

IACP LEGAL OFFICERS SECTION

*EMPLOYMENT LAW
UPDATE*

EMPLOYMENT LAW UPDATE

I. News from our friends at the EEOC

Jody Litchford, City of Orlando

II. Recent employment law decisions impacting law enforcement agencies

Erica Mason, BakerDonelson, Atlanta

III. Social Media issues for police employers

*Michael Pettry, SSA, FBI Legal Instruction
Unit, Quantico, Virginia*



EEOC STATISTICS 2011

- Age Discrimination – 23.5%
- Disability Discrimination – 25.8%
- Sex Discrimination – 28.5%
- Race Discrimination – 35.4%
- Retaliation – 37.4%

STATE STATS

- #5 – Georgia (5.6%)
- #4 – Illinois (6.1%)
- #3 – California (7.2%)
- #2 – Florida (8.1%)
- #1 – Texas (10%)

EEOC ENFORCEMENT GUIDANCE

April 25, 2012

“Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964”

Arrest – Disparate impact and no business necessity defense ever

Arrest, underlying conduct – Can be considered in employment decision

Conviction – Disparate impact, but may prove business necessity

1. Validated using Uniform Guidelines
2. Individualized consideration AFTER identification based on nature of the crime, time elapsed, and nature of the job
3. Blanket exclusions possible if these factors justify
4. Less discriminatory “alternative employment practices” may still result in a finding of discrimination
5. State or local law requirements (i.e., POST standards) do NOT shield an agency from liability

