

MANAGERS' WORKPLACE PRIVACY RIGHTS: A SURVEY OF CURRENT PRACTICE

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ABSTRACT

Employers face important challenges in balancing individual employee rights to privacy against their legitimate right or need to know. These challenges surface in a plethora of activities, including drug and alcohol testing, psychological testing, background checks and references, and medical screening. Legal requirements associated with the upcoming implementation of the Americans with Disabilities Act (ADA), plus expanding employee privacy expectations, make these issues even more salient. This article attempts to gauge individual employee rights to privacy through an examination of corporate practice affecting one group of employees, namely, managers. A survey of top human resource management executives among a large sample of *Fortune*-ranked industrials reveals a striking contrast between the protection of individual privacy rights and the right to know in the release of data about employees. In addition, many corporations may have to scale back medical screening in consideration of the ADA. More broadly, policy makers may need to clarify employers' rights to know to reduce the burden of privacy and negligent-hiring lawsuits.

In both practical and legal terms, individual workplace privacy rights may conflict with an employer's right or need to know about the backgrounds, behaviors, and qualifications of current and prospective employees [1]. The dilemma encompasses a wide range of issues including but not limited to drug and alcohol testing, psychological testing, background investigations, off-duty conduct investigations, personal relations (dating and marrying coworkers), and medical screening of job candidates [2]. The potential for embarrassment from apparent mismanagement in these areas is demonstrated in the recent revelation of Proctor & Gamble's

wholesale inspection of employees' home telephone records in an attempt to plug a corporate leak [3].

Arguments regarding privacy rights in and outside the workplace are not new. Writing more than 100 years ago, Warren and Brandeis defined a general privacy protection as "the right to be let alone" [4]. Although there is no explicit constitutional right to privacy, they and others have argued a derivative rights theory based on the Constitution, the Bill of Rights, and case law [5, 6].

In recent decades, litigation has brought the concept of privacy squarely into the workplace [7]. Employees have claimed varying spheres of privacy in which they are entitled to be let alone. To what extent, however, does this claim—or even expectation—conflict with an employer's legitimate need or right to know? This is a central management question in the 1990s. Negligent-hiring claims against employers make the right to know an even more compelling managerial consideration [8].

The debate regarding workplace privacy raises not only legal and managerial questions but also ethical and economic ones. In the midst of all this uncertainty, employers must define the perimeters of acceptable practice. A review of current workplace privacy practice shows how corporations have responded to these competing interests.

This study is a preliminary attempt to determine current practice in a wide variety of workplace-privacy areas. We surveyed the 200 top *Fortune*-ranked industrial corporations' human resource management executives for this purpose. Our focus is on the privacy rights of *managerial* employees, as they often play significant organizational roles, which makes the right or need to know a particularly relevant issue.

DEFINITION OF WORKPLACE PRIVACY

Workplace privacy defies simple definition. A collection of published interpretations suggests it includes a protean web of individual and organizational activities, ranging from "information control . . . [to] the regulation of interactions with others . . . [and] freedom from control by others" [2, p. 354]. Despite its expansive conceptual scope, an operational definition focuses on practices relating to the collection, use, and release of personnel-related data. *Collection* refers to the types of information gathered on prospective and current employees (in this case, managerial employees) and the methods of data gathering. The *use* of data includes the regulation of managers' conduct and personnel-related responses (e.g., discipline). *Release* refers to giving personnel data to third parties such as law enforcement and prospective employers.

DATA AND SAMPLE

Questionnaire

The questionnaire was designed as part of an MBA-level course on public policies in human resource management (HRM). Relying on the previously noted definition of workplace privacy, students identified a range of questions to ascertain pertinent corporate activities. An iterative process sharpened and clarified these questions. The final instrument included 120-plus items divided into five parts (see Appendix).

