The 2007 Media Subpoena Survey is a nationwide survey of newspaper editors and television news directors. It aims to assess the frequency and impact of media subpoenas, to examine the opinions of news editors on the issue, and to gather factual data that may be helpful in ongoing policy and legislative debates on the question.

All answers to the survey are completely confidential. Responses will be made public only in the form of aggregated statistical tabulations, and individual answers will never be publicly linked to the respondent’s identity or organization without the respondent’s express consent.

Thank you very much for your participation.

Please provide your passcode here: _________________________

GENERAL QUESTIONS

PLEASE CHECK ONE ANSWER.

1. Compared to five years ago, I believe that courts’ attitudes toward news organizations and subpoenas are
   - ☐ much less protective of the media
   - ☐ somewhat less protective of the media
   - ☐ about the same
   - ☐ somewhat more protective of the media
   - ☐ much more protective of the media

2. Compared to five years ago, the use of confidential sources by reporters in my organization is
   - ☐ significantly less
   - ☐ somewhat less
   - ☐ about the same
   - ☐ somewhat greater
   - ☐ significantly greater

3. Compared to five years ago, I believe that the frequency with which subpoenas are issued to news organizations in the United States is
   - ☐ significantly less
   - ☐ somewhat less
   - ☐ about the same
   - ☐ somewhat greater
   - ☐ significantly greater

3a. If you believe that the frequency with which subpoenas are issued to news organizations is either somewhat greater or significantly greater compared to five years ago, to what do you attribute this increase? Check all that apply.
   - ☐ Change in climate brought about by recent, high-publicity cases in which reporters asserting a reporter’s privilege were forced to testify or jailed.
   - ☐ Increased public distrust of the media
   - ☐ National political change
   - ☐ Decreased willingness of media organizations to challenge subpoenas
   - ☐ Other ____________________________
3b. Which of the above do you think is the most significant reason for the increase in subpoenas? **CHECK ONLY ONE**.

- □ Change in climate brought about by recent, high-publicity cases in which reporters asserting a reporter’s privilege were forced to testify or jailed.
- □ Increased public distrust of the media
- □ National political change
- □ Decreased willingness of media organizations to challenge subpoenas
- □ Other ____________________

4. Compared to five years ago, I believe that the risk of my own news organization receiving a subpoena is

- □ significantly less
- □ somewhat less
- □ about the same
- □ somewhat greater
- □ significantly greater

5. Compared to five years ago, I believe that prosecutors are

- □ significantly less willing to subpoena the press
- □ somewhat less willing to subpoena the press
- □ about the same in their willingness to subpoena the press
- □ somewhat more willing to subpoena the press
- □ significantly more willing to subpoena the press

6. Compared to five years ago, I believe that civil litigants are

- □ significantly less willing to subpoena the press
- □ somewhat less willing to subpoena the press
- □ about the same in their willingness to subpoena the press
- □ somewhat more willing to subpoena the press
- □ significantly more willing to subpoena the press

7. Compared to five years ago, I believe that sources who work with reporters at my organization are

- □ much less willing to speak on condition of confidentiality
- □ somewhat less willing to speak on condition of confidentiality
- □ about the same in their willingness to speak on condition of confidentiality
- □ somewhat more willing to speak on condition of confidentiality
- □ much more willing to speak on condition of confidentiality

8. Compared to five years ago, the amount of time and resources that my colleagues and I spend responding to subpoenas is

- □ significantly less
- □ somewhat less
- □ about the same
- □ somewhat greater
- □ significantly greater

9. Compared to five years ago, our organization’s policy or practice on the use of confidential sources

- □ permits far fewer uses of confidential sources
- □ permits fewer uses of confidential sources
- □ is unchanged
- □ permits more uses of confidential sources
- □ permits many more uses of confidential sources

9a. If you changed your policy or practice, which of the following factors led you to do so? **CHECK ALL THAT APPLY**.

- □ A request from management
- □ A request from reporters
- □ The receipt of one or more subpoenas by your organization
- □ News coverage of reporter’s privilege cases that were lost by reporters at other organizations
- □ Changes in the attitudes of major sources
- □ Advice of legal counsel
- □ Other ____________________
9b. Which of the above do you think is the most significant reason for your change in policy or practice? **CHECK ONLY ONE.**

- A request from management
- A request from reporters
- The receipt of one or more subpoenas by your organization
- News coverage of reporter's privilege cases that were lost by reporters at other organizations
- Changes in the attitudes of major sources
- Advice of legal counsel
- Other ______________________

**SUBPOENA DATA**

10. How many subpoenas seeking information or material relating to newsgathering activities were served on reporters, editors or other news employees at your organization in **2006?**

   **IF YOUR ANSWER TO QUESTION 10 IS ZERO, PLEASE SKIP TO QUESTION 13.**

11. How many of the subpoenas received at your organization arose from proceedings that took place in a **federal** forum (U.S. District Court)?

