

Department of Justice

§21.7

his or her residence *overnight* is entitled to a subsistence allowance. A witness who *is not* required to be away from his or her residence overnight *is not* entitled to a subsistence allowance. The witness' subsistence allowance shall not exceed either the per diem rate or the actual subsistence allowance rate prescribed for Government employees for the place of attendance. These rates are established by the Administrator, General Services, for areas within the conterminous United States; the Secretary of Defense for areas of the United States other than conterminous; or the Secretary of State as published in the Standardized Regulations (Government Civilians, Foreign Areas) for foreign areas. The witness' subsistence allowance shall consist of a meal and miscellaneous expense portion and a lodging portion. *When an overnight stay is required*, the witness shall be entitled to:

(1) The meal and miscellaneous expense portion for each day (or partial day) the witness is required to remain away from his or her residence and

(2) The lodging portion for each night the witness is required to incur a lodging expense.

The meal and miscellaneous expense portion shall be 50% of the authorized subsistence allowance rate rounded to the next whole dollar in an actual subsistence rate area, or 45% of the per diem rate rounded to the next whole dollar in a per diem area. The lodging portion shall be the difference between the meal and miscellaneous expense portion and the authorized rate.

(d) *Detained witness fee.* A witness (other than an alien covered by §21.3) detained *in custody* pursuant to 18 U.S.C. 3149 for want of security for his or her appearance shall receive subsistence *in kind* and shall be paid a single daily attendance fee for each day the witness is detained. A witness in custody for purposes other than 18 U.S.C. 3149 is ineligible to receive the attendance and subsistence fees provided by this section.

§21.5 Use of table of distances.

Mileage payable to witnesses under 28 U.S.C. 1821 shall be computed on the basis of odometer readings or the highway distances as stated in the Rand

McNally Standard Highway Mileage Guide or in any generally accepted highway mileage guide which contains a shortline nationwide table of distances. However, with respect to travel in areas for which no such highway mileage guide exists, mileage payable under 28 U.S.C. 1821 shall be based on the lesser of either (a) the route of travel actually employed or (b) a usually traveled route.

§21.6 Proceedings in forma pauperis.

Title 28 U.S.C. 1915 provides for the commencement, prosecution or defense of any suit, action, or proceeding without prepayment of fees and costs. Witnesses shall attend as in other cases.

(a) *Civil cases.* There are currently no provisions for payment of witnesses called by the indigent. If the indigent party prevails, witness fees and expenses may be taxed as costs in accordance with 28 U.S.C. 1920.

(b) *Criminal cases.* Rule 17(b), Federal Rules of Criminal Procedure, requires that fact witnesses *subpoenaed* on behalf of an indigent defendant be paid in the same manner as witnesses called on behalf of the Government. The attendance must be certified by the presiding officer of the court. The expenses of Federal Government employees are treated in the same manner as they are treated when the employee is called by a Government attorney.

§21.7 Certification of witness attendance.

In any case in which the U.S. Department of Justice, or office or organization thereof, is a party, the Department of Justice shall pay all fees and allowances of witnesses, except for those witnesses as defined in §21.2, paragraph (d)(1), on the certification of the following officials: The U.S. Attorney, an Assistant U.S. Attorney, a U.S. Trustee, or the U.S. Department of Justice attorney who actually conducts the case. In criminal proceedings *in forma pauperis* or in proceedings before a U.S. Commissioner, U.S. Magistrate or U.S. Parole Commission Hearing Examiner, the Department of Justice shall pay all fees and allowances of witnesses on the certification of the U.S. District Judge hearing the

case or such Commissioner, Magistrate, or Hearing Examiner.

PART 22—CONFIDENTIALITY OF IDENTIFIABLE RESEARCH AND STATISTICAL INFORMATION

Sec.

22.1 Purpose.

22.2 Definitions.

22.20 Applicability.

22.21 Use of identifiable data.

22.22 Revelation of identifiable data.

22.23 Privacy certification.

22.24 Information transfer agreement.

22.25 Final disposition of identifiable materials.

22.26 Requests for transfer of information.

22.27 Notification.

22.28 Use of data identifiable to a private person for judicial, legislative or administrative purposes.

22.29 Sanctions.

AUTHORITY: Secs. 801(a), 812(a), Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3701, *et seq.*, as amended (Pub. L. 90-351, as amended by Pub. L. 93-83, Pub. L. 93-415, Pub. L. 94-430, Pub. L. 94-503, Pub. L. 95-115, Pub. L. 96-157, and Pub. L. 98-473); secs. 262(b), 262(d), Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. 5601, *et seq.*, as amended (Pub. L. 93-415, as amended by Pub. L. 94-503, Pub. L. 95-115, Pub. L. 99-509, and Pub. L. 98-473); and secs. 1407(a) and 1407(d) of the Victims of Crime Act of 1984, 42 U.S.C. 10601, *et seq.*, Pub. L. 98-473; Pub. L. 101-410, 104 Stat. 890, as amended by Pub. L. 104-134, 110 Stat. 1321.

SOURCE: 41 FR 54846, Dec. 15, 1976, unless otherwise noted.

§ 22.1 Purpose.

The purpose of these regulations is to:

(a) Protect privacy of individuals by requiring that information identifiable to a private person obtained in a research or statistical program may only be used and/or revealed for the purpose for which obtained;

(b) Insure that copies of such information shall not, without the consent of the person to whom the information pertains, be admitted as evidence or used for any purpose in any judicial or administrative proceedings;

(c) Increase the credibility and reliability of federally-supported research and statistical findings by minimizing subject concern over subsequent uses of identifiable information;

(d) Provide needed guidance to persons engaged in research and statistical activities by clarifying the purposes for which identifiable information may be used or revealed; and

(e) Insure appropriate balance between individual privacy and essential needs of the research community for data to advance the state of knowledge in the area of criminal justice.

(f) Insure the confidentiality of information provided by crime victims to crisis intervention counselors working for victim services programs receiving funds provided under the Crime Control Act, and Juvenile Justice Act, and the Victims of Crime Act.

[41 FR 54846, Dec. 15, 1976, as amended at 51 FR 6400, Feb. 24, 1986]

§ 22.2 Definitions.

(a) *Person* means any individual, partnership, corporation, association, public or private organization or governmental entity, or combination thereof.

(b) *Private person* means any person defined in § 22.2(a) other than an agency, or department of Federal, State, or local government, or any component or combination thereof. Included as a private person is an individual acting in his or her official capacity.

(c) *Research or statistical project* means any program, project, or component thereof which is supported in whole or in part with funds appropriated under the Act and whose purpose is to develop, measure, evaluate, or otherwise advance the state of knowledge in a particular area. The term does not include “intelligence” or other information-gathering activities in which information pertaining to specific individuals is obtained for purposes directly related to enforcement of the criminal laws.

(d) *Research or statistical information* means any information which is collected during the conduct of a research or statistical project and which is intended to be utilized for research or statistical purposes. The term includes information which is collected directly from the individual or obtained from any agency or individual having possession, knowledge, or control thereof.