



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

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EFFECTIVE DATE

(02-16-2012)

PURPOSE

- (1) This transmits revised IRM 9.3.2, Publicity and Internal Communications.

MATERIAL CHANGES

- (1) Subsection 9.3.2.4.4 is revised to delete references to obsolete publications.
- (2) Subsection 9.3.2.11.2 is revised to delete obsolete procedures for submitting news articles.
- (3) Exhibit 9.3.2-1 is revised to include the 07/01/2008 version of 28 CFR, Chapter 1, Part 50.2 Release of Information by Personnel of the Department of Justice Relating to Criminal and Civil Proceedings.
- (4) Exhibit 9.3.2-2 is revised to update the Title 1- 7, United States Attorneys' Manual, Media Relations, with the June 2010 version.
- (5) Position titles have been updated throughout the section to reflect the new organizational titles that were effective with the October 1, 2011 reorganization of Criminal Investigation.
- (6) Additional revisions, deletions, and grammatical changes are made throughout the section that did not result in substantive changes but contributed to procedural clarity of the subject matter.

EFFECT ON OTHER DOCUMENTS

This IRM supersedes IRM 9.3.2 dated June 5, 2006.

AUDIENCE

CI

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9.3.2

Publicity and Internal Communications

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Exhibits

9.3.2-1 28 CFR, Chapter 1, Part 50.2 Release of Information by Personnel of the Department of Justice
Relating to Criminal and Civil Proceedings (07/01/08 Edition)

9.3.2-2 Title 1- 7, United States Attorneys' Manual, Media Relations, dated June 2010

9.3.2.1
(07-02-2004)
Overview

- (1) Research demonstrates the IRS Criminal Investigation's (CI) law enforcement efforts have a measurable effect on voluntary compliance; specifically that CI investigations involving tax, tax-related, and money laundering violations have a measurable influence on compliance. This section will discuss why, how, and when CI seeks publicity involving their investigative efforts. The subsections in this section are:
 - Purpose of Publicity
 - Publicity, Taxpayer Information, and Taxpayer Rights
 - Roles in Relation To Publicity
 - Information Available for Media Use
 - Information Not Available for Media Use
 - Investigative Publicity
 - Non-Investigative Publicity
 - Media Inquiries
 - Media Procedures

9.3.2.2
(07-02-2004)
Purpose of Publicity

- (1) Criminal Investigation serves the American public by investigating potential criminal violations of the Internal Revenue Code and related financial crimes in a manner that fosters confidence in the tax system and compliance with the law. One of the most effective methods to encourage compliance is through publicity of the activities that CI undertakes to enforce the laws within CI's jurisdiction.

9.3.2.3
(07-02-2004)
Publicity, Taxpayer Information, and Taxpayer Rights

- (1) Criminal Investigation will at all times adhere to the statutes, regulations, and policies regarding the disclosure of tax returns and return information (26 USC §6103) and privacy (5 USC §552a) when seeking publicity.

9.3.2.4
(08-13-2003)
Roles in Relation to Publicity

- (1) The following subsections describe the responsibilities of CI employees in relation to publicity matters.

9.3.2.4.1
(07-02-2004)
Role of the Special Agent in Charge

- (1) For all local enforcement news releases, the Special Agent in Charge (SAC) is the approving official. This approval authority may be delegated no lower than the Assistant Special Agent in Charge (ASAC).
- (2) Designated IRS officials may participate in press conferences relating to enforcement actions at the invitation of the attorney for the government. Generally, the SAC will participate. The Director, Field Operations, however, may be the appropriate official in investigations of regional or national significance, or multi-functional compliance issues. Any IRS participation will be coordinated with the CI Public Information Officer (PIO) as early as possible.

9.3.2.4.2
(07-02-2004)
Role of the Supervisory Special Agent and Special Agent

- (1) In general, the special agent or Supervisory Special Agent (SSA) whose investigation is the subject of a court action is responsible for notifying the PIO, in advance, of all scheduled legal actions.
- (2) Coordination among the special agent or SSA, the attorney for the government, and the PIO should begin at the earliest possible date. This allows all parties to agree to a plan of action to maximize deterrent publicity.

