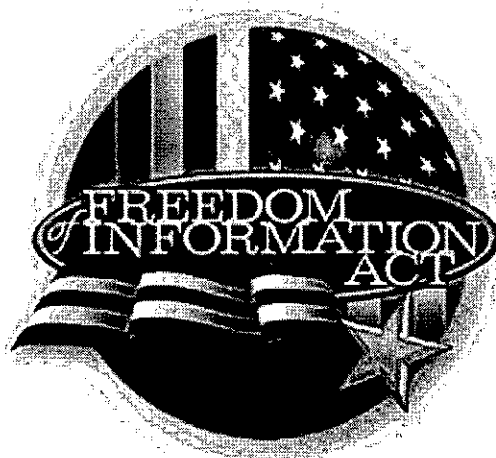


**FREEDOM OF INFORMATION
AND
PRIVACY ACTS**

**SUBJECT: MANUAL OF ADMINISTRATIVE
OPERATIONS AND PROCEDURES**

(PART 3 OF 8)



FEDERAL BUREAU OF INVESTIGATION

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SECTION 13. DISCIPLINARY MATTERS

13-1 INTRODUCTION (See MAOP, Part I, 1-4 (5), 1-15.2, 1-23, 5-4.6 (2), 10-6, 12-1.5 (1) (e), 12-2.5.2, 15-3.2 (4), 21-2 (4); MIOG, Part I, 62-1.1 (6), 62-1.3.1 (2).)

(1) As the government's primary investigative service with a wide range of jurisdictional responsibilities for which we are accountable to the public, it is imperative that a policy of tight discipline be applied in the FBI. It is the responsibility of Bureau supervisory personnel to make clear to employees under their supervision that the Bureau's disciplinary program is firm but fair.

(2) It is imperative that any information pertaining to allegations of misconduct or improper performance of duty coming to the attention of any Bureau employee be promptly and fully reported to FBIHQ, and it is the continuing responsibility of Bureau officials to see to it that the employees under their supervision are properly indoctrinated regarding this requirement so that they not only will fully understand it but will comply with it. (See MAOP, Part I, 1-2.1 (6).)

(3) The appropriate Assistant Director, SAC or Legal Attache is authorized to temporarily assign personnel to other duties during an administrative inquiry if the circumstances surrounding the allegation indicate that such action is warranted. Such a reassignment should not be made automatically. Rather, each case must be judged on the individual factors involved, including the credibility of the allegation and the sensitivity of the employee's current assignment. Temporary reassignments may be justified in order to enhance the security and/or protect the integrity of FBI investigations and files; to preserve order; for the safety of persons and property; or for other appropriate reasons. Any such action must be coordinated with the Office of Professional Responsibility, Inspection Division; Personnel Division; and the appropriate substantive FBIHQ Division and be fully supported by the facts. If an employee is temporarily reassigned during an administrative inquiry, Assistant Directors, SACs and Legal Attaches must continually monitor developments in the administrative inquiry in order to assess the employee's position. If, for example, facts are later developed which alter the basis for the employee's original reassignment, then he/she may be returned to previous duties, even prior to a final adjudication

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of the matter. Allegations regarding unauthorized access or attempted unauthorized access to national security information should continue to be promptly reported to the Security Programs Manager, FBIHQ (see MIOG, Part II, 26-4).

(4) See Part I, Section 1, of this manual regarding Activities and Standards of Conduct of employees. See the LEAVE ADMINISTRATION GUIDE regarding annual leave for employees involved in disciplinary action.

(5) No statements in this section are to be construed so as to indicate that nonpreference eligible FBI employees in the excepted service have a property interest in their employment such as in the form of an expectation of continued employment with the FBI. (See MAOP, Part I, 14-4.2(4) & 21-1.)

EFFECTIVE: 12/01/94

13-2

NOTIFICATION OF FBIHQ UPON RECEIPT OF ALLEGATIONS OF MISCONDUCT OR IMPROPER PERFORMANCE OF DUTY (See MAOP, Part I, 13-13(1) & (3) & 14-4.2; MIOG, Part I, 263-2 (1).)

(1) All allegations of employee misconduct must be reported to the Administrative Summary Unit (ASU), Personnel Division (PD). Allegations of criminality or serious misconduct must be reported simultaneously to the FBI Office of Professional Responsibility (OPR), Inspection Division. OPR supervises and/or investigates all allegations of criminality or serious misconduct on the part of FBI employees. Judicial criticism of an Agent's conduct in findings of fact, opinions, or court orders, whether oral or written, is to be considered an allegation of serious misconduct and reported to OPR as set forth below. (See MAOP, Part I, 1-2.1 (6).)