   **IF YOUR ANSWER TO QUESTION 11 IS ZERO, PLEASE SKIP TO QUESTION 12.**

11a. Of those **federal** subpoenas, what kind of proceedings were involved? **INDICATE THE NUMBER OF SUBPOENAS RECEIVED IN EACH TYPE.**

- Criminal trial
- Civil trial
- Don't know

- Criminal investigation
- Civil deposition

- Grand jury
- Administrative proceeding

- Other. **PLEASE DESCRIBE:** ________________________________

11b. Of those **federal** subpoenas issued in **criminal** proceedings, **how many** were issued at the request of:

- Prosecution
- Defense
- Police
- Special Prosecutor
- Don't Know

11c. Of those **federal** subpoenas issued in **civil** proceedings, **how many** were issued in cases in which your reporter or your news organization:

- Was a party to the suit (such as a libel suit)?
- Was not a party to the suit (brought in as a “third party”)?

11d. Of those **federal** civil subpoenas issued in “third party” proceedings, **how many** were issued at the request of:

- Plaintiff
- Defendant
- Don’t know
11e. Of those federal subpoenas issued in civil proceedings in which your news organization was a party, how many were:

- [ ] Libel claims
- [ ] Invasion of privacy claims
- [ ] Don’t know
- [ ] Other

PLEASE DESCRIBE: ____________________________________________________________

11f. Please indicate the number of federal subpoenas received seeking:

- [ ] Notes
- [ ] Audiotapes
- [ ] Photo negatives
- [ ] Written drafts
- [ ] Unpublished photographs
- [ ] Published photographs
- [ ] Internal memos
- [ ] Published stories
- [ ] Testimony at trial
- [ ] Testimony at a deposition

11g. How many of the federal subpoenas asked for the names of confidential sources? [ ]

11h. How many of the federal subpoenas asked for other information received under a promise of confidentiality? [ ]

11i. How did you deal with the federal subpoenas received? Please indicate the total number of instances in which you did the following. Please indicate the total number of instances in which you did the following. [Note that your organization may have taken more than one of the following actions as to a single subpoena. For example, you might have filed a motion to quash and later appealed the ruling. Please account for each action taken.]

- [ ] Complied fully, without opposing
- [ ] Persuaded individual issuing subpoena to withdraw it after discussion with attorney/editor/other.
- [ ] Filed motion to quash; court quashed subpoena
- [ ] Filed motion to quash; court did not quash subpoena
- [ ] Appealed ruling to a higher court with an ultimate favorable ruling
- [ ] Appealed ruling to a higher court with an ultimate unfavorable ruling

11j. If courts’ rulings were favorable (subpoenas quashed or modified), what were the reasons given for their rulings? Check all that apply:

- [ ] Protected under the federal or state constitution
- [ ] Other sources available
- [ ] Material sought irrelevant
- [ ] Subpoena overbroad
- [ ] Insufficient showing of need
- [ ] Don’t Know
- [ ] Other

PLEASE DESCRIBE: ____________________________________________________________

11k. In instances in which the ruling at the highest level of appeal was unfavorable, how did you finally respond to the subpoenas? Please indicate the number of times in which you:

- [ ] Complied fully
- [ ] Did not comply
- [ ] Other

___________
12. How many of the subpoenas received at your organization in 2006 arose from state proceedings? _______

If your answer to question 12 is zero, please skip to question 13.

12a. Of those state subpoenas, what kind of proceedings were involved? Indicate the number of subpoenas received in each type:

☐ Criminal trial  ☐ Civil trial  ☐ Don’t know

☐ Criminal investigation  ☐ Civil deposition

☐ Grand jury  ☐ Administrative proceeding

☐ Other. Please describe: ____________________________

12b. Of those state subpoenas issued in criminal proceedings, how many were issued at the request of:

☐ Prosecution  ☐ Defense  ☐ Police  ☐ Don’t Know

12c. Of those state subpoenas issued in civil proceedings, how many were issued in cases in which your reporter or your news organization:

☐ Was a party to the suit (such as a libel suit)?  ☐ Was not a party to the suit (brought in as a “third party”)?

12d. Of those state civil subpoenas issued in “third party” proceedings, how many were issued at the request of:

☐ Plaintiff  ☐ Defendant  ☐ Don’t know

12e. Of those state subpoenas issued in civil proceedings in which your news organization was a party, how many were:

☐ Libel claims  ☐ Invasion of privacy claims  ☐ Don’t know

☐ Other. Please describe: ____________________________

12f. Please indicate the number of state subpoenas received seeking:

☐ Notes  ☐ Audiotapes  ☐ Photo negatives  ☐ Written drafts

☐ Unpublished photographs  ☐ Published photographs  ☐ Internal memos

☐ Published stories  ☐ Testimony at trial  ☐ Testimony at a deposition

12g. How many of the state subpoenas asked for the names of confidential sources? ☐

12h. How many of the state subpoenas asked for other information received under a promise of confidentiality? ☐
12i. How did you deal with the state subpoenas received? Please indicate the total number of instances in which you did the following. [Note that your organization may have taken more than one of the following actions as to a single subpoena. For example, you might have filed a motion to quash and later appealed the ruling. Please account for each action taken.]