- (3) The special agent or SSA will notify the PIO of pending enforcement actions.
- (4) The special agent or SSA will notify the PIO of non-investigative publicity activities. These include the following activities:
 - a. public speaking engagements
 - b. compliance projects
 - c. written articles
 - d. public service or outreach projects
 - e. award presentations

9.3.2.4.3

(07-02-2004)

Role of the Public Information Officer

- (1) A designated special agent will serve as a PIO in each field office. He/she will develop local strategy with the Communication and Liaison Media Relations Specialist (MRS). The duties of the PIO include:
 - a. serving as a spokesperson for local CI issues; the SAC is the primary CI spokesperson
 - b. briefing the SAC and MRS on upcoming media opportunities
 - c. serving as a key member of the SAC's staff (attend staff meetings)
 - d. researching, writing, editing, and distributing news releases to the media in the geographic area covered by the field office
 - e. preparing the SAC for interviews
 - f. preparing talking points or briefing papers for the SAC
 - g. arranging and attending media interviews with the SAC
 - h. responding to media inquiries concerning criminal tax matters and related financial crimes
 - i. coordinating and attending enforcement related press conferences
 - j. attending pre-operational meetings for activities such as executing search, seizure, or arrest warrants, and ensure the MRS awareness of roles, plans, and activities as necessary
 - k. building working relationships with journalists and specialized media to establish resources to effectively publicize criminal tax matters and related financial crimes
 - l. building effective working relationships with Federal, state, and local law enforcement public information officers
 - m. serving as a subject matter expert on publicity issues for the special agents and management
 - n. serving as the expert on criminal matters and related financial crimes for the local MRS
 - o. promptly forwarding local media coverage of CI educational and enforcement activities to CI Communications and Education for immediate use and for compilation for future reference
 - p. testing and implementing the CI National Communications Strategy in selected markets in the geographic area covered by the field office
 - q. identifying and sharing best practices with the local MRS and CI Communications and Education
 - r. reviewing, and if appropriate, inputting monthly Criminal Investigation Management Information System (CIMIS) data to verify accuracy of publicity codes
 - s. acting as the coordinator of the local CI speaker bureau, CI Digest, and CI Bulletin
 - t. coordinating and tracking local outreach activities
- (2) The PIO will use the PIONEER, PIO database, to:

- a. post upcoming legal actions on field investigations
- b. post outreach events
- c. file documents associated with investigations such as news releases, media coverage, and public record documents, as appropriate.

9.3.2.4.4
(02-16-2012)
**Role of Criminal
Investigation
Communications and
Education**

- (1) CI Communications and Education is located in Headquarters (HQ) and has primary responsibility for accomplishing the following activities:
 - a. developing and managing a market-driven educational strategy to foster voluntary compliance
 - b. promoting the CI message nationwide
 - c. coordinating CI publicity activities through the PIO
 - d. developing a public relations and public outreach program through a speaker's bureau to deliver the IRS compliance strategy
 - e. developing talking points, speeches, and news articles on CI activities for dissemination to both internal and external audiences
 - f. assisting with the development of Congressional testimony
 - g. serving as a conduit between IRS Communication and Liaison for external media contacts and CI executives for interviews and articles on CI matters
 - h. communicating publicity on CI investigations to executives, CI employees, and other internal and external stakeholders
 - i. producing documents and publications regarding CI investigations, program areas, strategies, and related matters
 - j. maintaining biographical information on the CI leadership cadre
 - k. managing media training for all CI executives, liaisons, and PIOs including Continuing Professional Education (CPE) for PIOs
 - l. managing national outreach and compiling nationwide statistical data on CI outreach efforts

9.3.2.5
(02-16-2012)
Jurisdictional Areas

- (1) As a general rule, field offices will service inquiries from the local media, as well as inquiries from national media on matters under jurisdiction of that field office.
- (2) The IRS Communications & Liaison will service all other national media inquiries.
- (3) Field offices receiving national media requests for interviews will contact CI Communications and Education before taking any action on the request.
- (4) Public Affairs Officer, CI Communications and Education will inform IRS Communications & Liaison of substantive media inquiries on local issues that are received directly by CI. The IRS office of Communications & Liaison and local offices will inform the Public Affairs Officer, CI Communication and Education of substantive media inquiries on national issues or matters they receive directly.

9.3.2.6
(06-05-2006)
**Information Available for
Media Use**

- (1) These instructions regarding the release by IRS personnel of information relating to criminal and civil proceedings are based on the Attorney General's Statement of Policy concerning the release of information by personnel of the Department of Justice (DOJ) relating to criminal and civil proceedings, and published in DOJ 28 CFR 50.1.
- (2) The type of information that can be released is as follows:

