

OFFICE OF THE GENERAL COUNSEL
Division of Operations Management

MEMORANDUM 82-32

August 23, 1982

TO: All Regional Directors, Officers-in-Charge,
and Resident Officers

FROM: Joseph E. DeSio, Associate General Counsel

SUBJECT: Subpoenas Issued to Members of the Press

Manual Section 11772 requires the submission to the Division of Operations Management of matters involving the issuance of subpoenas "if there are new or doubtful legal problems of enforceability."

In a recent case, a press reporter, who had been subpoenaed by counsel for the General Counsel to testify in an unfair labor practice hearing concerning information gained in her capacity as a reporter, argued successfully before a United States District Court that United States Attorney General regulations governing issuance of subpoenas to the news media apply in NLRB proceedings and that First Amendment interests required the issuance of an order enjoining the NLRB from enforcing or attempting to enforce the subpoena. While the District Court's Order was vacated on appeal because of the reporter's failure to exhaust her administrative remedies,^{1/} the case demonstrates the potential difficulties which may develop whenever subpoenas are issued to reporters to elicit testimony relating to information gained in their capacity as reporters or requiring the production of materials secured as a result of news gathering activities. Consequently, before any subpoena is issued to a member of the press in such circumstances, clearance from the Division of Operations Management should be obtained.

J. E. D.

Distribution:
Washington - Special
Regional - Special

MEMORANDUM 82-32

^{1/} Johanna Maurice v. N.L.R.B., No. 81-1615 (2d Cir. July 19, 1982).