☐ Complied fully, without opposing

☐ Persuaded individual issuing subpoena to withdraw it after discussion with attorney/editor/other.

☐ Filed motion to quash; court quashed subpoena

☐ Filed motion to quash; court did not quash subpoena

☐ Appealed ruling to a higher court with an ultimate favorable ruling

☐ Appealed ruling to a higher court with an ultimate unfavorable ruling

12j. If courts’ rulings were favorable (subpoenas quashed or modified), what were the reasons given for their rulings? Check all that apply:

☐ Shield law

☐ Protected under the federal or state constitution

☐ Don’t Know

If you can, be more specific:

☐ Other sources available

☐ Material sought irrelevant

☐ Subpoena overbroad

☐ Insufficient showing of need

☐ Other (describe)

12k. In instances in which the ruling at the highest level of appeal was unfavorable, how did you finally respond to the subpoenas? Please indicate the number of times in which you:

☐ Complied fully

☐ Did not comply

☐ Other ____________________

13. Please indicate the number of times in which the following occurred in 2006:

● Your newsroom was searched by police or other law enforcement agencies, or a search warrant was used to take materials from a journalist.

☐ Please describe:

________________________________________________________________________

________________________________________________________________________

● The telephone toll records of any of your staff or of your organization were subpoenaed from a telephone company.

☐ Please describe:

________________________________________________________________________

________________________________________________________________________

● The credit card, hotel, car rental or other newsgathering-related records of any of your staff or of your organization were subpoenaed from companies holding your records.

☐ Please describe:

________________________________________________________________________

________________________________________________________________________
14. Were any reporters at your organization removed from a story in 2006 as a result of the threat or use of subpoenas? **Indicate the number of times this happened:**

- [ ] As a result of your own editorial decision
- [ ] As a result of a judge’s separation order (forbidding a reporter-witness to be in the courtroom)

**Please provide details here:**

_________________________________________________________________________
_________________________________________________________________________
_________________________________________________________________________

15. Were any of the following individuals/entities sanctioned by a court after the reporter or organization refused to comply with a subpoena in 2006? **Please indicate the number of times that the following occurred:**

- [ ] A reporter was sanctioned.
- [ ] The organization was sanctioned.
- [ ] An editor or publisher was sanctioned.

**Please provide details here:**

_________________________________________________________________________
_________________________________________________________________________
_________________________________________________________________________

*For example, how long were any jail sentences, or how much time was served for civil contempt? Were monetary fines paid or assessed? Was community service required?*

16. Has the threat or use of subpoenas against your news organization affected your policy on retention of notes, drafts, or other unpublished/unbroadcast material?

- [ ] No
- [ ] Yes

**Please provide details here:**

_________________________________________________________________________
_________________________________________________________________________
_________________________________________________________________________

17. Has the threat or use of subpoenas against your news organization affected your policy on the use of confidential sources?

- [ ] No
- [ ] Yes

**Please provide details here:**

_________________________________________________________________________
_________________________________________________________________________
_________________________________________________________________________

18. Please describe generally how much time and resources were expended on subpoenas with which you complied. Tell if you are describing the average subpoena you respond to, or are recounting the “horror stories” that sometimes occur. Include information such as how many people are involved, how much discussion is required in the newsroom, consultation with legal counsel, or anything else that required the use of your staff’s time and energy.
19. Does the state in which your reporters do most of their work have a shield law that protects the confidentiality of source relationships in certain circumstances?

☐ Yes ☐ No ☐ Don’t know

20. Does the state in which your reporters do most of their work recognize some form of reporters’ privilege as a matter of state constitutional law or court decision?

☐ Yes ☐ No ☐ Don’t know

**DEMOGRAPHIC QUESTIONS**

21. My organization is in the State of ________________________________.

22. My organization is

☐ a daily newspaper with a circulation under 10,000
☐ a daily newspaper with a circulation between 10,000 and 25,000
☐ a daily newspaper with a circulation between 25,000 and 50,000
☐ a daily newspaper with a circulation between 50,000 and 100,000
☐ a daily newspaper with a circulation between 100,000 and 250,000
☐ a daily newspaper with a circulation between 250,000 and 500,000
☐ a daily newspaper with a circulation greater than 500,000

23. **Other.** Please add any comments, anecdotes, or other relevant information you may wish to contribute to this survey.

24. The researchers conducting this survey are interested in conducting follow-up interviews with some respondents about their answers to the above questions. Under no circumstances will identifying information be revealed publicly about these respondents without explicit permission.

Are you willing to be contacted for a short follow-up interview?

☐ Yes ☐ No

If yes, please list the best e-mail address and best telephone number at which to reach you:

E-mail: ________________________________
Telephone: ________________________________

**RESULTS:** Check here if you would like to receive a copy of the results of this study by e-mail: _____

**THANK YOU VERY MUCH FOR YOUR PARTICIPATION IN THIS STUDY. WE APPRECIATE YOUR TIME.**