordinate that effort with the appropriate United States Attorney.

Issuance of Press Release by Field Officers of Any Division. In instances where local field officers of any division or component plans to issue a news release, schedule a news conference or make contact with a member of the media relating to any case or matter which may be prosecuted by the United States Attorney's office, such release, scheduling of a news conference or other media contact shall be approved by the United States Attorney. See the [DOJ Organizations and Functions Manual at 28](#) for a discussion of press releases in cases involving the Internal Revenue Service.

[cited in [USAM 1-3.000](#); [USAM 1-7.401](#)]

1-7.401 - Guidance for Press Conferences and Other Media Contacts

The following guidance should be followed when Department of Justice components or investigative agencies consider conducting a press conference or other media contact:

- A. The use of a press release which conforms to the approval requirements of [USAM 1-7.400](#) is the usual method to release public information to the media by Department of Justice components and investigative agencies. Press conferences should be held only for the most significant and newsworthy actions, or if a particularly important deterrent or law enforcement purpose would be served. Prudence and caution should be exercised in the

conduct of any press conference or other media contact.

- B. Press conferences about pending cases or investigations that may result in an indictment by all Department of Justice components and investigative agencies must be approved by the appropriate Assistant Attorney General or by the United States Attorney responsible for the case. In joint or multi-district cases the approving official should consult with other districts or divisions affected. If it is a national case, press conferences must be approved by the Director, Office of Public Affairs. See USAM 1-7.320 to 1-7.330.
- C. There are exceptional circumstances when it may be appropriate to have press conferences or other media outreach about ongoing matters before indictment or other formal charge. These include cases where: 1) the heinous or extraordinary nature of the crime requires public reassurance that the matter is being promptly and properly handled by the appropriate authority; 2) the community needs to be told of an imminent threat to public safety; or 3) a request for public assistance or information is vital. See USAM 1-7.530 to 1-7.550 and 28 C.F.R. 50.2.
- D. There are also circumstances involving substantial public interest when it may be appropriate to have media contact about matters after indictment or other formal charge but before conviction. In such cases, any communications with press or media representatives should be limited to the information contained in an indictment or other charging instrument, other public pleadings or proceedings, and any other related non-criminal information, within the limits of USAM 1-7.520, .540, .550, .500 and 28 C.F.R. 50.2.
- E. Any public communication by any Department component or investigative agency or their employees about pending matters or investigations that may result in a case, or about pending cases or final dispositions, must be approved by the appropriate Assistant Attorney General, the United States Attorney, or other designate responsible for the case. In joint or multi-district cases, the approving official should consult with other districts or divisions affected. If it is a national case, press conferences must be approved by the Director, Office of Public Affairs.
- F. The use of displays or handouts in either press conferences or other media outreach when it involves a pending case or an investigation that may lead to an indictment requires separate and specific approval by the officials authorizing approval as set forth in section B.
- G. All Department personnel must avoid any public oral or written statements or presentations that may violate any Department guideline or regulation, or any legal requirement or prohibitions, including case law and local court rules.
- H. Particular care must be taken to avoid any statement or presentation that would prejudice the fairness of any subsequent legal proceeding. See also 28 C.F.R. 16.26(b). In cases where information is based directly or indirectly on tax records, care should be taken to comply with any applicable disclosure provisions in the Tax Reform Act, section 6103 of

the Internal Revenue Code of 1986. The fact of conviction, sentences and guilty pleas may be reported in a press release based on information uttered in court as opposed to waiting for the publicly filed documents relating to the fact of conviction, plea or sentence. If you have any questions please contact the Tax Division. Special rules apply and should be closely followed to ensure that the identity of minors directly or indirectly is not revealed in juvenile proceedings.

- I. For press releases or other public comment concerning the filing of a request for commutation of a federal death sentence or whether such a sentence should be commuted, special rules apply. In clemency matters, the Department acts both as prosecutor and as advisor to the President on the issue of clemency. In order to ensure clarity about the role in which the Department is making a public comment and to ensure that there is no potential for infringement upon the President's prerogative in exercising his clemency powers or conflict in the Department's role in such matters, press releases or other comment to the press concerning the issue of clemency should be transmitted through the Office of Public Affairs to the Deputy Attorney General for final approval.
- J. Prior to conducting a press conference or making comments on a pending investigation regarding another DOJ component, the U.S. Attorney shall coordinate any comments, including any written statements, with the affected component.
- K. The Office of Inspector General is exempt from any approval requirement for media contacts. However, the Office of Inspector General should inform the Office of Public Affairs on public or other media issues.

