

§ 50.5

28 CFR Ch. I (7-1-06 Edition)

IV. EXCEPTIONAL CIRCUMSTANCES

The Attorney General should be consulted in individual cases in which the head of an agency believes that the objectives of title VI will be best achieved by proceeding other than as provided in these guidelines.

V. COORDINATION

While primary responsibility for enforcement of title VI rests directly with the head of each agency, in order to assure coordination of title VI enforcement and consistency among agencies, the Department of Justice should be notified in advance of applications on which action is to be deferred, hearings to be scheduled, and refusals and terminations of assistance or other enforcement actions or procedures to be undertaken. The Department also should be kept advised of the progress and results of hearings and other enforcement actions.

[31 FR 5292, Apr. 2, 1966]

§ 50.5 Notification of Consular Officers upon the arrest of foreign nationals.

(a) This statement is designed to establish a uniform procedure for consular notification where nationals of foreign countries are arrested by officers of this Department on charges of criminal violations. It conforms to practice under international law and in particular implements obligations undertaken by the United States pursuant to treaties with respect to the arrest and detention of foreign nationals. Some of the treaties obligate the United States to notify the consular officer only upon the demand or request of the arrested foreign national. On the other hand, some of the treaties require notifying the consul of the arrest of a foreign national whether or not the arrested person requests such notification.

(1) In every case in which a foreign national is arrested the arresting officer shall inform the foreign national that his consul will be advised of his arrest unless he does not wish such notification to be given. If the foreign national does not wish to have his consul notified, the arresting officer shall also inform him that in the event there is a treaty in force between the United States and his country which requires such notification, his consul must be notified regardless of his wishes and, if such is the case, he will be advised of such notification by the U.S. Attorney.

(2) In all cases (including those where the foreign national has stated that he does not wish his consul to be notified) the local office of the Federal Bureau of Investigation or the local Marshal's office, as the case may be, shall inform the nearest U.S. Attorney of the arrest and of the arrested person's wishes regarding consular notification.

(3) The U.S. Attorney shall then notify the appropriate consul except where he has been informed that the foreign national does not desire such notification to be made. However, if there is a treaty provision in effect which requires notification of consul, without reference to a demand or request of the arrested national, the consul shall be notified even if the arrested person has asked that he not be notified. In such case, the U.S. Attorney shall advise the foreign national that his consul has been notified and inform him that notification was necessary because of the treaty obligation.

(b) The procedure prescribed by this statement shall not apply to cases involving arrests made by the Immigration and Naturalization Service in administrative expulsion or exclusion proceedings, since that Service has heretofore established procedures for the direct notification of the appropriate consular officer upon such arrest. With respect to arrests made by the Service for violations of the criminal provisions of the immigration laws, the U.S. Marshal, upon delivery of the foreign national into his custody, shall be responsible for informing the U.S. Attorney of the arrest in accordance with numbered paragraph 2 of this statement.

[Order No. 375-67, 32 FR 1040, Jan. 28, 1967]

§ 50.6 Antitrust Division business review procedure.

Although the Department of Justice is not authorized to give advisory opinions to private parties, for several decades the Antitrust Division has been willing in certain circumstances to review proposed business conduct and state its enforcement intentions. This originated with a "railroad release" procedure under which the Division would forego the initiation of criminal antitrust proceedings. The procedure