(2) When an allegation is received concerning criminality or serious misconduct, the appropriate Assistant Director, SAC or Legal Attache will advise OPR of the allegation by telephone or teletype. OPR will, in turn, advise ASU, PD. A confirming airtel, with a copy designated for the ASU, PD, should be directed, in a sealed envelope, to FBIHQ, Attention: OPR, Inspection Division. OPR will then determine and advise who will conduct the investigation. In most instances, the Assistant Directors, SACs, or Legal Attaches will personally supervise and promptly investigate the vast majority of these matters. OPR normally investigates only those allegations

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involving FBIHQ officials, SACs, ASACs, and Legal Attaches and sometimes Headquarters and field supervisors or when circumstances dictate.

(3) If an allegation of misconduct within the responsibility of OPR arises out of a substantive case (pending or closed), the responsible FBIHQ Division will, more than likely, continue to supervise that investigation including the new allegation. However, FBIHQ Divisions will immediately inform OPR, Inspection Division, of the alleged improprieties and forward that portion of the investigation to OPR, Inspection Division, for further processing. These allegations should be carried under the "Office of Professional Responsibility (OPR) Matter" caption and handled as a separate "263" classification investigation so that the substantive investigation and/or prosecution is not hindered.

(4) Other infractions, such as those involving minor personal misconduct are well defined and will continue to be handled by Personnel Division except for the following offenses which have been delegated to SACs and Assistant Directors for handling: Absent Without Leave (AWOL); Violations of Availability Regulations; Sleeping on Duty; Loss of Government Property; Miscellaneous Traffic Violations; Disruption of Office; Abusive/Offensive Language/Behavior in Workplace; and Verbal Altercations. SACs and Assistant Directors are authorized to orally reprimand or censure employees under their supervision below the GS 14 level for the above-listed offenses. Recommendations for more severe disciplinary action must be submitted to the Personnel Division for resolution. (See SAC Memorandum 11-90 dated 4/20/90 for additional information regarding the handling of above-mentioned offenses.) Any question as to whether a matter is or is not within the responsibility of OPR must be referred to OPR for a determination in this regard. (See MAOP, Part I, 13-13(1) & (3).)

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13-3 INVESTIGATION (See MIOG, Part I, 263-3.)

(1) When investigation necessary to develop complete essential facts regarding any allegation against Bureau employees must be instituted promptly, and every logical lead which will establish the true facts should be completely run out unless such action might prejudice pending investigations or prosecutions in which event FBIHQ will weigh the facts, along with the recommendation of the division head.

(2) The record of the inquiry shall include the initial allegation; the investigative results; aggravating or mitigating circumstances; statement of specific charge(s) and the employee's answer(s) including defenses to the specific charge(s), if any.

(3) Requests to conduct audits of the computer systems activities of employees who are suspected of misconduct or improper performance of duty will be handled only with prior notification to FBIHQ. The term audit refers both to review and/or evaluation of prior transactions or activities of a user and procedures designed to monitor the ongoing activities of a user. The proper form for such a request is a formal written communication to FBIHQ with a request directed to the Information Resources Division's (IRD) Investigative Automation Support Section (IASS), to conduct the audit. In exigent circumstances, which dictate the need for immediate institution of an audit, requests may be made telephonically to ASU and/or OPR and subsequently confirmed in writing. In instances where telephonic requests are authorized, the level of authority is at the ASAC level or above in the field offices and at the Section Chief level or above at FBIHQ, with the exception of requests emanating from ASU or OPR. Telephonic requests for user activities audits made by ASU or OPR will be authorized at the Supervisory Special Agent level. (See MIOG, Part I, 263-3 (4).)

(4) Approval to conduct the audits will be made at the Section Chief level in IASS, based on the technical feasibility and resource constraints. If the audit cannot be conducted or if additional information is needed to formulate the audit, IASS will contact the requestor. The results of each audit conducted will be reported on an FD-302 and disseminated to ASU or OPR and the requestor, should it be different from ASU or OPR. The original FD-302 will be forwarded to the office of origin. In those instances where exigent circumstances dictate that the results of the audit be telephonically disseminated, the results will be disseminated by IRD to ASU or OPR and to the requestor, should it be different from ASU or

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OPR, and the telephonic response subsequently confirmed in writing to ASU or OPR and the requestor. (See MIOG, Part I, 263-3 (5).)

EFFECTIVE: 06/01/94

13-4 INTERVIEWS OF EMPLOYEES INVOLVED

(1) Interviews of employees involved in allegations of criminality or serious misconduct should be conducted at the earliest logical time and in a forthright manner. There should be no evasiveness on the part of the Bureau official conducting the interview.