- a. general information concerning CI and the type of work done by the organization
 - b. information that is a matter of public record (such as pleadings filed with the US Tax Court, a sworn affidavit or an indictment, which has been made public) may be supplied upon request
- (3) All news releases concerning criminal actions will be submitted to the appropriate attorney for the government for approval before distribution to the news media. News releases may be attributable to either the attorney for the government, or to both the IRS and the attorney for the government. Jointly attributable news releases may be issued on approved IRS letterhead after clearance through the Disclosure Officer and the attorney for the government, and may be distributed by IRS officials. News releases, which are attributable only to the attorney for the government, may be distributed by IRS officials.
 - (4) Any disclosure of return information under this provision is made pursuant to the "public record exception" recognized by most circuit courts.
 - (5) Because of the statutory prohibition on the disclosure of tax returns and return information, it is imperative that material contained in news releases be limited to information that is taken directly from the public record. Media requests for information that go beyond public record information, or general IRS program issues, will be referred to the attorney for the government.
 - (6) With respect to those special situations referred to in 28 CFR 50.2(b)(9) of the Attorney General's Statement of Policy, (see Exhibit 9.3.2-1) the SAC is designated for approving release of information beyond the Attorney General's guidelines, after clearance with the attorney for the government. This exception is to permit the release of information that would not be prejudicial under the particular circumstances.
 - (7) All information intended for release to the public is subject to the provisions of IRM 11.3, Disclosure of Official Information, with respect to the disclosure of official information from IRS files or records.

Note: Just because an item is considered information suitable for release in the Attorney General's Policy statement does not mean that it can be disclosed pursuant to 26 USC §6103. See IRM Chapter 11.3, Disclosure of Official Information, and IRM 9.3.1, Disclosure. Public Record Information is defined in the Ninth Circuit as follows: "If a taxpayer's return information is lawfully disclosed in a judicial proceeding, the information is no longer confidential and may be disclosed again. Once tax return information is made part of the public domain, the taxpayer may no longer claim a right of privacy in that information."

9.3.2.7
(07-02-2004)
**Information Not
Available for Media Use**

- (1) In many instances, information cannot be disclosed because of prohibitions contained in 26 USC §6103 and other statutes such as the Privacy Act. The special agent, PIO, SSA, ASAC, and SAC should be familiar with 26 USC §6103 and the penalties for unauthorized disclosure in 26 USC §7213 and 26 USC §7431.
- (2) IRS personnel will not make public statements, news releases, or other public disclosures concerning the defendant, the evidence, or any other aspect of a criminal investigation from the time a person is the subject of a criminal investigation until any proceeding resulting from such an investigation has been

entered into public record. Under no circumstances will IRS officials release to the public the following type of information:

- a. observations about a defendant's character
 - b. information concerning a defendant's prior criminal record
 - c. statements, admissions, confessions, or alibis attributable to the defendant or the refusal or failure of the accused to make a statement
 - d. references to investigative procedures, such as fingerprints, polygraph examinations, ballistic tests, or laboratory tests, or to the refusal by the defendant to submit to such tests or examinations
 - e. statements concerning the identity, credibility, or testimony of prospective witnesses
 - f. statements concerning the evidence or argument developed during the course of an investigation, whether or not it is anticipated that such evidence or argument will be used at trial
 - g. any opinion as to the accused's guilt or the possibility of a plea of guilty to the offense charged, or the possibility of a plea to a lesser offense
 - h. any statement or information expected to influence the outcome of a pending or future trial
 - i. any information that would be highly prejudicial and where release would serve no law enforcement function
- (3) IRS personnel will take no action to encourage or assist news media in photographing or televising a defendant or accused person being transported or held in Federal custody, nor should photographs of a defendant be made available to news media. These restrictions are not intended to prohibit the release of information concerning a defendant who is a fugitive from justice.
 - (4) Generally, extensive pretrial publicity does not, itself, render a trial unfair and violate a defendant's right to due process. See *Dobbert v. Florida*, 432 US 282 (1977); *Irvin v. Dowd*, 366 US 717 (1961).
 - (5) When civil actions result from a criminal investigation, CI personnel should not make or participate in making an extra-judicial statement.
 - (6) The mere fact that disclosure of certain information may be embarrassing to the IRS is not a sufficient basis for withholding it.

9.3.2.8
(06-05-2006)
Investigative Publicity

- (1) While CI conducts criminal tax investigations, DOJ is responsible for prosecutions and should take the lead in publicizing such actions. Because of tax administration benefits that stem from deterrent publicity, however, IRS will assist with the preparation and distribution of news releases to be issued in the name of the attorney for the government.
- (2) If the attorney for the government chooses not to issue a news release, the SAC may issue a release after obtaining the concurrence of the attorney for the government.
- (3) While there are many pre-trial, trial, and post-trial activities of CI that are of interest to the media, any disclosure of return information under this provision is made pursuant to the "public record exception".