[Added November 2003] [cited in USAM 1-7.401]

1-7.500 - Release of Information in Criminal and Civil Matters—Non-Disclosure

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.

1-7.520 - Release of Information in Criminal and Civil Matters—Disclosable Information

Department personnel, subject to specific limitations imposed by law or court rule or order and consistent with the provisions of these guidelines, may make public the following information in any criminal case in which charges have been brought:

The defendant's name, age, residence, employment, marital status, and similar background information;

- A. The substance of the charge, limited to that contained in the complaint, indictment, information, or other public documents;

- B. The identity of the investigating and/or arresting agency and the length and scope of an investigation;
- C. 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. Any such disclosures shall not include subjective observations; and
- D. In the interest of furthering law enforcement goals, the public policy significance of a case may be discussed by the appropriate United States Attorney or Assistant Attorney General.

In civil cases, Department personnel may release similar identification material regarding defendants, the concerned government agency or program, a short statement of the claim, and the government's interest.

[cited in USAM 1-7.401]

1-7.530 - Disclosure of Information Concerning Ongoing Investigations

- A. Except as provided in subparagraph B. of this section, components and personnel of the Department of Justice 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. 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.

[cited in USAM 1-3.000; USAM 1-7.401]

1-7.531 - Comments on Requests for Investigations

Individuals, groups, or organizations often send letters to the Department of Justice or a Department component requesting that a person or entity be investigated for violations of law. Sometimes, the requestor then conducts a press conference or releases a statement leaving an implication that an investigation will result. This can cause media inquiries.

Receipt of a request to open an investigation may be publicly acknowledged. Care should be taken to avoid any implication that the referral will necessarily lead to an investigation. It should be pointed out that there is a distinction between "reviewing a request for an investigation" and "opening an investigation."

Any acknowledgment should state that such requests are referred to the proper investigative agency for review but that no decision has been made whether to proceed on the specific request

received. Finally, it should be noted that all substantiated allegations are reviewed in light of The Principles of Federal Prosecution (see USAM 9-27.000), and the Department does not ordinarily confirm or deny the existence or status of an investigation.

The same considerations apply if there is an investigation already underway when such a request is received. If the existence of an investigation is not public the same procedure should be followed as outlined above.

[Added November 2003] [cited in USAM 1-7.401]

1-7.540 - 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 subject 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 part of the public record in the case at issue.

[cited in USAM 1-7.401]

1-7.550 - Concerns of Prejudice

Because the release of certain types of information could tend to prejudice an adjudicative proceeding, Department personnel 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.

1-7.600 - Assisting the News Media

- A. Other than by reason of a Court order, Department 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, Department personnel with the prior approval of the appropriate 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.
- C. A news release should contain a statement explaining that the charge is merely an accusation and that the defendant is presumed innocent until and unless proven guilty.
- D. 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 in which Department personnel participate.
- E. Justice Department employees who obtain what may be evidence in any criminal or civil case or who make or obtain any photographic, sound or similar image thereof, in connection with a search or arrest warrant, may not disclose such material to the news media without the prior specific approval of the United States Attorney or Assistant Attorney General, who shall consider applicable regulations and policy, or upon a court order directing such production.

If news media representatives are present, Justice Department personnel may request them to withdraw voluntarily if their presence puts the operation or the safety of individuals in jeopardy. If the news media declines to withdraw, Department personnel should consider cancelling the action if that is a practical alternative.

Exceptions to the above policy may be granted in extraordinary circumstances by the Office of Public Affairs.

[cited in [USAM 1-3.000](#)]

1-7.700 - Freedom of Information (FOIA)

Nothing contained herein is intended to control access to Department of Justice records which are publicly available under provisions of the Freedom of Information Act (FOIA).

(28 U.S.C. 509) (Order No. 469-71, 367 F. 21028, No. 3, 1971. Amended by Order No. 602-75, 40 FR 22119, May 20, 1975)

[< 1-6.000 - DOJ Personnel As Witnesses](#)

[up](#)

[1-8.000 - Congressional Relations >](#)