(2) The employee should be fully and specifically advised of the allegations which have been made against him/her in order that he/she may have an opportunity to fully answer and respond to them. The employee must be entirely frank and cooperative in answering inquiries of an administrative nature. If allegations are possibly criminal in nature, the employee has the right to seek counsel in the same vein as any other individual (see 13-6).

(3) Such interviews must be complete and thorough with all pertinent information obtained and recorded so that all phases of the allegations may be resolved. The interviews must not be unduly protracted and should be held to a reasonable length by proper preparation and recognition of the purpose of the interviews.

(4) The inquiry shall not be complete until the specific allegations that may justify disciplinary action are made known to the employee who may be disciplined and the employee is afforded reasonable time to answer the specific allegations. The employee's answers, explanations, defenses, etc., should be recorded in the form of a signed, sworn statement which should specifically include the allegations made against the employee in an introductory paragraph. The statement is to be prepared following an in-depth interview of the employee by the division head or designated supervisory representative. The employee is not merely to be asked to give a written response to the allegations, but is to be interviewed in an interrogatory fashion, and a signed, sworn statement prepared from the results by the interviewing official. Since the statement represents that which the employee is willing to sign and swear to, he/she retains the right to make corrections or changes before doing so. If those changes or corrections differ materially from what the employee

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stated during interview, that fact and the nature of the statements should be separately recorded. Should there be any question on the part of the interviewing official as to whether a particular allegation (set of facts) might justify disciplinary action, he/she should contact OPR, Inspection Division, in order to resolve this prior to the interview so the employee will be ensured of an opportunity to appropriately respond.

(5) When interviewing employees during administrative inquiries to solicit information about themselves or about their own activities, the employee should be provided the Privacy Act notice described in MIOG, Part I, 190-5(2), explaining the purpose of the inquiry and how the information will be used.

(6) When interviewing employees, or others, to solicit information about the subject of an administrative inquiry, the person interviewed as a source should be provided, if appropriate, the opportunity to request an express promise of confidentiality, as described in MIOG, Part I, 190-7, and SAC Memorandum 51-77(C), dated 11/15/77, in order to protect the source's identity should the subject of the inquiry submit a Privacy Act request for access to records of the inquiry. The source should be cautioned that if a formal adverse personnel action is taken against the subject of the inquiry pursuant to Chapter 75 of the Civil Service Reform Act, the information furnished, along with the source's identity must, by law, be provided to the subject, if any information provided in that statement is used in whole or in part to support that personnel action. In addition, pursuant to certain administrative inquiries and possible judicial proceedings, it may be necessary to furnish the source's identity if any information provided in the source's statement is used in whole or in part to support a personnel action. The principles discussed in 13-6, infra, are also applicable to an interview of an employee regarding the actions of others, to the extent such answers might reveal criminal misconduct on the part of the employee being interviewed.

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13-4.1 Polygraph Examinations of Bureau Employees (See MIOG, Part I, 263-6; Part II, 13-22.14.)

(1) All polygraph examinations of FBI employees and those who have made allegations against FBI employees must be approved by the Assistant Director, Inspection Division, or another person designated by the Director. In the case of polygraph examinations requested pursuant to a security clearance adjudication, the Director has delegated approval authority to the Assistant Director, National Security Division.

(2) Polygraph examinations of employees will be administered away from their own office of assignment. This procedure will help protect the confidentiality of the investigation/inquiry and lessen the outside pressure on the employee which could be associated with an examination conducted with knowledge of an employee's friends and associates.

(3) Polygraph examinations of Bureau employees are to be administered by an FBIHQ examiner. In the event an FBIHQ examiner is not available, the examination will be conducted by an examiner designated by FBIHQ.

See MIOG, Part II, 13-22.13.1, 13-22.13.2, 13-22.13.3, and 13-22.14 for additional instructions and information regarding polygraph examinations of employees who are subject of a criminal investigation or administrative inquiry.

EFFECTIVE: 07/19/95

13-5 SIGNED SWORN STATEMENTS

Whenever there are circumstances in connection with investigations or inquiries indicating misconduct of personnel, harassment or intimidation of subjects, other individuals or groups, or derelictions of any kind by the Bureau, all Agents engaged in such investigations or inquiries must:

(1) Immediately prepare signed sworn statements of fact so that a clear record will be available should a question arise at a later date. These statements should:

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- (a) Cover facts bearing directly upon charges made.
- (b) Be specific as to each allegation, if allegations are specific.
- (c) Be general in nature, if allegations are general in nature.

In matters relating to a pending investigation, no interviews should be conducted until it is determined by the USA's office, the Department of Justice and/or FBI Headquarters, that such action will not hinder the investigation and/or prosecution. The SAC or any Special Agent designated by SAC may administer the oath in these statements since, under existing regulations, Agents are authorized to administer oaths in cases involving irregularities or misconduct in office of a Government employee. This statement is comparable to an affidavit, but does not necessitate notarization.