Note: Media representatives are prohibited from accompanying CI personnel carrying out an investigative, enforcement, or similar assignment.

9.3.2.8.1
(07-02-2004)

Pre-Trial Actions

- (1) News releases related to pretrial actions, such as indictments and the filing of criminal information, may be prepared upon approval of the attorney for the government. Releases will be cleared as stated in subsection 9.3.2.10, Media Inquiries. After appropriate clearances, the release may be issued on approved IRS letterhead.
- (2) Media requests for information about a pretrial action that goes beyond the contents of a release will be referred to the attorney for the government. In this regard, if the release is issued on IRS letterhead, it will carry the statement: "For further information, please contact the attorney for the government."
- (3) Pre-trial activities that may warrant publicity, but require pre-approval from the attorney for the government include the following:
 - a. execution of search, seizure, and arrest warrants
 - b. motions, hearings, and injunctions
 - c. indictments and informations
 - d. pleas and arraignments

9.3.2.8.1.1
(06-05-2006)

Search, Seizure and Arrest Warrants

- (1) At the conclusion of the execution of a search, seizure, or arrest warrant, IRS may release to the news media information contained in the warrant and affidavit, provided such information has been filed with the clerk of the US District Court. At that time, the warrant and affidavit have become matters of public record in the judicial proceeding relating to the warrant, unless there are specific limitations imposed by law or court order. The release of such information may be made, after obtaining approval from the attorney for the government.
- (2) Any disclosure of return information under this provision is made pursuant to the "public record exception".
- (3) The information that is released will include only incontrovertible factual matters and should not include subjective observations. Where such information would be highly prejudicial and where release would serve no law enforcement purpose, it will not be made public. Needs information concerning a defendant's prior criminal record will not be made public by IRS officials.
- (4) Media requests for information about a warrant that go beyond the contents of a public warrant or public affidavit will be referred to the attorney for the government.

9.3.2.8.1.2
(07-02-2004)

Motions and Hearings

- (1) The IRS may provide advance media notice.
- (2) A news release may be issued with the approval of the attorney for the government.

9.3.2.8.1.3
(07-02-2004)

Indictments and Information

- (1) News releases related to pre-trial actions such as indictments and filing of criminal informations will be released only upon the approval of the attorney for the government on a case-by-case basis. These news releases must be prepared by the field office in accordance with local procedures and submitted to the attorney for the government for approval before distribution to the news media. At the request of the attorney for the government, the field office will assist with the distribution of a release to the news media. News releases that are jointly attributable to the IRS and the attorney for the government may be printed on approved IRS letterhead.

9.3.2.8.1.4
(06-05-2006)

Pleas and Arraignments

- (1) If a plea agreement does not contain a “no publicity” clause, the IRS may provide advance media notice, and the field office may issue a news release with the approval of the attorney for the government.
- (2) If the attorney for the government does not wish to initiate a news release upon the entry of a plea of either guilty or nolo contendere, rendition of a trial decision, or upon ultimate sentencing, then the SAC is authorized to issue an appropriate news release.
- (3) Any disclosure of return information under this provision is made pursuant to the “public record exception”.

9.3.2.8.2
(06-05-2006)

Trials

- (1) Because a trial is a public forum, anything introduced at trial is considered public information and is no longer confidential. Therefore, information derived from the public record is not afforded confidential protection under 26 USC §6103. Typically, the attorney for the government's office will issue news releases or hold press conferences at the conclusion of a trial.
- (2) If the attorney for the government does not wish to initiate a news release upon the entry of a plea of either guilty or nolo contendere, rendition of a trial decision, or upon ultimate sentencing, the SAC is authorized to issue an appropriate news release.
- (3) Release by IRS of information provided at legal proceedings can be made if recorded by an IRS employee other than the investigating special agent. Verbatim notes should be taken by the IRS employee and should be filed with the background documents, and with the news release. No editorial comments should be placed in the release, even those made by the judge. The release must contain the facts of the conviction, plea, or sentence. Information from the already publicly filed indictment can be used to describe the charges.
- (4) Any disclosure of return information under this provision is made pursuant to the “public record exception”.

9.3.2.8.3
(07-02-2004)

**Post Prosecution
Actions**

- (1) News releases may be issued within guidelines for post-prosecution actions. The media may also be notified if public information is available (e.g., indictments, criminal complaints, etc.).
- (2) Post-prosecution activities that may warrant publicity include the following:
 - a. sentencing
 - b. appeals
 - c. seizures, sales, and auctions
 - d. asset sharing

9.3.2.8.3.1
(06-05-2006)

Sentencing

- (1) A good opportunity to seek publicity to further CI's mission to promote voluntary compliance exists at the time of sentencing.
- (2) The IRS may notify the media in advance of the date, time, and place of sentencing.
- (3) A news release may be issued by the SAC and with the approval of the attorney for the government.

