

TITLE 13. COURTS AND COURT PROCEDURE
WITNESSES
ARTICLE 90.WITNESSES
PART 1. GENERAL PROVISIONS

13-90-119. Privilege for newsperson

(1) As used in this section, unless the context otherwise requires:

(a) "Mass medium" means any publisher of a newspaper or periodical; wire service; radio or television station or network; news or feature syndicate; or cable television system.

(b) "News information" means any knowledge, observation, notes, documents, photographs, films, recordings, videotapes, audiotapes, and reports, and the contents and sources thereof, obtained by a newsperson while engaged as such, regardless of whether such items have been provided to or obtained by such newsperson in confidence.

(c) "Newsperson" means any member of the mass media and any employee or independent contractor of a member of the mass media who is engaged to gather, receive, observe, process, prepare, write, or edit news information for dissemination to the public through the mass media.

(d) "Press conference" means any meeting or event called for the purpose of issuing a public statement to members of the mass media, and to which members of the mass media are invited in advance.

(e) "Proceeding" means any civil or criminal investigation, discovery procedure, hearing, trial, or other process for obtaining information conducted by, before, or under the authority of any judicial body of the state of Colorado. Such term shall not include any investigation, hearing, or other process for obtaining information conducted by, before, or under the authority of the general assembly.

(f) "Source" means any person from whom or any means by or through which news information is received or procured by a newsperson, while engaged as such, regardless of whether such newsperson was requested to hold confidential the identity of such person or means.

(2) Notwithstanding any other provision of law to the contrary and except as provided in

subsection (3) of this section, no newsperson shall, without such newsperson's express consent, be compelled to disclose, be examined concerning refusal to disclose, be subjected to any legal presumption of any kind, or be cited, held in contempt, punished, or subjected to any sanction in any judicial proceedings for refusal to disclose any news information received, observed, procured, processed, prepared, written, or edited by a newsperson, while acting in the capacity of a newsperson; except that the privilege of nondisclosure shall not apply to the following:

(a) News information received at a press conference;

(b) News information which has actually been published or broadcast through a medium of mass communication;

(c) News information based on a newsperson's personal observation of the commission of a crime if substantially similar news information cannot reasonably be obtained by any other means;

(d) News information based on a newsperson's personal observation of the commission of a class 1, 2, or 3 felony.

(3) Notwithstanding the privilege of nondisclosure granted in subsection (2) of this section, any party to a proceeding who is otherwise authorized by law to issue or obtain subpoenas may subpoena a newsperson in order to obtain news information by establishing by a preponderance of the evidence, in opposition to a newsperson's motion to quash such subpoena:

(a) That the news information is directly relevant to a substantial issue involved in the proceeding;

(b) That the news information cannot be obtained by any other reasonable means; and

(c) That a strong interest of the party seeking to subpoena the newsperson outweighs the interests under the first amendment to the United States constitution of such newsperson in not responding to a subpoena and of the general public in receiving news information.

(4) The privilege of nondisclosure established by subsection (2) of this section may be waived only by the voluntary testimony or disclosure of a newsperson that directly addresses the news information or identifies the source of such news information sought. A publication or broadcast of a news report through the mass media concerning the subject area of the news

information sought, but which does not directly address the specific news information sought, shall not be deemed a waiver of the privilege of nondisclosure as to such specific news information.

(5) In any trial to a jury in an action in which a newsperson is a party as a result of such person's activities as a newsperson and in which the newsperson has invoked the privilege created by subsection (2) of this section, the jury shall be neither informed nor allowed to learn that such newsperson invoked such privilege or has thereby declined to disclose any news information.

(6) Nothing in this section shall preclude the issuance of a search warrant in compliance with the federal "Privacy Protection Act of 1980", 42 U.S.C. sec. 2000aa.