

# Department of Justice Reverses Course on Media Policy

*April 28, 2025*

On April 25, 2025, Attorney General Pam Bondi announced a new policy, rescinding the prior administration's policies that restricted prosecutors from seeking records or compelling testimony from news organizations in leak probes.<sup>1</sup> This policy substantially lowers internal hurdles for compelling reporters to reveal sources and provide records. The reversal signals a greater willingness by the Department of Justice ("DOJ") to seek such information from news organizations and exposes individuals and organizations communicating with the media to heightened risks.

## Background:

The new policy explicitly rescinds the policies implemented under former Attorney General Merrick Garland, previously codified in 28 C.F.R. § 50.10 (2022) and detailed in a July 19, 2021 memo.<sup>2</sup> That prior policy largely prohibited prosecutors from using compulsory measures against journalists acting within their news-gathering role to uncover confidential sources or unpublished work, except in rare circumstances such as to prevent an imminent or concrete risk of death or serious bodily harm.

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<sup>1</sup> Memorandum from Pam Bondi, Att'y Gen., U.S. Dep't of Justice, to All Department Employees, Subject: Updated Policy Regarding Obtaining Information From, or Records of, Members of the News Media (Apr. 25, 2025) (hereinafter "Bondi Memo").

<sup>2</sup> *Id.* at 1 n.1 (citing rescission of 28 C.F.R. § 50.10 (2022) and the July 19, 2021 Garland Memo).

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## The New Policy: Lower Internal Threshold for Seeking Information from Reporters

The new policy from Attorney General Bondi permits prosecutors investigating government leaks to more readily seek and obtain authorization for compulsory measures.<sup>3</sup> This includes using subpoenas, court orders, and search warrants directed at journalists to compel the production of records and testimony related to leak investigations.<sup>4</sup>

The Attorney General directed the Office of Legal Policy to publish new regulatory language in 28 C.F.R. § 50.10 reflecting this rescission,<sup>5</sup> with further guidance available in the updated Justice Manual § 9-13.400.<sup>6</sup>

While reversing the prior restrictions, the memo notes that procedural protections will continue to limit the use of these tools, recognizing such techniques as an “extraordinary measure to be deployed as a last resort”.<sup>7</sup> Key factors that will be considered before approving these measures include whether reasonable grounds indicate a crime occurred, the information is essential, reasonable attempts were made to get information from alternative sources, and negotiations with the media member were pursued (unless specific threats exist).<sup>8</sup> Attorney General approval is also required to question or arrest members of the news media.<sup>9</sup> Despite these procedures, the prior near-prohibition on targeting journalists to identify sources is now gone. The memo states this change is necessary to stop leaks that “undermine President Trump’s policies, victimize government agencies, and cause harm to the American people”.<sup>10</sup>

## Key Implications

The new policy has several implications:

1. **Elevated Risk for Confidential Sources:** With internal DOJ restrictions from seeking information from the news media through compulsory process

eased, anyone providing confidential information to journalists faces a much higher risk of identification and investigation should the DOJ pursue a leak probe.

2. **Communications Potentially Exposed:** Communications with the new media regarding sensitive matters face greater risk of exposure. The DOJ may now more readily seek these communications via subpoenas or warrants served on the journalist or news organization if relevant to a leak probe.
3. **Potential Chilling Effect:** The policy may deter whistleblowers and other sources from speaking to the press, including to report potential wrongdoing.

## Recommendations

Given the DOJ’s new policy and increased focus on leaks, we recommend the following:

- **Exercise Caution:** Be cautious when communicating sensitive, non-public information to the media. This is especially true if it involves government interests or could be viewed as an unauthorized government disclosure or the further communication of such disclosure.
- **Evaluate Communication Practices:** When interacting with the media on sensitive topics, carefully consider the communication methods used (e.g., specific apps, personal vs. work devices) and clearly define the terms of the conversation (e.g., on-the-record, background, off-the-record), recognizing that source protections under DOJ policy are weakened.
- **Consult Legal Counsel as Appropriate:** For specific situations involving potential leaks or media contacts in sensitive investigations, consulting with legal counsel is advisable to fully

<sup>3</sup> *Id.* at 3.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 1.

<sup>6</sup> *Id.* at 4.

<sup>7</sup> *Id.* at 1.

<sup>8</sup> *Id.* at 3.

<sup>9</sup> *Id.* at 4.

<sup>10</sup> *Id.* at 2.

assess the implications and navigate any  
heightened risks associated with the policy change.

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