- (4) If the attorney for the government does not wish to initiate a news release upon the entry of a plea of either guilty or nolo contendere, rendition of a trial decision, or upon ultimate sentencing, then the SAC is authorized to issue an appropriate news release.
- (5) Any disclosure of return information under this provision is made pursuant to the “public record exception”.

9.3.2.8.3.2
(07-02-2004)

Appeals

- (1) The IRS may provide advance media notice.
- (2) A field office may issue a news release with the approval of the attorney for the government.

9.3.2.8.3.3
(06-05-2006)

Seizures, Sales, and Auctions

- (1) For unique or exceptional (newsworthy) situations, the IRS may contact the media and provide information pursuant to the guidelines listed for search warrants (see Exhibit 9.3.2-2).
- (2) The specific notification procedures required for asset seizures and forfeitures are not publicity situations as referred to in this section. These procedures can be found in IRM Chapters 9.7, Asset Forfeiture and Seizure.

9.3.2.8.3.4
(07-02-2004)

Asset Sharing

- (1) Photos, public record investigation summaries, news releases, and press conferences can be used to publicize asset-sharing events. Because the investigations have been adjudicated, asset-sharing investigations have substantial amounts of public information.
- (2) One occasion where the IRS can reap positive publicity occurs when a check is presented to an assisting state or local law enforcement agency involved in a seizure investigation. The PIO can arrange for the Director, Field Operations and SAC to participate in the presentation.

9.3.2.9
(07-02-2004)

Non-Investigative Publicity

- (1) Criminal Investigation has many opportunities to promote its mission, beyond investigation-related activities. Outreach to key audiences provides many of those opportunities. Outreach is defined as any proactive education, assistance, or marketing activity designed to provide or enhance top quality service to internal or external customers and/or to help taxpayers better understand and meet their tax responsibilities. Criminal Investigation’s customers have been defined as tax professionals, the taxpaying public, (including representatives), attorneys for the government, and the IRS operating divisions.
- (2) The PIO is to be notified of all non-investigation related outreach opportunities to promote CI’s mission. The PIO must coordinate non-investigative media interviews with the local MRS. The following is a list of some non-investigation related opportunities:
 - a. public speaking engagements
 - b. compliance projects
 - c. written articles
 - d. public service or outreach projects
 - e. award presentations

- 9.3.2.9.1
(07-02-2004)
Public Speaking Engagements
- (1) Frequently IRS or CI is asked to speak to civic organizations, professional associations, law enforcement organizations, schools, or banks. Criminal Investigation talking points and speeches are available for these events by contacting the PIO who will coordinate the appearances with CI Communications and Education.
- 9.3.2.9.2
(07-02-2004)
Compliance Projects
- (1) Consideration should be given to coordinated news releases through IRS Communications and Liaison at the onset of major compliance projects. Such projects frequently are worked in conjunction with the other operating divisions covering major industries or occupations involved in widespread noncompliance. These activities may result in a significant number of audits resulting in high dollar assessments, and ultimately many successful criminal prosecutions. A proactive approach would involve a general news release at the time the civil audits begin, followed by releases regarding the number of audits and assessments made, and still later with the traditional criminal action news releases. A comprehensive approach could result in greater overall compliance.
- 9.3.2.9.3
(07-02-2004)
Professional Articles
- (1) Frequently, newspapers, periodicals, and newsletters ask for contributing articles on CI or agent profiles. Responses to these requests provide positive publicity and should be coordinated through the CI Communications and Education.
- 9.3.2.9.4
(07-02-2004)
Outreach and Public Service
- (1) Participation in outreach programs and public service programs also provide a platform for positive news coverage.
- 9.3.2.9.5
(07-02-2004)
Award Presentations
- (1) Awards, both internal and external, received by CI personnel, as well as awards presented by CI personnel to persons in the community who have aided the mission of the IRS, provide a positive image of the IRS.
- 9.3.2.9.6
(06-05-2006)
Information Regarding Non-Investigation Publicity
- (1) The PIO is to be furnished with the following information regarding non-investigation publicity and outreach:
- a. Date the request was received
 - b. Date and time of the event
 - c. Requesting information
 - d. Location
 - e. Topic
 - f. Type of activity
 - g. Point of Contact – name, phone number, fax number, email address
 - h. Length of presentation
 - i. Type and size of the audience
 - j. Audience feedback
- 9.3.2.10
(07-02-2004)
Media Inquiries
- (1) Media inquiries and contacts must be coordinated through the PIO.
- (2) Media is the basic means of mass communications with the public, therefore effective procedures are necessary to ensure the handling of inquiries promptly and in a spirit of genuine helpfulness. Such cooperation is dictated by the valuable contribution made by the media in disseminating the requirements of tax law compliance and the policies and programs of the IRS.

