



Program Statement

OPI: IPD
NUMBER: 1480.05
DATE: 9/21/2000
SUBJECT: News Media Contacts

1. [**PURPOSE AND SCOPE** §540.60. The Bureau of Prisons recognizes the desirability of establishing a policy that affords the public information about its operations via the news media. Representatives of the news media (see §540.2) may visit institutions for the purpose of preparing reports about the institution, programs, and activities. It is not the intent of this rule to provide publicity for an inmate or special privileges for the news media, but rather to insure a better informed public. The Bureau of Prisons also has a responsibility to protect the privacy and other rights of inmates and members of the staff. Therefore, an interview in an institution must be regulated to insure the orderly and safe operation of the institution.]

§540.2 refers to Section 6 of this Program Statement.

These rules apply to inmates in Federal institutions. When a Federal prisoner is confined in any non-Federal facility the local or state facility rules and regulations will govern.

This policy shall not restrict the union's role in representing bargaining unit employees in their day-to-day, labor-management relations as outlined by law, the Hatch Act, and Federal Labor Relations Authority decisions. Union officials will be allowed to represent the Bargaining Unit in their official capacity (e.g., providing interviews with the print or broadcast media, placing advertisements in newspapers, appearing on public talk shows and radio stations, and speaking at conferences and conventions) without fear or reprisal from the employer or representatives of the employer. The Union representative will be designated as outlined in the master agreement.

[Bracketed Bold - Rules]

Regular Type - Implementing Text

2. **SUMMARY OF CHANGES.** This re-issuance establishes guidelines regarding the disclosure of names of Bureau employees to the news media.

3. **PROGRAM OBJECTIVES.** The expected results of this program are:

a. The public will be informed about the Bureau's operations through contacts with news media representatives.

b. The privacy and other rights of both inmates and staff will be protected, including the right of an inmate not to be photographed or recorded.

c. Representatives of the news media will be informed of procedures through which they may request interviews with prisoners in Federal institutions.

d. Staff will be able to identify representatives of the news media who qualify to interview prisoners in Federal institutions.

4. **DIRECTIVES AFFECTED**

a. **Directive Rescinded**

PS 1480.04 Contact with News Media (5/19/99)

b. **Directives Referenced**

PS 1351.04 Release of Information (12/5/96)
PS 5264.06 Telephone Regulations for Inmates (12/22/95)
PS 5265.11 Correspondence (7/9/99)
PS 5502.07 Duty Officer Guidelines and Reporting
 Procedures (12/31/97)
PS 7300.09 Community Corrections Manual (1/12/98)

Resolution 22, Department of Justice (8/3/98)

c. Rules cited in this Program Statement are contained in 28 CFR 540.2(b) and 540.60-65

5. **STANDARDS REFERENCED**

a. American Correctional Association 3rd Edition Standards for Adult Correctional Institutions: 3-4022

b. American Correctional Association 3rd Edition Standards for Adult Local Detention Facilities: 3-ALDF-1A-19

c. American Correctional Association Standards for Adult Correctional Boot Camp Programs: 1-ABC-1A-19

d. American Correctional Association 2nd Edition Standards for the Administration of Correctional Agencies: 2-CO-1A-27

6. [DEFINITIONS §540.2(b)]. "Representatives of the news media" means persons whose principal employment is to gather or report news for:

a. A newspaper which qualifies as a general circulation newspaper in the community in which it is published. A newspaper is one of "general circulation" if it circulates among the general public and if it publishes news of a general character of general interest to the public such as news of political, religious, commercial, or social affairs. A key test to determine whether a newspaper qualifies as a "general circulation" newspaper is to determine whether the paper qualifies for the purpose of publishing legal notices in the community in which it is located or the area to which it distributes;

b. A news magazine which has a national circulation and is sold by newsstands and by mail subscription to the general public;

c. A national or international news service; or

d. A radio or television news program, whose primary purpose is to report the news, of a station holding a Federal Communications Commission license.]

7. [AUTHORIZATION §540.61]

a. A news media representative who desires to make a visit or conduct an interview at an institution must make application in writing to the Warden, indicating that he or she is familiar with the rules and regulations of the institution and agrees to comply with them.]

This will be accomplished by the use of an agreement similar to the News Representatives Agreement form (BP-S232.014), available on BOPDOCS.

[b. As a condition of authorizing interviews and making facilities available to conduct an interview, the news media representative shall recognize a professional responsibility to

make reasonable attempts to verify any allegations regarding an inmate, staff member or institution.

c. A representative of the news media is requested to provide the Bureau of Prisons an opportunity to respond to any allegation, which might be published or broadcast prior to distribution.

d. A representative of the news media shall collect information only from the primary source. A representative of the news media may not obtain and use personal information from one inmate about another inmate who refuses to be interviewed.

e. The Warden may be contacted concerning discussions or comments regarding applicability of any rule or order.

f. Failure to adhere to the standards of conduct set forth by this rule for the news media representative constitutes grounds for denying that news media representative, or the news organization which he or she represents, permission to conduct an interview.

g. Any questions as to the meaning or application of this subpart are resolved by the Director of the Bureau of Prisons.]