(2) Forward the original and one copy of these statements to FBIHQ under the appropriate case caption and retain a copy in the field office or Headquarters file. If the allegations relate to a matter currently being investigated, prosecuted or on appeal, the USA's office (or in aggravated instances, Office of Professional Responsibility-Department of Justice) should be made aware and an opinion sought as to whether or not immediate preparation of the employee's statement would have a detrimental effect on the substantive investigation. Thereafter, if appropriate, a signed copy of any statement obtained can also be furnished to the appropriate USA so that the court records will clearly show the true facts and any false allegations made will not stand undisputed in the court record.

(3) If the matter, whether criminal or administrative in nature, is considered sufficiently serious, an attempt should be made to obtain the complainant's allegation in the form of an affidavit or sworn signed statement also.

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13-6 ADMINISTRATIVE OR CRIMINAL PROCEEDINGS - USE OF INTERVIEW
FORMS (See MAOP, Part I, 13-4; MIOG, Part I, 263-5.)

(1) Prior to the interview of an employee against whom allegations of criminal misconduct have been leveled a decision should be made as to whether the goal of the interview is to obtain a statement admissible in subsequent criminal proceedings or whether the goal is to compel the employee to make a full statement of the facts in order to ascertain what administrative action, if any, is appropriate. This decision is to be made by OPR, FBIHQ.

(2) To ensure that employees being interviewed are fully and consistently made aware of their rights and obligations, two forms have been adopted for use in such interviews. The Office of Professional Responsibility, DOJ, has fully endorsed the use of these forms. These forms are only to be utilized during OFFICIAL administrative inquiries and only when authorized by FBIHQ (primarily those supervised by OPR).

(3) Neither of these two forms (FD-644 nor FD-645) which are described below are to be routinely used during the investigation of a shooting incident. They will be used only in those shooting inquiries when instructed to do so by FBIHQ as set forth in MIOG, Part II, Section 12-11.7.

The decision as to which form will be used in a particular inquiry will be made by OPR, FBIHQ, on a case-by-case basis, in accordance with the principles set forth below.

EFFECTIVE: 10/17/95

13-6.1 Criminal Proceeding Contemplated or Possible

(1) Form A (FD-644) captioned "Warning and Assurance to Employee Requested to Provide Information on a Voluntary Basis," is to be utilized in situations where an employee is provided an opportunity to voluntarily respond to questions concerning allegations of job-related misconduct which have the potential for criminal prosecution, but wherein the employee is not being compelled to answer questions or provide a statement. Use of this form should assure that any statements obtained will be freely and voluntarily given and, hence, admissible in any future criminal proceeding.

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(2) Full Miranda warnings will be given to employees only in situations where the employee to be interviewed is in custody or is significantly deprived of his/her freedom of action, an arrest is clearly intended at the conclusion of the interview, or whether in custody or not, the employee being interviewed has previously been arrested or formally charged and prosecution is pending on a Federal offense and the questioning concerns that offense or a related Federal offense.

(3) Whenever Form FD-644 is utilized, an interview log should be prepared in accordance with the Legal Handbook for Special Agents, Section 7-9.

EFFECTIVE: 12/22/86

13-6.2 Inquiry Solely for Administrative Purposes

(1) In a situation where the allegation, if true, has the potential for criminal prosecution, but a decision has been made not to seek an admissible statement, (but rather, to compel the employee to fully and candidly answer all questions concerning the alleged incident), Form B (FD-645), captioned "Warning and Assurance to Employee Required to Provide Information," should be used.

However, prior to the use of this form in any instance where the allegation, if true, would have potential for Federal criminal prosecution of the employee to be interviewed, OPR-Inspection Division must present the facts of the case to OPR-DOJ and obtain an initial opinion that the matter in question should be handled administratively rather than criminally. This is necessary because any incriminating statement obtained after use of Form FD-645 will not be admissible in a criminal prosecution of the employee.

(2) In a situation where the allegation, if true, has potential for non-Federal prosecution, and a decision has been made by FBIHQ to compel full answers from the employee regarding the matter under investigation, Form FD-645 should be used.

(3) In all other instances where an employee is being interviewed in connection with an official administrative inquiry, Form FD-645 should be used.

(4) There is no Sixth Amendment right to counsel in purely administrative interviews. Therefore, even if the employee

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specifically requests to have an attorney present during the course of the interview, the Bureau is not legally obliged to agree to this condition. Any administrative decision to allow the presence of counsel during an administrative interview is to be made by OPR, FBIHQ.