- (3) Timeliness is essential in news dissemination and should be given major emphasis in meeting the requirements of the media. It is particularly important in adversary situations. If it is appropriate to comment, the IRS's side of the story should be made available as quickly as possible, preferably in time for the edition in which the first reporting of the story appears.
- (4) Extreme care should be used in responding to inquiries of a general nature when it can reasonably be deduced that the answers are going to be applied to a specific situation.
- (5) When media inquiries are made, a statement of "no comment" should be avoided. If the media inquiry is made at a stage in the investigation when little or no public information is available, the PIO should explain the law that prohibits IRS from either confirming or denying the existence of an investigation. Unauthorized disclosure of tax returns or return information imposes severe criminal and civil penalties on the party responding to such questions (see IRM 9.3.1, Disclosure).
- (6) Media requests for information that go beyond the contents of a news release or public information should be referred to the attorney for the government's office.

9.3.2.11
(08-13-2003)
Media Procedures

- (1) The IRS and CI in particular, have specific procedures that must be followed to release, track, and record newsworthy information. The subsequent subsections address these procedures.
- (2) For additional information on public record issues see IRM 11.3.11, Other Information Available to the Public.

9.3.2.11.1
(08-13-2003)
Releasing News

- (1) Before news is released or an interview takes place, prepare the information to be released and obtain the appropriate approvals.

9.3.2.11.1.1
(07-02-2004)
The Printed News Release

- (1) A printed news release consists of information prepared by the attorney for the government or CI for publication by the news media. It should meet the following criteria:
 - a. be well structured
 - b. furnish all available public record facts
 - c. provide date of issue
 - d. provide a contact point for further information

9.3.2.11.1.1.1
(07-02-2004)
Notification Process for the News Release

- (1) Coordination among the special agent or SSA, the attorney for the government, and the PIO, should begin at the earliest possible date. This allows all parties to agree to a plan of action to maximize deterrent publicity.
- (2) As soon as the special agent is notified by the attorney for the government of the date of any anticipated legal actions, he/she should notify the PIO.
- (3) The PIO will place the anticipated action on the Legal Action Calendar in PIONeer.
- (4) The SSA is responsible for ensuring that anticipated legal actions are communicated to the PIO using the process adopted by the field office (e.g., email

notification, Outlook calendar, etc.) any additions or deletions of anticipated legal actions are brought to the attention of the PIO for correction.

9.3.2.11.1.1.2
(06-05-2006)

The CI News Release

- (1) Since only public record information can be included in a news release issued by the IRS, it is imperative that as much information on the defendant and the offense be included in legal action documents (indictment, plea, etc.)
- (2) Use of state and local public record sources are permissible in news releases as long as source and attribution is given to that record.

Note: The public record must be accessible to the general public. If the record is only accessible to law enforcement personnel, **you may** not use it as a public record.

- (3) The special agent and SSA should ensure that the attorney for the government includes the following information in each legal action document:
 - a. defendant's name
 - b. age
 - c. residence
 - d. employment
 - e. marital status
 - f. substance or text of charge
 - g. scope of the investigation
 - h. scheme utilized in committing the offense
- (4) The PIO is responsible for the preparation of all CI generated news releases. Accordingly, the special agent and SSA should work closely with the PIO to:
 - a. Provide copies of warrants, affidavits, indictments, and other publicly filed investigation-related documents to assist in drafting news releases.
 - b. Get factual basis for the legal action (e.g., plea) read into court record or have an IRS employee (not the investigation special agent) take verbatim notes of the court findings.
 - c. If appropriate, the special agent or SSA can prepare a draft press release for use by the attorney for the government or the PIO will ensure that the contents of the release conform to the disclosure and privacy statutes and guidelines.
- (5) A CI news release may be issued after all the following steps have been completed:
 - a. field office clearance procedures as established by the SAC in coordination with CI Communications and Education
 - b. approval by the attorney for the government
- (6) All IRS generated news releases relating to CI investigations will be approved by the SAC prior to issuance. This authority may be delegated no lower than the ASAC. Copies of all news releases will be provided to the investigating special agent and forwarded electronically to CI Communications and Education. News releases must be cleared within the field office in accordance with procedures established by the SAC in coordination with CI Communications and Education.
- (7) All news releases concerning criminal actions will be submitted to the attorney for the government for approval before distribution to the news media. News

releases related to pre-trial actions will be released only upon the approval of the attorney for the government on a case-by-case basis. News releases may be attributable either to the attorney for the government, or to both the IRS and the attorney for the government.