Sample

The specific population targeted for the workplace-privacy questionnaire included the highest-ranking HRM executive in each of the top 200 *Fortune*-ranked industrial corporations [9]. All HRM executives received a letter, mailed in spring 1991, requesting their anonymous and confidential participation in the survey. A follow-up letter stimulated additional responses. In total, executives from eighty-five corporations responded, yielding a roughly 43 percent rate of participation (see Table 1). The sample of corporations varied widely in terms of size, based on managerial and total employment. Most reported contracts with the U.S. Department of Defense.

RESULTS

Collection of Data

Types of Data Collected

Table 2 reports the types of information corporations collect in screening prospective managers. A few interesting patterns emerged. First, there appears to be a strong tendency to collect data that verifies the identity of managerial candidates. Most corporations obtain preemployment information on citizenship,

Table 1. Selected Characteristics of Firms

Total Number of Corporations in Sample	Total Number of Corporations with DOD Contracts	Mean and Standard Deviation of Total Number of Reported Employees	Mean and Standard Deviation of Total Number of Reported Managerial Employees
85	57 (67%)	$x = 52,390$ $SD = 68,633$	$x = 6,722$ $SD = 6,913$

Table 2. Types of Preemployment Data Collected on Prospective Managerial Employees

Types of Data	Collected		Not Collected	
	No.	Percent	No.	Percent
Prior or current use of illegal drugs	38	44.7	41	48.2
Prior or current abuse of alcohol	13	15.3	68	80.0
Prior or current treatment for drug use	6	7.1	75	88.2
Prior or current treatment for alcoholism	3	3.5	78	91.8
Sexual preference	0	0.0	81	95.3
Marital status	24	28.2	57	67.1
Number of dependents	17	20.2	63	74.1
Race	20	23.5	63	74.1
Age	20	23.5	62	72.9
Citizenship	64	75.3	20	23.5
Criminal-conviction record	50	58.8	32	37.6
Military record	42	49.4	38	44.7
Criminal-arrest record	7	8.2	74	87.1
General physical health	46	54.1	34	40.0
Victim of AIDS	0	0.0	80	94.1
General mental health	7	8.2	73	85.9
Prior or current bankruptcy	5	5.9	75	88.2
Prior imprisonment	25	29.4	56	65.9
Prior hospitalizations	4	4.7	76	89.4
Prior or current smoking habits	4	4.7	76	89.4
Employment of relative of corporation	39	45.9	42	49.4
Credit history	9	10.6	70	82.4
Social security number	66	77.6	15	17.6
Present home address	82	96.5	2	2.4
Present home telephone number	81	95.3	3	3.5
Political party or beliefs	0	0.0	81	95.3
Religion	0	0.0	81	95.3

Note: All percentages are based on the total sample ($N = 85$). The percentage of missing data plus reported percentage equal 100 percent across rows.

home addresses and telephone numbers, and social security numbers. Second, a majority of firms collect data on criminal conviction records and the *general physical health* of prospective managers. Slightly less than half collect information on military records, while almost 45 percent gather data on illegal drug use. Interestingly, alcohol abuse is evidently viewed as less pertinent than illegal drug use, although general indicators of physical health may reveal the former malady.

Finally, most corporations appear loath to make direct inquiries into areas in which more or less clear social norms of privacy exist, namely, sexual preference, religion, and political affiliations or beliefs. Nine corporations, however, do check credit histories.

Methods of Collection

The questionnaire included several sets of items as to methods of data collection: namely, 1) preemployment methods; 2) surreptitious data collection; 3) testing of current managers. The responses in Table 3 involve the data-collection methods used to obtain information on prospective managers. In particular, the urinalysis and medical examination (upon selection but prior to actual employment) emerge as the most frequently used methods among those listed. Obviously, urinalysis is a commonly used drug-testing device. It therefore seems somewhat inconsistent that most firms report conducting urinalyses while less than half admit to collecting preemployment data on prior or current illegal drug use (refer to Table 2). Given the potential yield of personal data from urinalysis and medical examinations, these techniques may invade privacy if they are not used circumspectly. Few firms, however, use paper-and-pencil tests. No corporation reports using the polygraph, evidently reflecting compliance with the Employee Polygraph Protection Act of 1988.

