

§ 50.12

28 CFR Ch. I (7-1-13 Edition)

(4) Any information obtained as a result of a subpoena issued for telephone toll records shall be closely held so as to prevent disclosure of the information to unauthorized persons or for improper purposes.

(h) No member of the Department shall subject a member of the news media to questioning as to any offense which he is suspected of having committed in the course of, or arising out of, the coverage or investigation of a news story, or while engaged in the performance of his official duties as a member of the news media, without the express authority of the Attorney General: *Provided, however,* That where exigent circumstances preclude prior approval, the requirements of paragraph (l) of this section shall be observed.

(i) A member of the Department shall secure the express authority of the Attorney General before a warrant for an arrest is sought, and whenever possible before an arrest not requiring a warrant, of a member of the news media for any offense which he is suspected of having committed in the course of, or arising out of, the coverage or investigation of a news story, or while engaged in the performance of his official duties as a member of the news media.

(j) No member of the Department shall present information to a grand jury seeking a bill of indictment, or file an information, against a member of the news media for any offense which he is suspected of having committed in the course of, or arising out of, the coverage or investigation of a news story, or while engaged in the performance of his official duties as a member of the news media, without the express authority of the Attorney General.

(k) In requesting the Attorney General's authorization to question, to arrest or to seek an arrest warrant for, or to present information to a grand jury seeking a bill of indictment or to file an information against, a member of the news media for an offense which he is suspected of having committed during the course of, or arising out of, the coverage or investigation of a news story, or committed while engaged in the performance of his official duties as a member of the news media, a member of the Department shall state

all facts necessary for determination of the issues by the Attorney General. A copy of the request shall be sent to the Director of Public Affairs.

(l) When an arrest or questioning of a member of the news media is necessary before prior authorization of the Attorney General can be obtained, notification of the arrest or questioning, the circumstances demonstrating that an exception to the requirement of prior authorization existed, and a statement containing the information that would have been given in requesting prior authorization, shall be communicated immediately to the Attorney General and to the Director of Public Affairs.

(m) In light of the intent of this section to protect freedom of the press, news gathering functions, and news media sources, this policy statement does not apply to demands for purely commercial or financial information unrelated to the news gathering function.

(n) Failure to obtain the prior approval of the Attorney General may constitute grounds for an administrative reprimand or other appropriate disciplinary action. The principles set forth in this section are not intended to create or recognize any legally enforceable right in any person.

[Order No. 916-80, 45 FR 76436, Nov. 19, 1980]

§ 50.12 Exchange of FBI identification records.

(a) The Federal Bureau of Investigation, hereinafter referred to as the FBI, is authorized to expend funds for the exchange of identification records with officials of federally chartered or insured banking institutions to promote or maintain the security of those institutions and, if authorized by state statute and approved by the Director of the FBI, acting on behalf of the Attorney General, with officials of state and local governments for purposes of employment and licensing, pursuant to section 201 of Public Law 92-544, 86 Stat. 1115. Also, pursuant to 15 U.S.C. 78q, 7 U.S.C. 21 (b)(4)(E), and 42 U.S.C. 2169, respectively, such records can be exchanged with certain segments of the securities industry, with registered futures associations, and with nuclear power plants. The records also may be

Department of Justice

§ 50.14

exchanged in other instances as authorized by federal law.

(b) The FBI Director is authorized by 28 CFR 0.85(j) to approve procedures relating to the exchange of identification records. Under this authority, effective September 6, 1990, the FBI Criminal Justice Information Services (CJIS) Division has made all data on identification records available for such purposes. Records obtained under this authority may be used solely for the purpose requested and cannot be disseminated outside the receiving departments, related agencies, or other authorized entities. Officials at the governmental institutions and other entities authorized to submit fingerprints and receive FBI identification records under this authority must notify the individuals fingerprinted that the fingerprints will be used to check the criminal history records of the FBI. The officials making the determination of suitability for licensing or employment shall provide the applicants the opportunity to complete, or challenge the accuracy of, the information contained in the FBI identification record. These officials also must advise the applicants that procedures for obtaining a change, correction, or updating of an FBI identification record are set forth in 28 CFR 16.34. Officials making such determinations should not deny the license or employment based on information in the record until the applicant has been afforded a reasonable time to correct or complete the record, or has declined to do so. A statement incorporating these use-and-challenge requirements will be placed on all records disseminated under this program. This policy is intended to ensure that all relevant criminal record information is made available to provide for the public safety and, further, to protect the interests of the prospective employee/licensee who may be affected by the information or lack of information in an identification record.

[Order No. 2258-99, 64 FR 52229, Sept. 28, 1999]

§ 50.14 Guidelines on employee selection procedures.

The guidelines set forth below are intended as a statement of policy of the Department of Justice and will be applied by the Department in exercising

its responsibilities under Federal law relating to equal employment opportunity.

UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES (1978)

NOTE: These guidelines are issued jointly by four agencies. Separate official adoptions follow the guidelines in this part IV as follows: Civil Service Commission, Department of Justice, Equal Employment Opportunity Commission, Department of Labor.

For official citation see section 18 of these guidelines.

TABLE OF CONTENTS

GENERAL PRINCIPLES

1. Statement of Purpose
 - A. Need for Uniformity—Issuing Agencies
 - B. Purpose of Guidelines
 - C. Relation to Prior Guidelines
2. Scope
 - A. Application of Guidelines
 - B. Employment Decisions
 - C. Selection Procedures
 - D. Limitations
 - E. Indian Preference Not Affected
3. Discrimination Defined: Relationship Between Use of Selection Procedures and Discrimination
 - A. Procedure Having Adverse Impact Constitutes Discrimination Unless Justified
 - B. Consideration of Suitable Alternative Selection Procedures
4. Information on Impact
 - A. Records Concerning Impact
 - B. Applicable Race, Sex and Ethnic Groups For Record Keeping
 - C. Evaluation of Selection Rates. The "Bottom Line"
 - D. Adverse Impact And The "Four-Fifths Rule"
 - E. Consideration of User's Equal Employment Opportunity Posture
5. General Standards for Validity Studies
 - A. Acceptable types of Validity Studies
 - B. Criterion-Related, Content, and Construct Validity
 - C. Guidelines Are Consistent with Professional Standards
 - D. Need For Documentation of Validity
 - E. Accuracy and Standardization
 - F. Caution Against Selection on Basis of Knowledges, Skills or Abilities Learned in Brief Orientation Period
 - G. Method of Use of Selection Procedures
 - H. Cutoff Scores
 - I. Use of Selection Procedures for Higher Level Jobs
 - J. Interim Use of Selection Procedures
 - K. Review of Validity Studies for Currency
6. Use of Selection Procedures Which Have Not Been Validated