Jointly attributable news releases may be issued on approved IRS letterhead after the PIO ensures that the content in the release came from the public record documents and is approved by the attorney for the government. The release may be distributed by IRS officials. News releases, which are attributable only to the attorney for the government may be distributed by the IRS.

Note: The fact that the attorney for the government may generally draft and issue news releases in a particular judicial district in no way diminishes the responsibility of CI for proceeding with the process detailed above. The PIO should still be involved in the drafting of the release to ensure IRS issues are covered. The PIO can also assist in providing legal action documents to the media as appropriate. Additionally, the PIO will have targeted media markets, which may not be on the general distribution list of the attorney for the government. In larger field offices, releases issued by attorneys for the government are often left in a pressroom to be picked up by courthouse reporters. Media markets that target a specific industry, occupation, or geographical coverage may be overlooked. The PIO should notify these markets of the legal action.

- (8) At the request of the attorney for the government, the field office will assist with the distribution of releases to the news media whether they are released jointly or only attributable to the attorney for the government. News releases that are jointly attributable to the IRS and the attorney for the government may be printed on approved IRS letterhead.
- (9) Absent strategic or legal limitations, most legal actions on a CI investigation could be the subject of a news release. If the attorney for the government is not issuing a news release, then the responsibility rests on CI to consider the need for a news release (depending on the stage of the investigation, e.g., warrant execution, trial phase, or plea negotiations) and ensure that an appropriate release is drafted, reviewed, and distributed to the appropriate media outlets.
- (10) Any disclosure of return information under this provision is made pursuant to the “public record exception”.
 - a. Extreme care should be used when determining whether tax information has actually become a matter of public record. To be considered a matter of public record, the source of the information must be a document or other record that has in fact been filed with the court by, or on behalf, of the IRS in a judicial proceeding or is a matter of public record available to the general public. For information coming from a proceeding, the proceeding must be held in open court and the source of the information must be the public record of the judicial proceeding. An IRS copy of a document filed in a tax administrative judicial proceeding that does not bear a stamp evidencing its filing with the court should not be relied upon by itself as a public record.
 - b. Besides verifying that the information came from public record source, or was made public by, or on behalf of, the IRS in a court proceeding, the SAC must also attribute the disclosure he/she intends to make to the public record when making disclosure. For example, the news release would specifically state that the information is attributable to the court copy

of the pleading court order, opinion, transcript of the proceeding, or a news release from the attorney for the government. The words used must exactly match those used in the source. For information taken from a public record source other than the court proceeding, source and attribution must also be given. (For example, if location information is obtained from the property appraiser's files, the news release must state that the information is attributable to the property appraiser's records. Wording such as, "According to the XXXXXX County Appraiser's records, Mr. TP is located in the XXX area " would be appropriate to use). By following these source and attribution rules, potential disclosure problems can be avoided or minimized.

- c. The fact that tax information has been made public by someone other than the IRS does not affect the confidentiality of the same information contained in our files. The IRS cannot confirm or deny information made public by any other party unless specifically authorized by 26 USC §6103. Be careful of media questions that seek further (nonpublic) information that could result in unauthorized disclosures.

9.3.2.11.1.2
(08-13-2003)

**Personal Public
Appearance**

- (1) Approval must be obtained from the SAC before personally appearing in public on behalf of CI or IRS.

9.3.2.11.1.2.1
(07-02-2004)

Press Conference

- (1) Designated IRS officials may participate in press conferences at the invitation of the attorney for the government.

9.3.2.11.2
(02-16-2012)

**Tracking Publicity and
Post Publicity
Procedures**

- (1) Tracking investigation publicity is the responsibility of all CI employees, but primarily rests with the investigating special agent and SSA.
- (2) Publicity may occur at various stages of an investigation, i.e., execution of warrant, indictment, trial, plea, conviction, sentencing, and/or appeal. Publicity at those junctures should be entered into CIMIS on the affected investigations. However, it is not necessary to document every media pick up. The CI publicity rate is calculated by all sentenced investigations that received publicity some time during the period the investigation was open. It is important to document in CIMIS the various types of publicity obtained.