Table 3. Types of Preemployment Data-Collection Methods Used

Types of Method	Used		Not Used	
	No.	Percent	No.	Percent
Polygraph	0	0.0	82	96.5
Paper-and-pencil honesty test	1	1.2	81	95.3
Paper-and-pencil personality test	2	2.4	81	95.3
Urinalysis	54	63.5	30	35.3
Blood analysis	21	24.7	61	71.8
Paper-and-pencil ability test	7	8.2	75	88.2
Paper-and-pencil attitude test	1	1.2	80	94.1
Medical examination generally	45	52.9	38	44.7
Medical examination of nearly hired managers ^a	61	71.8	23	27.1
Psychological examination	7	8.2	76	89.4
Assessment center	3	3.5	79	92.9

^aExamination required of nearly hired managers as a condition of their employment.

Note: All percentages are based on the total sample ($N = 85$).

Surreptitious Monitoring

To maintain internal security and regulate conduct, corporations may extensively observe managers' behaviors. Surreptitious monitoring methods include surveillance via camera, electronic recording, and the use of an investigator or informant. These methods may be used on- or off-site.

Table 4 reveals that few firms use any of these methods as a matter of general policy or practice, especially with respect to off-site activity. However, more than a third of the corporations use informants or investigators to monitor the off-site conduct of managers when probable cause or reasonable suspicion of illegal activity exists.

Testing Current Managers

Periodic testing of current managers provides another means of monitoring behaviors. Programs testing for illegal drug use, alcohol abuse, and AIDS receive much popular attention partly because of the economic impacts of these conditions. Table 5 provides data on whether or not corporations test their current

Table 4. Surreptitious Monitoring of Current Managerial Employees

Monitoring Device		Used		Not Used	
		No.	Percent	No.	Percent
Camera	On-site conduct	4	4.7	81	95.3
Electronic Listening	On-site conduct	0	0.0	84	98.8
Informant/Investigator	On-site conduct	2	2.4	81	95.3
Camera	Off-site conduct	1	1.2	83	97.6
Electronic Listening	Off-site conduct	0	0.0	84	98.8
Informant/Investigator	Off-site conduct	1	1.2	83	97.6
Camera	Off-site with reasonable suspicion of illegal conduct	4	4.7	78	91.8
Electronic Listening	Off-site with reasonable suspicion of illegal conduct	2	2.4	80	94.1
Informant/Investigator	Off-site with reasonable suspicion of illegal conduct	30	35.3	53	62.4

Note: All percentages are based on total sample ($N = 85$).

managers for drug use, alcohol abuse, or AIDS. More than 40 percent test for illegal drugs. Ten firms also test for alcohol abuse, but only one reportedly tests for AIDS among current managers.

Uses of Data

Concerns regarding the collection of data stem mainly from the anticipated uses or abuses of information. The extent to which corporations use evidence of managers' behaviors and conditions therefore becomes quite meaningful. Some uses may seem intrusive or invasive on their face, while others may subsequently entail the release of otherwise confidential or personal information.

Regulation of Conduct

Certain regulations imply the willingness to monitor and control managers' personal behaviors. Table 6 shows the number of corporations that reportedly regulate two types of conduct deemed highly personal: dating and marrying. No corporation explicitly prohibits the former, but two admit to banning marriage among current managers. Interestingly, however, one corporation, as reported below, does indicate that it takes some form of personnel action in response to evidence of dating among managers.

Table 5. Testing of Current Managerial Employees

Type of Condition	Test Used		Test Not Used	
	No.	Percent	No.	Percent
Use of illegal drugs	35	41.2	50	58.8
Abuse of alcohol	10	11.8	74	87.1
Victim of AIDS	1	1.2	82	96.5

Note: All percentages are based on total sample ($N = 85$).