(5) An interview log is not required when Form FD-645 is utilized. Those conducting such administrative interviews of employees should be alert, however, to circumstances where good judgment might warrant preparation of an interview log; for example, in those interviews of a particularly sensitive nature or in those concerning serious misconduct involving veterans which may ultimately be heard before a Merit Systems Protection Board.

EFFECTIVE: 02/24/88

13-7 REPORTING

(1) In most instances, after FBIHQ has been initially notified of the allegation, it will be satisfactory for the responsible official to report the facts pertaining to the misconduct or improper performance of duty, by letter setting forth a concise statement of the situation together with supporting documentation and statements. In all cases, whether or not it is felt administrative action is necessary, a statement that administrative action is, or is not, recommended must be made. There can be no deviation from this procedure.

(2) To prevent unauthorized disclosure of these allegations and the subsequent inquiry, a separate field office file should be opened and indexed under a "263" classification for each investigation and be maintained in the SAC's safe. This file number will be included on all communications between field divisions and FBIHQ; communication being directed to the personal attention of the SAC and/or enclosed in a sealed envelope to FBIHQ, Attention: OPR-Inspection Division.

(3) Copies of the allegations and subsequent investigation should not be placed in the accused's field office or FBIHQ personnel file. Only if some form of administrative action is taken will there be any need to address the allegation in one's personnel file. This is satisfactorily handled by a designated copy of the approved justification memorandum and/or addendum(s) being placed in the personnel file at FBIHQ as well as copies of the

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outgoing communication to the employee being placed in both the field office and FBIHQ personnel files.

EFFECTIVE: 02/24/88

13-7.1 Format

Certain factual situations may require the letters in which they are reported to exceed one page in length. In these instances, such letters should conform to the following format:

(1) Title--This should, when possible, relate only to the substance of the allegation regardless whether or not it originated out of a substantive investigation or is work related. The title should include the employee(s) name; general allegation (i.e., alleged professional misconduct, etc.); complainant, if appropriate; division and classification, i.e., OPR Matter.

(2) Synopsis--Here should be stated briefly, but clearly, the pertinent facts relating to the situation. While brief, the synopsis should contain sufficient facts to give any reviewing official a clear picture of each allegation and whether they are true or false.

(3) Action taken--Here should be clearly enumerated the action taken by the Bureau official pertaining to the employee in connection with the misconduct or improper performance of duty. For example, a statement as to the time and date an employee was suspended from active duty, or an explanation as to any investigation or information sought from other field offices in running out the allegation, or the like, should be set forth under this heading.

(4) Work record and any aggravating or mitigating factors--Under this heading should be reported pertinent comments regarding the general work performance record of the employee. In addition, any other factors of an aggravating nature or which might have a mitigating or balancing effect upon the dereliction should be set forth. For example, if an employee put a great deal of hard work and effort into a matter and was also responsible for certain shortcomings, the administrative action finally decided upon would be dependent upon a balancing and weighing of the good and bad aspects. However, any mitigating facts should not be restricted to the particular case or incident from which the dereliction arises. An employee may have performed creditably in other cases recently, on

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other occasions or displayed a commendable attitude which factors should be brought to FBIHQ's attention.

(5) Comments and conclusions--Under this heading should be set forth the observations of the Bureau official and the conclusions upon which the recommendations for administrative action are based.

(6) Recommendations--Under this heading should be set forth the recommendations as to what, if any, administrative action is necessary.

(7) Enclosures--Attach statements of the complainant, witnesses and employee(s), as well as any documentation relevant to the inquiry.

EFFECTIVE: 02/24/88

13-7.2 Investigative Reports

(1) Matters involving criminality or serious misconduct supervised/investigated by OPR-Inspection Division should, for the most part, be submitted to FBIHQ by Investigative Report which should be thorough, precise and to the point. There may be instances where the extent of the inquiry is so minimal that an Investigative Report would not seem necessary. Any question concerning whether or not to submit an Investigative Report should be resolved by consulting with OPR-Inspection Division.

(2) Synopses of OPR Matter Investigative Reports should be extremely complete to include all allegations, the results of investigation and the subject employee's responses to these allegations. Consideration should be given to including a table of contents in these Investigative Reports.

(3) Three copies of the Investigative Report (four copies if the matter involves a substantive case) should be submitted by cover airtel, in a sealed envelope, to FBIHQ, Attention: OPR-Inspection Division. The cover airtel should contain the SAC's observations, comments, mitigating or aggravating circumstances, as well as SAC's recommendations for administrative action.

(4) FBIHQ is to be the office of origin in OPR Matter investigations.