8. [INSTITUTIONAL VISITS §540.62

a. A media representative shall make advance appointments for visits.

b. When media representatives visit the institutions, photographs of programs and activities may be taken, and media representatives may meet with groups of inmates engaged in authorized programs and activities. An inmate has the right not to be photographed and not to have his or her voice recorded by the media. A visiting representative of the media is required to obtain written permission from an inmate before photographing or recording the voice of an inmate participating in authorized programs and activities.]

(1) Use of the inmate's name, identifiable photographs, or voice recording is not recommended.

(2) The News Interview Authorization form (BP-S233.014), available on BOPDOCS, must be used by the media when making a

request for interview, photographs, voice recording, and appointments for institutional visits with inmates.

(3) The original copy of the News Interview Authorization is to be placed in the Inmate Central File and a copy is to be sent to the media representative making the request.

[c. The Warden may suspend all media visits during an institutional emergency and for a reasonable time after the emergency.

d. An inmate currently confined in an institution may not be employed or act as a reporter.

e. Interviews by reporters and others not included in §540.2 may be permitted only by special arrangement and with approval of the Warden.]

The Warden may approve institution visits and interviews requested by writers for the purpose of writing a book. Such approval is contingent upon the writer:

- (1) Submitting verification of his or her previously published book(s); or
- (2) Submitting a letter from a recognized publishing company that indicates the publisher's contractual support of the book.

9. PERSONAL INTERVIEWS §540.63

a. An inmate may not receive compensation or anything of value for interviews with the news media.

b. Either an inmate or a representative of the news media may initiate a request for a personal interview at an institution.

c. Visits by the news media to conduct personal interviews are subject to the same conditions stated in §540.62. A media representative shall make a request for personal interview within a reasonable time prior to the personal interview.]

§540.62 refers to Section 8 of this Program Statement.

[d. Staff shall notify an inmate of each interview request, and shall, as a prerequisite, obtain from the inmate written consent for the interview prior to the interview taking place.

The written consent or denial becomes part of the inmate's central file.]

The inmate who agrees to an interview must complete a BP-S233.014, available on BOPDOCS.

[e. As a prerequisite to granting the interview, an inmate must authorize the institutional staff to respond to comments made in the interview and to release information to the news media relative to the inmate's comments.

f. The Warden shall normally approve or disapprove an interview request within 24 to 48 hours of the request.

g. The Warden shall document any disapproval. A request for interview may be denied for any of the following reasons.

(1) The news media representative, or the news organization which he or she represents, does not agree to the conditions established by this subpart or has, in the past, failed to abide by the required conditions.

(2) The inmate is physically or mentally unable to participate. This must be supported by a medical officer's statement (a psychologist may be used to verify mental incapacity) to be placed in the inmate's record, substantiating the reason for disapproval.

(3) The inmate is a juvenile (under age 18) and written consent has not been obtained from the inmate's parent or guardian. If the juvenile inmate's parents or guardians are not known or their addresses are not known, the Warden of the institution shall notify the representative of the news media of the inmate's status as a juvenile, and shall then consider the request.]

The inmate's written consent, as specified in subsection 9.d., is required.

[(4) The interview, in the opinion of the Warden, would endanger the health or safety of the interviewer, or would probably cause serious unrest or disturb the good order of the institution.

(5) The inmate is involved in a pending court action and the court having jurisdiction has issued an order forbidding such interviews.

(6) In the case of unconvicted persons (including competency commitments under 18 U.S.C. 4244 and 4246) held in federal institutions, interviews are not authorized until there is clearance with the court having jurisdiction, ordinarily through the U.S. Attorney's Office.]

In some districts, there may be a standing authorization for interviews, in the absence of individual "gag orders," but in other districts, all pretrial inmates may need to be cleared upon request for interviews.

[(7) The inmate is a "protection" case and revelation of his or her whereabouts would endanger the inmate's safety.

h. Interviews are normally held in the institution visiting room during normal weekday business hours. The Warden may:

(1) Determine that another location is more suitable for conducting the interview;

(2) Limit interview time for the entire institution if the Warden determines that the interviews are imposing a serious drain on staff or use of the facilities;

(3) Limit to one one-hour interview per month for an inmate in segregation, restricted, holdover, control unit, or hospital status if required by special security, custodial, or supervisory needs; and

(4) Limit the amount of audio, video, and film equipment or number of media personnel entering the institution if the Warden determines that the requested equipment or personnel would create a disruption within the institution.]

For example, in the case of interviews conducted in visiting rooms which are frequently crowded, or in visiting rooms of maximum security institutions, the Warden may limit the equipment to hand held cameras or recorders.