Table 6. Regulation of Selected Off-Site Conduct

Type of Conduct	Prohibited		Not Prohibited	
	No.	Percent	No.	Percent
Dating	0	0.0	84	98.8
Marrying	2	2.4	82	96.5

Note: All percentages are based on total sample ($N = 85$).

Treatment Programs and Complaint Procedures

Information may also be used to place managers into particular kinds of treatment programs or to invoke complaint procedures. It thus becomes relevant to determine the availability of programs, such as those pertaining to employee assistance generally. Also, the availability of a sexual harassment procedure provides evidence as to whether or not a firm is prepared to act on information alleging such wrongdoing.

As shown in Table 7, the overwhelming majority of firms make employee assistance and sexual harassment complaint programs available to managers. More than two-thirds also offer family or marital counseling. Drug-testing is at least available, if not required, in a majority of corporations, and programs on education exist in a slim majority. Less than a third, however, offer treatment programs for AIDS victims.

Personnel Action

Information may also be used to make a variety of personnel decisions. With respect to current managers, these may include discipline, promotion, or pay. Table 8 indicates that most corporations take some form of personnel action in response to information about the following types of conduct: alcohol use on the job, drug use on the job, and sexual harassment. Nearly half of the firms also take such action in response to illegal drug use off the job, and almost a third will respond to off-site alcohol abuse. Further, close to 30 percent presumably discipline managers when presented with evidence of various other forms of illegal conduct off the job. Most firms, however, will not take personnel action in response to evidence of off-site homosexual conduct, dating, radical political views, or cult worshipping.

Table 7. Availability of Treatment Programs and Sexual Harassment Complaint Procedure

Program/Procedure	Available		Not Available	
	No.	Percent	No.	Percent
Drug-Testing	49	57.6	35	41.2
Employee assistance	82	96.5	3	3.5
AIDS treatment	23	27.1	57	67.1
AIDS education	43	50.6	40	47.1
Family/marital counseling	62	72.9	22	25.9
Sexual harassment complaint procedure	83	97.6	1	1.2

Note: All percentages are based on total sample ($N = 85$).

Table 8. Personnel response to Selected Types of Conduct

Type of Conduct	Personnel Response		No Response	
	No.	Percent	No.	Percent
Alcohol use on the job	81	95.3	3	3.5
Alcohol abuse off the job	28	32.9	54	63.5
Homosexual conduct off the job	4	4.7	76	89.4
Illegal drug use on the job	84	98.8	0	0.0
Illegal drug use off the job	42	49.4	38	44.7
Dating fellow employees	1	1.2	80	94.1
Sexually harassing fellow employees	84	98.8	0	0.0
Illegal conduct off the job	24	28.2	56	65.9
Victim of AIDS	1	1.2	80	94.1
Radical political views	1	1.2	80	94.1
Cult worshipping	0	0.0	80	94.1

Note: All percentages are based on total sample ($N = 85$).

Dissemination of Information

A manager's privacy of clearly affected by the kinds of information corporations release to law enforcement officials or prospective employers. Table 9 shows whether firms inform law enforcement officials of conclusive evidence of conduct or a condition in eleven areas, some of which connote wrongdoing. In the main, firms do not disclose such information. More than a third, however, will release evidence of illegal drug use on the job. Slightly more than ten percent will also inform law enforcement of illegal drug use off the job or evidence of other forms of illegal off-site conduct, such as gambling.

Corporations also appear to guard the release of information to other employers, which brings the privacy-right to know dilemma to a head. Basic descriptive data regarding occupational titles and dates of employment are the only types of information widely released (see Table 10). A notable percentage, but not a majority, of the corporations will also release prior or current managers' social security numbers and wages or salaries. Juxtaposing Tables 2 and 10 shows the incongruence between corporations' preemployment informational practices and their willingness to release data to other firms.