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Exhibit 9.3.2-1 (02-16-2012)**28 CFR, Chapter 1, Part 50.2 Release of Information by Personnel of the Department of Justice Relating to Criminal and Civil Proceedings (07/01/08 Edition)****(a) General**

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

(2) 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 law. The task of striking a fair balance between the protection of individuals accused of crime or involved in civil proceedings with the Government and public understandings of the problems of controlling crime and administering government depends largely on the exercise of sound judgment by those responsible for administering the law and by representatives of the press and other media.

(3) 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.

(4) 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.

(b) Guidelines to criminal actions

(1) These guidelines shall apply to the release of information to news media from the time a person is the subject of a criminal investigation until any proceeding resulting from such an investigation 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, nor shall personnel of the Department furnish any statement or information, which could reasonably be expected to be disseminated by means of public communication, if such a statement or information may reasonably be expected to influence the outcome of a pending or future 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:

(i) The defendant's name, age, residence, employment, marital status, and similar background information.

(ii) The substance or text of the charge, such as a complaint, indictment, or information.

(iii) The identity of the investigating and/or arresting agency and the length or scope of an investigation.

iv) 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.

Exhibit 9.3.2-1 (Cont. 1) (02-16-2012)**28 CFR, Chapter 1, Part 50.2 Release of Information by Personnel of the Department of Justice Relating to Criminal and Civil Proceedings (07/01/08 Edition)**

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 or investigation would be highly prejudicial or where the release thereof would serve no law enforcement function, such information should not be made public.

(4) Personnel of the Department shall not disseminate any information concerning a defendant's prior criminal record.

(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:

(i) Observations about a defendant's character.

(ii) Statements, admissions, confessions, or alibis attributable to a defendant, or the refusal or failure of the accused to make a statement.

(iii) Reference to investigative procedures such as fingerprints, polygraph examinations, ballistic tests, or laboratory tests, or to the refusal by the defendant to submit to such tests or examinations.

(iv) Statements concerning the identity, testimony, or credibility of prospective witnesses.

(v) Statements concerning evidence or argument in the case, whether or not it is anticipated that such evidence or argument will be used at trial.

(vi) Any opinion as to the accused's guilt, or the possibility of a plea of guilty to the offense charged, or the possibility of a plea to a lesser offense.

(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 the 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.

(c) Guidelines to civil actions

Personnel of the Department of Justice associated with a civil action shall not during its investigation or litigation make or participate in making an extrajudicial statement, other than a quotation from or reference to public records, which a reasonable person would expect to be disseminated by means of public communication if there is a reasonable likelihood that such dissemination will interfere with a fair trial and which relates to:

Exhibit 9.3.2-1 (Cont. 2) (02-16-2012)

28 CFR, Chapter 1, Part 50.2 Release of Information by Personnel of the Department of Justice Relating to Criminal and Civil Proceedings (07/01/08 Edition)

- (1) Evidence regarding the occurrence or transaction involved.
- (2) The character, credibility, or criminal records of a party, witness, or prospective witness.
- (3) The performance or results of any examinations or tests or the refusal or failure of a party to submit to such.
- (4) An opinion as to the merits of the claims or defenses of a party, except as required by law or administrative rule.
- (5) Any other matter reasonably likely to interfere with a fair trial of the action.

[Order No. 469–71, 36 FR 21028, Nov. 3, 1971, as amended by Order No. 602–75, 40 FR 22119, May 20, 1975]

Exhibit 9.3.2-2 (02-16-2012)**Title 1- 7, United States Attorneys' Manual, Media Relations, dated June 2010**

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:
<ul style="list-style-type: none"> • 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.)

Exhibit 9.3.2-2 (Cont. 1) (02-16-2012)**Title 1- 7, United States Attorneys' Manual, Media Relations, dated June 2010**

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. [Added November 2003] [cited in USAM 1-3.000; USAM 1-7.401]

Exhibit 9.3.2-2 (Cont. 2) (02-16-2012)**Title 1- 7, United States Attorneys' Manual, Media Relations, dated June 2010**

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.

Exhibit 9.3.2-2 (Cont. 3) (02-16-2012)**Title 1- 7, United States Attorneys' Manual, Media Relations, dated June 2010**

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:

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

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

C. The identity of the investigating and/or arresting agency and the length and scope of an 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 physical items seized at the time of arrest. Any such disclosures shall not include subjective observations; and

E. 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.

Exhibit 9.3.2-2 (Cont. 4) (02-16-2012)**Title 1- 7, United States Attorneys' Manual, Media Relations, dated June 2010**

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

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;

Exhibit 9.3.2-2 (Cont. 5) (02-16-2012)**Title 1- 7, United States Attorneys' Manual, Media Relations, dated June 2010**

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 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)