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13-8 ALLEGATIONS MADE BY INDIVIDUALS OUTSIDE THE BUREAU

(1) In instances in which allegations are made by persons outside the Bureau against Bureau personnel or the Bureau itself and such charges are disproven, prompt action should be taken to refute such claims both with the source of the erroneous complaints and others having knowledge of the allegations, including news media carrying stories on the matter. Where possible, every effort should be made to have the refutation appear in the same article with the charges. Whenever the advisability of taking this action appears questionable, FBIHQ should be advised and a recommendation made on this point setting out clearly the reasons on which the conclusion is based.

(2) If allegations are made against Bureau personnel by subjects of Bureau cases during a court trial, it is the responsibility of the SAC with the concurrence of the USA and/or DOJ, to see that proper refutation is made and that such refutation appears in court records in accordance with the Manual of Investigative Operations and Guidelines, Part II, Section 6. The purpose of this is to insure that in case of an appeal the Bureau's refutation is in the court's record. FBIHQ is to be advised promptly of all pertinent facts and circumstances relating to such allegations and refutations.

EFFECTIVE: 02/28/91

13-9 SUSPENSION WITHOUT PAY (See MAOP, Part I, 13-12 (2).)

(1) No Bureau employees are to be suspended without pay without prior FBIHQ approval. Where the seriousness of the situation warrants, the Assistant Director of the Personnel Division may be contacted telephonically. His instructions regarding suspension without pay or other immediate action to be taken pending a final determination of the matter may be secured.

(2) In cases involving disciplinary suspension without pay for seven or more consecutive calendar days, SF-8 will be sent to the employee by Personnel Management Section, FBIHQ, as an enclosure

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with the letter addressed to employee containing suspension notification. However, when telephonic or teletype instructions are issued by FBIHQ suspending the employee for seven or more consecutive calendar days, instructions will be issued and recorded that SF-8 be furnished.

(3) Employees who are under suspension without pay cannot legally be permitted to work during the period of suspension. If employees offer to work while under suspension, they should be informed it is illegal. FBIHQ decision in such instances is unnecessary, although FBIHQ should be informed of the employee's attitude in making the offer.

(4) Upon return to duty from suspension an SF-52 must be submitted to FBIHQ. The following items must be completed:

- (a) Part A, Items 1, 3, 5, and 6
- (b) Part B, Items 1, 2, 3, and 22

EFFECTIVE: 04/21/94

13-10

PROCEDURAL RIGHTS OF PREFERENCE ELIGIBLE EMPLOYEES
REGARDING ADVERSE ACTIONS (See MAOP, Part I, 1-29,
1-30.3, 3-6.1, 8-1.11, 8-1.12.2, 10-6, 10-7, 13-11(2),
13-13, 14-4.1 & 14-4.2.)

(1) A "preference eligible" employee who has completed one year of current continuous service in the same or similar positions within an agency may have certain rights when an adverse action is proposed or taken against the employee. For the purposes of this manual, an "adverse action" involves removal, suspension for more than 14 days, reduction in grade or pay, or a furlough of 30 days or less. Such an action may only be taken for such cause as will promote the efficiency of the service. (See Title 5, United States Code (USC), Sections 7511-7513.) (See MAOP, Part I, 21-1.)

(2) As a general matter, a preference eligible employee includes an honorably discharged veteran who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized; during the period beginning on 4/28/52 and ending on 7/1/55; or for at least 180 days during a period occurring after 1/31/55 and before 10/15/76 (with exceptions applying to the National

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Guard and the Reserves). The term also includes certain disabled veterans. In addition, under certain limited circumstances "preference eligible" can include an unmarried widow/widower of a veteran, the spouse of a disabled veteran, or the mother of a deceased or disabled veteran. It does not include members of the FBI-DEA Senior Executive Service. (See Title 5, USC, Section 2108.)

(3) With respect to adverse actions, the procedural rights of a preference eligible employee who has completed one year of current continuous service are set forth at Title 5, USC, Section 7513. These rights include: (a) at least 30 days' advance written notice stating the specific reasons for the proposed action, unless there is a reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed; (b) a reasonable time of not less than seven days to answer orally and in writing and to furnish affidavits and other documentary evidence; (c) the right to be represented by an attorney or other representative; (d) a written decision which includes the specific reasons for the agency action; (e) the right to appeal the adverse action to the Merit Systems Protection Board (MSPB); and, (f) the right to inspect documents which the agency relied upon in arriving at its decision. As a general matter, appeals to the MSPB by preference eligible employees are to be filed within 30 days after the effective date of the adverse action.

(4) During the period of advance written notice, the employee may be retained on active duty, be placed on administrative leave, be placed on annual leave or leave without pay with the employee's consent, or be suspended without pay if the suspension does not exceed 14 days in length.

(5) Like nonpreference eligible employees, a preference eligible employee who has completed his/her one-year probationary period (see MAOP, Part I, Section 21) may appeal an adverse action to the Assistant Director, Personnel Division, FBIHQ.