DISCUSSION

The results of this survey of workplace privacy reveal several important conclusions. First, many employers collect medical or medical-related information,

Table 9. Release of Information to Law-Enforcement Officials

Type of Information	Released		Not Released	
	No.	Percent	No.	Percent
Alcohol use on the job	1	1.2	83	97.6
Alcohol abuse off the job	0	0.0	84	98.8
Homosexual conduct off the job	0	0.0	84	98.8
Illegal drug use on the job	29	34.1	53	62.4
Illegal drug use off the job	10	11.8	71	83.5
Dating fellow employees	0	0.0	84	98.8
Sexually harassing fellow employees	1	1.2	83	97.6
Illegal conduct off the job	9	10.6	74	87.1
Victim of AIDS	0	0.0	83	97.6
Radical political views	0	0.0	83	97.6
Cult worshipping	0	0.0	83	97.6

Note: All percentages are based on total sample ($N = 85$).

such as general physical health, on managers, an action that may pose problems under the Americans with Disabilities Act. The ADA prohibits preemployment medical screening, and protects qualified handicapped persons from employment discrimination. Although drug testing is explicitly protected, employers will need to refrain scrupulously from collecting or using medical information that does not clearly disqualify a person from performing the essential functions of a job.

Second, while many employers clearly collect a lot of information on prospective and/or current managers, almost all release little beyond name, rank, and serial number, so to speak, to prospective employers. This poses the interesting dilemma between the organization's right or need to know and the individual's privacy rights. Past performance is often the best predictor of future performance. To the extent that prospective employers cannot obtain relevant performance data on managers with prior employment records, they may lack some of the most important information on their managerial job candidates. The inability to obtain information that would have screened out potentially troublesome applicants places them at risk not only for inferior job performance but also possible negligent-hiring litigation.

Third, clearly definable spheres of privacy emerge. Political and religious beliefs, and, by implication, associations, sexual orientation and preferences, and personal relationships, such as dating and marrying, remain outside the purview of

Table 10. Release of Information to Other Employers

Type of Information	Released		Not Released	
	No.	Percent	No.	Percent
Dates of employment	81	95.3	23	2.4
Performance-evaluation data	2	2.4	77	90.6
Occupational titles	77	90.6	5	5.9
Reason for discipline/termination	6	7.1	74	87.1
Wage/salary level	38	44.7	42	49.4
Social Security Number	26	30.6	54	63.5
Race	1	1.2	79	92.9
Home address	6	7.1	74	87.1
Home telephone number	5	5.9	75	88.2
Marital status	6	7.1	74	87.1
Criminal-conviction record	0	0.0	81	95.3
Military record	0	0.0	80	94.1
Criminal-arrest record	0	0.0	81	95.3
General physical health	0	0.0	80	94.1
Victim of AIDS	0	0.0	81	95.3
Use of illegal drugs	1	1.2	80	94.1
Use of alcohol	0	0.0	81	95.3
Treatment for drug abuse	0	0.0	81	95.3
Treatment of alcoholism	0	0.0	81	95.3
Sexual preferences	0	0.0	81	95.3
Citizenship	6	7.1	74	87.1
Age	2	2.4	78	91.8
Imprisonment	0	0.0	81	95.3
Hospitalization	0	0.0	81	95.3
Smoking habits	0	0.0	80	94.1
Credit history	0	0.0	80	94.1
Number of dependents	2	2.4	78	91.8
General mental health	0	0.0	81	95.3
Bankruptcy	0	0.0	81	95.3
Political party or beliefs	0	0.0	81	95.3
Religion	0	0.0	81	95.3

Note: All percentages are based on total sample ($N = 85$).

acceptable employer inquiry. The real question, however, is not whether data on these matters are collected, but whether knowledge of such matters might consciously or unconsciously influence decision-making. If it does, then the line between private conduct and personnel management may not be as clearly drawn as appears at first glance.

