

GUIDELINES FOR THE REPORTING

OF CRIMINAL PROCEEDINGS

2. The release of certain types of information by law enforcement personnel, the bench and bar and the publication thereof by news media generally leads to the release of prejudicial information. The proper administration of justice is the responsibility of the judiciary, bar, the prosecution, law enforcement personnel, news media and the public. None should relinquish its share in that responsibility or attempt to override or regulate the judgment of the other. None should condone injustices on the ground that they are infrequent.

The greatest news interest is usually engendered during the pretrial stage of a criminal case. It is then that the maximum attention is received and the greatest impact is made upon the public mind. It is then that the greatest danger to a fair trial occurs. The bench, the bar and the news media must exercise good judgment to balance the possible release of prejudicial information with the real public interest. However, these considerations are not necessarily applicable once a jury has been empaneled in a case. It is inherent in the concept of freedom of the press that the news media be free to report what occurs in public proceedings, such as criminal trials. In the course of the trial it is the responsibility of the bench to take appropriate measures to insure that the deliberations of the jury are based upon what is presented to them in court.

These guidelines are proposed as a means of balancing the public's right to be informed with the accused's right to a fair trial before an impartial jury.

1. It is appropriate to make public the following information concerning the defendant:

(a) The defendant's name, age, residence, employment, marital status, and similar background information. There should be no restraint on biographical facts other than accuracy, good taste and judgment.

(b) The substance or text of the charge, such as complaint, indictment, information or, where appropriate, the identity of the complaining party.

(c) The identity of the investigating and arresting agency and the length of the 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 items seized at the time of arrest.

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2. The release of certain types of information by law enforcement personnel, the bench and bar and the publication thereof by news media generally tends to create dangers of prejudice without serving a significant law enforcement or public interest function. Therefore, all concerned should be aware of the dangers of prejudice in making pretrial public disclosures of the following:

- (a) Opinions about a defendant's character, his guilt or innocence.
- (b) Admissions, confessions or the contents of a statement or alibis attributable to a defendant.
- (c) References to the results of investigative procedures, such as fingerprints, polygraph examinations, ballistic tests, or laboratory tests.
- (d) Statements concerning the credibility or anticipated testimony of prospective witnesses.
- (e) Opinions concerning evidence or argument in the case, whether or not it is anticipated that such evidence or argument will be used at trial.

Exceptions may be in order if information to the public is essential to the apprehension of a suspect, or where other public interests will be served.

3. Prior criminal charges and convictions are matters of public record and are available to the news media through police agencies or court clerks. Law enforcement agencies should make such information available to the news media after a legitimate inquiry. The public disclosure of this information by the news media may be highly prejudicial without any significant addition to the public's need to be informed. The publication of such information should be carefully reviewed.

4. Law enforcement and court personnel should not prevent the photographing of defendants when they are in public places outside the courtroom. They should not encourage pictures or televising nor should they pose the defendant.

5. Photographs of a suspect may be released by law enforcement personnel provided a valid law enforcement function is served thereby. It is proper to disclose such information as may be necessary to enlist public assistance in apprehending fugitives from justice. Such disclosure may include photographs as well as records of prior arrests and convictions.

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6. The news media are free to report what occurs in the course of the judicial proceeding itself. The bench should utilize available measures, such as cautionary instructions, sequestration of the jury and the holding of hearings on evidence after the empaneling of the jury, to insure that the jury's deliberations are based upon evidence presented to them in court.

7. It is improper for members of the bench-bar-news media or law enforcement agencies to make available to the public any statement or information for the purpose of influencing the outcome of a criminal trial.

8. Sensationalism should be avoided by all persons and agencies connected with the trial or reporting of a criminal case.