

(iii) Whether delay in obtaining the materials would significantly jeopardize an ongoing investigation or prosecution; or

(iv) Whether a legally enforceable form of process, other than a search warrant, is reasonably available as a means of obtaining the materials.

The fact that the disinterested third party possessing the materials may have grounds to challenge a subpoena or other legal process is not in itself a legitimate basis for the use of a search warrant.

**§ 59.5 Functions and authorities of the Deputy Assistant Attorneys General.**

The functions and authorities of the Deputy Assistant Attorneys General set out in this part may at any time be exercised by an Assistant Attorney General, the Associate Attorney General, the Deputy Attorney General, or the Attorney General.

**§ 59.6 Sanctions.**

(a) Any federal officer or employee violating the guidelines set forth in this part shall be subject to appropriate disciplinary action by the agency or department by which he is employed.

(b) Pursuant to section 202 of the Privacy Protection Act of 1980 (sec. 202, Pub. L. 96-440, 94 Stat. 1879 (42 U.S.C. 2000aa-12)), an issue relating to the compliance, or the failure to comply, with the guidelines set forth in this part may not be litigated, and a court may not entertain such an issue as the basis for the suppression or exclusion of evidence.

**PART 60—AUTHORIZATION OF FEDERAL LAW ENFORCEMENT OFFICERS TO REQUEST THE ISSUANCE OF A SEARCH WARRANT**

Sec.

60.1 Purpose.

60.2 Authorized categories.

60.3 Agencies with authorized personnel.

AUTHORITY: Rule 41(h), Fed. R. Crim. P (18 U.S.C. appendix).

**§ 60.1 Purpose.**

This regulation authorizes certain categories of federal law enforcement officers to request the issuance of search warrants under Rule 41, Fed. R. Crim. P., and lists the agencies whose officers are so authorized. Rule 41(a) provides in part that a search warrant may be issued “upon the request of a federal law enforcement officer,” and defines that term in Rule 41(h) as “any government agent, \* \* \* who is engaged in the enforcement of the criminal laws and is within the category of officers authorized by the Attorney General to request the issuance of a search warrant.” The publication of the categories and the listing of the agencies is intended to inform the courts of the personnel who are so authorized. It should be noted that only in the very rare and emergent case is the law enforcement officer permitted to seek a search warrant without the concurrence of the appropriate U.S. Attorney’s office. Further, in all instances, military agents of the Department of Defense must obtain the concurrence of the appropriate U.S. Attorney’s Office before seeking a search warrant.

[Order No. 826-79, 44 FR 21785, Apr. 12, 1979, as amended by Order No. 1026-83, 48 FR 37377, Aug. 18, 1983]

**§ 60.2 Authorized categories.**

The following categories of federal law enforcement officers are authorized to request the issuance of a search warrant:

(a) Any person authorized to execute search warrants by a statute of the United States.

(b) Any person who has been authorized to execute search warrants by the head of a department, bureau, or agency (or his delegate, if applicable) pursuant to any statute of the United States.

(c) Any peace officer or customs officer of the Virgin Islands, Guam, or the Canal Zone.

(d) Any officer of the Metropolitan Police Department, District of Columbia.

(e) Any person authorized to execute search warrants by the President of the United States.

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(f) Any civilian agent of the Department of Defense not subject to military direction who is authorized by statute or other appropriate authority to enforce the criminal laws of the United States.

(g) Any civilian agent of the Department of Defense who is authorized to enforce the Uniform Code of Military Justice.

(h) Any military agent of the Department of Defense who is authorized to enforce the Uniform Code of Military Justice.

(i) Any special agent of the Office of Inspector General, Department of Transportation.

(j) Any special agent of the Investigations Division of the Office of Inspector General, Small Business Administration.

(k) Any special agent of the Office of Investigations and the Office of Labor Racketeering of the Office of Inspector General, Department of Labor.

(l) Any special agent of the Office of Investigations of the Office of Inspector General, General Services Administration.

(m) Any special agent of the Office of Inspector General, Department of Housing and Urban Development.

(n) Any special agent of the Office of Inspector General, Department of Interior.

(o) Any special agent of the Office of Inspector General, Veterans Administration.

(p) Any special agent of the Office of Inspector General, Social Security Administration.

(q) Any special agent of the Office of Inspector General, Department of Health and Human Services.

[Order No. 826-79, 44 FR 21785, Apr. 12, 1979, as amended by Order No. 1026-83, 48 FR 37377, Aug. 18, 1983; Order No. 1143-86, 51 FR 26878, July 28, 1986; Order No. 1188-87, 52 FR 19138, May 21, 1987; Order No. 1327-89, 54 FR 9431, Mar. 7, 1989; Order No. 2000-95, 60 FR 62734, Dec. 7, 1995]

#### § 60.3 Agencies with authorized personnel.

The following agencies have law enforcement officers within the categories listed in § 60.2 of this part:

(a) *National Law Enforcement Agencies:*

(1) Department of Agriculture:

National Forest Service  
Office of the Inspector General  
(2) Department of Defense:  
Defense Investigative Service Criminal Investigation Command, U.S. Army  
Naval Investigative Service, U.S. Navy  
Office of Assistant Inspector General for Investigations, Office of Defense Inspector General  
Office of Special Investigation, U.S. Air Force  
(3) Department of Health and Human Services:  
Center for Disease Control  
Food and Drug Administration  
Office of Investigations, Office of the Inspector General  
(4) Department of the Interior:  
Bureau of Indian Affairs  
Bureau of Sport Fisheries and Wildlife  
National Park Service  
(5) Department of Justice:  
Drug Enforcement Administration  
Federal Bureau of Investigation  
Immigration and Naturalization Service  
U.S. Marshals Service  
(6) Department of Transportation:  
U.S. Coast Guard  
Office of Inspector General, Department of Transportation  
(7) Department of the Treasury:  
Bureau of Alcohol, Tobacco, and Firearms  
Executive Protective Service  
Internal Revenue Service  
Criminal Investigation Division  
Internal Security Division, Inspection Service  
U.S. Customs Service  
U.S. Secret Service  
(8) U.S. Postal Service:  
Inspection Service  
Office of Inspector General  
(9) Department of Commerce: Office of Export Enforcement  
(10) Small Business Administration: Investigations Division of the Office of Inspector General  
(11) Department of State: Diplomatic Security Service  
(12) Department of Labor: Office of Investigations and Office of Labor Racketeering of the Office of Inspector General  
(13) General Services Administration: Office of Inspector General