APPENDIX
Corporate Privacy Questionnaire

PAGE ONE

INSTRUCTIONS. The questionnaire includes items divided into these categories: 1) corporate background information; 2) preemployment personnel information; 3) personnel information on current managerial employees; 4) corporate use and dissemination of personnel information on current managerial employees; and 5) third-party access to personnel information. To the extent possible, please respond on the basis of corporate-wide policies and practices relevant to *managerial* employees. If policies vary across units within the corporation, please respond on the basis of general policies or practices within the unit with the largest number of *managerial* employees. Thank you for your cooperation. Your responses will be kept strictly *CONFIDENTIAL*.

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PAGE TWO

I. CORPORATE BACKGROUND INFORMATION

CURRENT JOB TITLE
OF PERSON COMPLETING
QUESTIONNAIRE _____

NUMBER OF YEARS
IN CURRENT JOB _____

TITLE OF IMMEDIATE SUPERIOR _____

CORPORATION'S MAJOR
INDUSTRY (IN TERMS
OF ANNUAL SALES) _____

NUMBER OF EMPLOYEES
(MANAGERIAL AND
NONMANAGERIAL) IN
CORPORATION _____

NUMBER OF MANAGERIAL
EMPLOYEES IN CORPORATION _____

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PAGE THREE

IS YOUR CORPORATION A
DEPARTMENT OF DEFENSE
CONTRACTOR? (Please
check appropriate response.)

Yes No

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PAGE FOUR

II. COLLECTION OF PREEMPLOYMENT PERSONNEL INFORMATION

1. As a matter of general policy or practice, does your corporation obtain the following kinds of information on *prospective managerial* employees? (Please check the appropriate response.)

Yes No

- _____ _____ Prior or current use of illegal drugs
- _____ _____ Prior or current abuse of alcohol
- _____ _____ Prior or current treatment for drug use
- _____ _____ Prior or current treatment for alcoholism
- _____ _____ Sexual preference
- _____ _____ Marital status
- _____ _____ Number of dependents
- _____ _____ Race
- _____ _____ Age
- _____ _____ Citizenship
- _____ _____ Criminal-conviction record
- _____ _____ Military record
- _____ _____ Criminal-arrest record
- _____ _____ General physical health
- _____ _____ Victim of AIDS
- _____ _____ General mental health
- _____ _____ Prior or current bankruptcy
- _____ _____ Prior imprisonment
- _____ _____ Prior hospitalizations
- _____ _____ Prior or current smoking habits
- _____ _____ Employment of relative in corporation
- _____ _____ Credit history
- _____ _____ Social security number
- _____ _____ Present home address
- _____ _____ Present home telephone number
- _____ _____ Political party or beliefs
- _____ _____ Religion

Yes No

- 2. As a matter of general policy or practice, does your corporation require, as a condition of employment, a medical examination of *prospective managerial job candidates* who have been selected for employment? (Please check the appropriate response.)

___ ___

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PAGE FIVE

- 3. As a matter of general policy or practice, does your corporation use the following types of tests to acquire information about *prospective managerial* employees? (Please check the appropriate response.)

Yes No

- ___ ___ Polygraph
- ___ ___ Paper-and-pencil honesty test
- ___ ___ Paper-and-pencil personality test
- ___ ___ Urinalysis
- ___ ___ Blood analysis
- ___ ___ Paper-and-pencil ability test
- ___ ___ Paper-and-pencil attitude test
- ___ ___ Medical examination
- ___ ___ Psychological examination
- ___ ___ Assessment center

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III. COLLECTION OF PERSONNEL INFORMATION ON CURRENT MANAGERIAL EMPLOYEES

- 1. As a matter of general policy or practice, does your corporation monitor *current managerial employees'* workplace conduct through these devices? (Please check the appropriate response.)

Yes No

- ___ ___ Camera surveillance
- ___ ___ Electronic listening devices
- ___ ___ Corporate-retained investigators or informants

2. If the answer to number 1 is "yes," are *current managerial employees* aware that their conduct may be monitored through any of these devices? (Please check the appropriate response.)

