



Associated Press

AFTER NEWS CONFERENCE: Mrs. John N. Mitchell joining her husband, the Attorney General, after he discussed subpoenaing of newsmen at St. Louis, where bar group met.

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Guidelines for Subpoenas to News Media

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ST. LOUIS, Aug. 10—Following are guidelines issued to the Department of Justice for subpoenas to the news media:

First: The Department of Justice recognizes that compulsory process in some circumstances may have a limiting effect on the exercise of First Amendment rights. In determining whether to request issuance of a subpoena to the press, the approach in every case must be to weigh that limiting effect against the public interest to be served in the fair administration of justice.

Second: The Department of Justice does not consider the press "an investigative arm of the government." Therefore, all reasonable attempts should be made to obtain information from nonpress sources before there is any consideration of subpoenaing the press.

Third: It is the policy of the department to insist that

negotiations with the press be attempted in all cases in templated. These negotiations should attempt to accommodate the interests of the grand jury with the interests of the news media. In these negotiations, where the nature of the investigation permits, the Government should make clear what its needs are in a particular case as well as its willingness to respond to particular problems of the news media.

Authorization Required

Fourth: If negotiations fail, no Justice Department official should request, or make any arrangements for, a subpoena to the press without the express authorization of the Attorney General. If a subpoena is obtained under such circumstances without this authorization, the department will—as a matter of course—move to quash the subpoena without prejudice to its rights subsequently to request the subpoena upon the proper authorization.

Fifth: In requesting the Attorney General's authorization for a subpoena, the following principles will apply:

A. There should be sufficient reason to believe that a crime has occurred, from disclosures by nonpress sources. The department does not approve of utilizing the press as a springboard for investigations.

B. There should be sufficient reason to believe that the information sought is essential to a successful investigation—particularly with reference to directly establishing guilt or innocence. The subpoena should not be used to obtain peripheral, nonessential or speculative information.

C. The Government should have unsuccessfully attempted to obtain the information from alternative nonpress sources.

D. Authorization for requests for subpoenas should normally be limited to the verification of published information and to such surrounding circumstances as relate to the accuracy of the published information.

E. Great caution should be observed in requesting subpoena authorization by the Attorney General for unpublished information, or where an orthodox First Amendment defense is raised or where a serious claim of confidentiality is alleged.

F. Even subpoena authorization requests for publicly disclosed information should be treated with care because, for example, cameramen have recently been subjected to harassments on the grounds that their photographs will become available to the Government.

G. In any event, subpoenas should, wherever possible, be directed at material information regarding a limited subject matter, should cover a reasonably limited period of time, and should avoid requiring production of a large volume of unpublished material. They should give reasonable and timely notice of demand for documents.

These are general rules designed to cover the great majority of cases. It must always be remembered that emergencies and other unusual situations may develop where a subpoena request to the Attorney General may be submitted which does not exactly conform to these guidelines.