[i. In conjunction with the personal interview, if the member of the media wishes to tour the institution, he or she must comply with the provisions of § 540.61.]

§540.61 refers to Section 7 of this Program Statement.

[j. Interviews are not subject to auditory supervision.]

10. [PRESS POOLS §540.64

a. The Warden may establish a press pool whenever he or she determines that the frequency of requests for interviews and visits reaches a volume that warrants limitations.

b. Whenever the Warden establishes a press pool, the Warden shall notify all news media representatives who have requested interviews or visits that have not been conducted. Selected representatives are admitted to the institution to conduct the interviews under the specific guidelines established by the Warden.

c. All members of the press pool are selected by their peers and consist of not more than one representative from each of the following groups:

- (1) The national and international news services;
- (2) The television and radio networks and outlets;
- (3) The news magazines and newspapers; and
- (4) All media in the local community where the institution is located.

If no interest has been expressed by one or more of these groups, no representative from such group need be selected.

d. All news material generated by such a press pool is made available to all media without right of first publication or broadcast.]

11. [RELEASE OF INFORMATION §540.65

a. The Warden shall promptly make announcements stating the facts of unusual, newsworthy incidents to local news media. Examples are deaths, inside escapes, and institution emergencies.]

The text of such messages must be transmitted to the Central Office as part of the reports required on the incidents to which they relate. If it can reasonably be assumed that the wire services or the Washington news media will make an inquiry at the Central Office, the text should be communicated to the Central Office by telephone.

[b. The Warden shall provide information about an inmate that is a matter of public record to the representatives of the media upon request. The information is limited to the inmate's:

- (1) Name;
- (2) Register number;
- (3) Place of incarceration;]

The release of inmate designation information is prohibited. An inmate's designation place of incarceration becomes public information only after the inmate has arrived at the designated institution.

[(4) Age;

(5) Race;

(6) Conviction and sentencing data: this includes the offense(s) for which convicted, the court where convicted, the date of sentencing, the length of sentence(s), the amount of good time earned, the parole eligibility date and parole release (presumptive or effective) date, and the date of expiration of sentence, and includes previous Federal, state, and local convictions;

(7) Past movement via transfers or writs;

(8) General institutional assignments.]

The Warden of each institution, or his or her designated representative, is solely responsible for contact with the press. Other staff members are to refer all press inquiries to the Warden or his or her designee.

[c. Information in paragraphs (b) (1) through (8) of this section may not be released if confidential for protection cases.

d. A request for additional information concerning an inmate by a representative of the news media is referred to the Public Information Officer, Central Office, Washington, D.C.

e. The Public Information Officer, Central Office, Washington, D.C. shall release all announcements related to:

- (1) Bureau of Prisons policy;
- (2) Changes in an institutional mission;
- (3) Type of inmate population; or
- (4) Changes in executive personnel.]

12. RELEASE OF STAFF NAMES

a. **Guidelines.** When a BOP employee is directly involved in a newsworthy event, the BOP and/or the Department of Justice, Office of Public Affairs, may release the name of the employee in response to a media request unless a designated official at the BOP determines that:

- (1) it is reasonable to believe that:
 - (i) release could reasonably compromise a pending investigation; or
 - (ii) release could compromise a confidential source.
- (2) it is reasonable to believe that:
 - (i) a disclosure could lead to harassment, violence, or retaliation against the employee, other federal employees, or the employee's family; or
 - (ii) a disclosure could lead to press inquiries that would interfere with the employee's work.
- (3) the employee was killed or seriously injured and his or her family has not yet been notified;
- (4) the employee is the subject of allegations of wrongdoing, and an internal investigation or disciplinary process is pending or imminent;
- (5) the employee's identity was publicly known at the time of the event, but the incident has been obscured by the passage of time and is no longer the subject of substantial news attention; or

- (6) there is a specific and articulable basis upon which to conclude that the employee's name should not be released for operational or investigative reasons other than those listed above. If the BOP decides to withhold an employee's name under this section, it would be required to advise the Department's Office of Public Affairs as soon as possible.

b. **Agency/Employee Consent.** If the BOP consents to the release under Section 12.a. and the information is not maintained under the employee's name, the BOP and/or the Department of Justice, Office of Public Affairs, may release the name of the employee.

In those instances in which the information is maintained under the employee's name, and therefore the Privacy Act must be considered, the information may be released if the employing agency and the employee consent or there is an exception under the Privacy Act which applies. In either case, the employee should be notified of the release, if possible.

13. **INSTITUTION SUPPLEMENT.** Each institution must develop an Institution Supplement to implement this Program Statement. The Institution Supplement is to include, at a minimum, procedures for responding to media inquiries received after normal duty hours. Prior to implementation, the Institution Supplement is to be submitted to the appropriate Regional Director for approval.

/s/

Kathleen Hawk Sawyer
Director