Yes No

- Camera surveillance
- Electronic listening devices
- Corporate-retained investigators or informants

3. As a matter of general policy or practice, does your corporation use any of the following devices to collect information about the off-the-job conduct of *current managerial employees*? (Please check the appropriate response.)

Yes No

- Camera surveillance
- Electronic listening devices
- Corporate-retained investigators or informants

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4. As a matter of general policy or practice, does your corporate use any of the following devices to collect information about the off-the-job conduct of *current managerial employees* if there is reasonable suspicion or probable cause to believe that an employee is engaged in some kind of illegal conduct (e.g., selling illegal drugs; gambling)? (Please check the appropriate response.)

Yes No

- Camera surveillance
- Electronic listening devices
- Corporate-retained investigators or informants

5. As a matter of general policy or practice, does your corporation test *current managerial employees* for the following? (Please check the appropriate response.)

Yes No

- Use of illegal drugs
- Abuse of alcohol
- Victim of AIDS

6. Does your corporation have the following types of programs for *current managerial employees*? (Please check the appropriate response.)

- | Yes | No | |
|--------------------------|--------------------------|---------------------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | Employee drug-testing program |
| <input type="checkbox"/> | <input type="checkbox"/> | Employee assistance program |
| <input type="checkbox"/> | <input type="checkbox"/> | AIDS treatment program |
| <input type="checkbox"/> | <input type="checkbox"/> | AIDS education program |
| <input type="checkbox"/> | <input type="checkbox"/> | Family/marital counseling program |
| <input type="checkbox"/> | <input type="checkbox"/> | Sexual harassment complaint procedure |

7. Does your corporation, as a matter of general policy or practice, prohibit *current managerial employees* from dating or marrying other managerial employees? (Please check the appropriate response.)

- | Yes | No | |
|--------------------------|--------------------------|----------|
| <input type="checkbox"/> | <input type="checkbox"/> | Dating |
| <input type="checkbox"/> | <input type="checkbox"/> | Marrying |

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IV. CORPORATE USE AND DISSEMINATION OF PERSONNEL INFORMATION ON CURRENT MANAGERIAL EMPLOYEES

1. As a matter of general policy or practice, does conclusive evidence of the following kinds of conduct by *current managerial employees* result in personnel-related actions pertaining to discipline (including discharge), promotion, or pay? (Please check if decisions in any one of these areas are influenced by such evidence.)

- | Yes | No | |
|--------------------------|--------------------------|----------------------------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | Alcohol use on the job |
| <input type="checkbox"/> | <input type="checkbox"/> | Alcohol abuse off the job |
| <input type="checkbox"/> | <input type="checkbox"/> | Homosexual conduct off the job |
| <input type="checkbox"/> | <input type="checkbox"/> | Illegal drug use on the job |
| <input type="checkbox"/> | <input type="checkbox"/> | Illegal drug use off the job |
| <input type="checkbox"/> | <input type="checkbox"/> | Dating fellow employees |
| <input type="checkbox"/> | <input type="checkbox"/> | Sexually harassing fellow employees |
| <input type="checkbox"/> | <input type="checkbox"/> | Illegal conduct (e.g., gambling) off the job |
| <input type="checkbox"/> | <input type="checkbox"/> | Victim of AIDS |
| <input type="checkbox"/> | <input type="checkbox"/> | Radical political views |
| <input type="checkbox"/> | <input type="checkbox"/> | Cult worshipping |

2. As a matter of general policy or practice, does your corporation inform law-enforcement officials if there is conclusive evidence that *current managerial employees* have exhibited the following conduct? (Please check if law officials are so notified.)