(6) Any necessary notices to preference eligible employees will be handled by FBIHQ.

(7) Upon receiving an employee's reply to the notice of proposed disciplinary action, FBIHQ will consider the reply and advise the employee in writing of the final decision.

(8) A nonpreference eligible employee in an "excepted service" agency such as the FBI is not LEGALLY entitled to the same procedural rights afforded to a preference eligible employee in

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adverse action cases.

EFFECTIVE: 04/02/96

13-11 | USE OF AN INDEFINITE SUSPENSION IN PERSONNEL MATTERS (See
MAOP, Part I, 1-29.)

(1) Indefinite suspensions are defined by the FBI as the placing of an employee in a temporary status without duties and pay pending investigation, inquiry, or further agency action. The indefinite suspension continues for an indeterminate period of time and ends with the occurrence of the pending conditions set forth in the notice of action which may include the completion of any subsequent administrative action. An indefinite suspension may be imposed when it is determined that an employee's continued presence in the workplace will be injurious to the employee, to co-workers or the public, to the FBI's operations, or to national security interests pending additional investigation into the underlying conduct of the employee. Members of the FBI's Senior Executive Service (SES) are not covered by this policy. Rather, indefinite suspensions involving members of the FBI's SES are governed by the adverse action provisions set forth in the FBI's SES policy.

(2) An indefinite suspension for more than 14 days is considered an adverse action under 5 CFR, 752.401(a)(2). Preference eligible employees are, therefore, afforded statutory entitlements which are set forth in Title 5, USC, Section 7513 and MAOP, Part I, 13-10.

(3) See MAOP, Part I, 1-29 for further information concerning the use of an indefinite suspension in matters involving revocation of a security clearance.

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13-11.1 Use of an Indefinite Suspension in Matters Involving
Criminal Conduct

(1) Each incident involving suspected criminal conduct will be considered from the viewpoint of whether the employee's continued presence in the workplace is detrimental to the FBI in accomplishing its mission. Each incident involving suspected criminal conduct will be analyzed by the Personnel Officer, FBI, on a case-by-case basis. In some situations involving a misdemeanor, such as some vehicular offenses, the continued presence of the employee in the workplace may not be detrimental and, therefore, indefinite suspension as an administrative action would not be appropriate. Certain criminal conduct such as fraud against the government may form the basis for an indefinite suspension. These examples are not intended to limit the use of an indefinite suspension in matters involving criminal conduct.

(2) Preference eligible employees (e.g., certain veterans) may appeal indefinite suspensions to the Merit Systems Protection Board (MSPB). The MSPB has stated that an agency may take an action to indefinitely suspend an employee if it has reasonable cause to believe that a crime has been committed for which a sentence of imprisonment may be imposed. The reasonable cause may be established, for example, by an indictment or through a judicial determination of probable cause. The arrest of an employee may not be sufficient to establish reasonable cause as required by the MSPB absent additional facts to justify the suspension. Nonpreference eligible FBI employees do not have the right to appeal an indefinite suspension to the MSPB.

EFFECTIVE: 12/01/94

13-11.2 Final Authority for Approval of Indefinite Suspensions

All indefinite suspensions will be reviewed and approved by the Personnel Officer, FBI, Personnel Division, FBIHQ.

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13-11.3 Removal From Indefinite Suspension

An indefinite suspension will be terminated upon completion of the FBI's inquiry and decision concerning the status of the employee (i.e., a decision to fully or partially allow the employee to return to the work place or to terminate employment with the FBI).

EFFECTIVE: 12/01/94

13-11.4 Back Pay Matters

An employee is NOT entitled to back pay for the period of the suspension.

EFFECTIVE: 12/01/94

13-12 RESIGNATION TENDERED DURING PERSONNEL ACTION
INQUIRY (FORMERLY 13-11) (See MAOP, Part I, 17-1.1.)

(1) It may be that an employee would rather submit his/her resignation than see the inquiry continue and face possible charges. Division heads, SACs and other supervisory employees may, upon conclusion of their findings, discuss with the employee what the intended recommendation to FBIHQ will be with respect to administrative action, being careful to point out at the same time that any formal action or charges will be made at FBIHQ. Accordingly, it is permissible to discuss the possibility of resignation with the employee. Duress, deception, intimidation or anything similar will not be tolerated and must not be used to influence employee's decision nor may employee be denied adequate time, if requested, to make a decision between resigning or seeing the inquiry continued. Employee should be advised of the Bureau's procedures for employee discipline

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and that these procedures allow an employee the opportunity to rebut negative allegations and recommendations of his/her supervisors. Employee should also be advised that a voluntary resignation might preclude him/her from receiving unemployment compensation he/she may otherwise be entitled to.