- | Yes | No | |
|-----|-----|----------------------------------------------|
| ___ | ___ | Alcohol use on the job |
| ___ | ___ | Alcohol abuse off the job |
| ___ | ___ | Homosexual conduct off the job |
| ___ | ___ | Illegal drug use on the job |
| ___ | ___ | Illegal drug use off the job |
| ___ | ___ | Dating fellow employees |
| ___ | ___ | Sexually harassing fellow employees |
| ___ | ___ | Illegal conduct (e.g., gambling) off the job |
| ___ | ___ | Victim of AIDS |
| ___ | ___ | Radical political views |
| ___ | ___ | Cult worshiping |

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V. THIRD-PARTY ACCESS TO PERSONNEL INFORMATION ON PREVIOUS OR CURRENT MANAGERIAL EMPLOYEES

As a matter of general policy or practice, does your corporation provide other employers with information relevant to *previous or current managerial employees'* conduct in any of the following areas? (Please check the appropriate response.)

- | Yes | No | |
|-----|-----|---------------------------------------|
| ___ | ___ | Dates of employment |
| ___ | ___ | Performance-evaluation data |
| ___ | ___ | Occupational titles |
| ___ | ___ | Reasons for discipline or termination |
| ___ | ___ | Wage or salary level |
| ___ | ___ | Social security number |
| ___ | ___ | Race |
| ___ | ___ | Home address |
| ___ | ___ | Home telephone number |
| ___ | ___ | Marital status |
| ___ | ___ | Criminal-conviction record |
| ___ | ___ | Military record |
| ___ | ___ | Criminal-arrest record |
| ___ | ___ | General physical health |
| ___ | ___ | Victim of AIDS |
| ___ | ___ | Use of illegal drugs |

- ___ ___ Use of alcohol
- ___ ___ Treatment for drug abuse
- ___ ___ Treatment for alcoholism
- ___ ___ Sexual preferences
- ___ ___ Citizenship
- ___ ___ Age
- ___ ___ Imprisonment
- ___ ___ Hospitalizations
- ___ ___ Smoking habits
- ___ ___ Credit history
- ___ ___ Number of dependents
- ___ ___ General mental health
- ___ ___ Bankruptcy
- ___ ___ Political party or beliefs
- ___ ___ Religion

END

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ENDNOTES

1. This paper does not represent a legal treatment of workplace privacy. The terms privacy right(s) and right to know therefore are not used in a strictly legal sense but rather as a set of activities which may imply workplace rights.
2. Eugene F. Stone and Diana L. Stone, Privacy in Organizations: Theoretical Issues, Research Findings, and Protection Mechanisms, in *Research in Personnel and Human Resources Management*, Volume 8, JAI Press, Greenwich, Connecticut, pp. 349-411, 1990.

3. According to a *New York Times* report (September 1, 1991, p. A10), the police in Cincinnati, Ohio "had conducted an electronic search of all telephone records in the metropolitan area at the behest of Procter & Gamble to help stop news disclosures." The \$27-billion corporation "went to the police for assistance in stopping unauthorized disclosures to a reporter for *The Wall Street Journal* because it was trying to protect its shareholders" (p.A10). The disclosures, published in *The Wall Street Journal*, pertained to the "pending resignation of a top executive, and the possible sale of one division" (p.A10).
4. Samuel D. Warren and Louis D. Brandeis, *The Right to Privacy*, *Harvard Law Review* 4(5), pp. 193-210, 1890.
5. William L. Prosser, *Privacy*, *California Law Review*, 48, pp. 338-423, 1960.
6. Edward J. Bloustein, *Privacy as an Aspect of Human Dignity: An Answer to Dean Prosser*, *New York University Law Review*, 39, pp. 962-1007, pp. 61-65, 1964.
7. John Hoerr, Katherine M. Hafner, Gail DeGeorge, Anne R. Field, and Laura Zinn, *Privacy*, *Business Week*, pp. 61-65, 68, March 28, 1988.
8. Charles A. Odewahn and Darryl L. Webb, *Negligent Hiring and Discrimination: An Employer's Dilemma?* *Labor Law Journal*, pp. 705-712, November 1989.
9. A graduate research assistant telephoned the headquarters of each of the 200 firms to identify the name of the highest ranking executive responsible for human resource management. Such names and titles were identified for all but a handful of corporations.

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