(2) Should an employee involved in allegations submit his or her resignation from the Bureau's service, such resignation should be received and forwarded to FBIHQ.

EFFECTIVE: 12/01/94

13-13 SCHEDULE OF DISCIPLINARY OFFENSES AND PENALTIES FOR
FBI EMPLOYEES (FORMERLY 13-12) (See MAOP, Part I,
1-30.3 and 21-7 (4).)

(1) This schedule is to be used only as a guide in determining appropriate discipline based on the violation of regulations by Bureau employees. This schedule is not all inclusive, and final determination of the appropriate disciplinary action warranted in each case will be made by FBIHQ, except for those matters delegated to SACs and Assistant Directors (see 13-2(4) of this section for details). It should be noted that the decision-making process utilized in determining appropriate action in disciplinary matters is extensive in nature and involves input from every level of management in FBIHQ. In addition, consideration is given to Bureau policy and similar incidents previously resolved, as well as any aggravating or mitigating circumstances of the case in point. In some instances, discussions are held with the Department of Justice and the Office of Personnel Management before a final determination is made. In most instances, penalties for violations of regulations will fall within the range of penalties set forth in this schedule. In aggravated case, a penalty outside the range of penalties may be imposed. For example, supervisors and Bureau officials, because of their responsibility to demonstrate exemplary behavior, may be subject to a greater penalty than is provided in the range of penalties. The purpose of this schedule is not to remove the personnel management decisions made in all disciplinary matters but rather to provide an example and guide which is used at FBIHQ and in the field in connection with decisions made in regard to disciplinary matters.

(2) In regard to suspensions, it is noted that the Civil Service Reform Act (CSRA) of 1978 provides that days of suspension

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will be computed in terms of calendar days, not days worked. Therefore, recommendations for a period of suspension will only be made in terms of calendar days. A period of suspension will always commence at the close of business, Friday of any given week. For example, recommendation of seven (7) days' suspension, if approved, will result in a forfeiture of five days' pay whereas a recommendation of fourteen (14) days' suspension will result in a forfeiture of ten days' pay. A period of suspension in excess of 14 calendar days is an adverse action as defined in the CSRA of 1978 (see 13-10 of this section for details).

(3) All employees who have completed their one-year probationary period (see MAOP, Part I, Section 21) may appeal disciplinary actions short of "adverse actions" (e.g., removal, suspension for more than 14 days, reduction in grade or pay) to the SAC, Assistant Director, or office head if the action is taken by a subordinate supervisor or manager. When disciplinary action is taken by an SAC, Assistant Director, office head, or the Personnel Officer pursuant to Part I, 13-2(4) of this manual, an employee may appeal to the Assistant Director, Personnel Division. When disciplinary action is taken against SES members or ASACs, the Deputy Director is the action authority. The Director is the final appeal authority for disciplinary actions taken by the Deputy Director. Appeals must be received within 30 calendar days after the effective date of the disciplinary action. Thereafter, nonpreference eligible FBI employees in the excepted service do NOT have a right to appeal a disciplinary action to the Merit Systems Protection Board (MSPB). A "preference eligible" employee who has completed one year of current continuous service in the same or similar positions in an agency, in addition to being able to appeal a disciplinary action as indicated above, may also appeal an "adverse action" (e.g., removal, suspension for more than 14 days, reduction in grade or pay) to the MSPB. As a general matter, appeals to the MSPB by preference eligible employees are to be filed within 30 days after the effective date of the adverse action. (See MAOP, Part I, 13-10, 14-4.1 and 14-4.2.)

(4) The following definitions are furnished for information. This schedule does not include discipline required by law or infractions which, in addition to being a violation of Bureau rules and regulations, are also a criminal offense.

(a) Oral reprimand--Employees are advised of deficiency or infraction of regulations and notation made in personnel file relating to the need for the official reprimand.

(b) Commented upon in annual performance rating--In

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this instance, the infraction warranted more than an oral reprimand but is not considered severe enough for official recognition in the form of a letter of censure. This refers to work-related matters only.

(c) Censure--Official written reprimand.

(d) Censure and probation--Official written reprimand which includes a minimum probationary period of 90 days for Special Agents and 60 days for other employees.

(e) Censure, probation and suspension--Official written reprimand which, in addition to a probationary period, includes a period of time in which the employee is removed from duty without pay.

(f) Demotion--Any reduction in grade or pay.

(g) Removal--Dropped from the rolls of the FBI.

(5) The standards by which all employees are held are set forth in greater detail in this manual. For further reference, these standards of conduct can be found in the Department of Justice Order 350-65 captioned "Standards of Conduct," Executive Order 12764, and the ETHICS HANDBOOK which is distributed to all personnel.

(6) An employee may be censured when the cause for administrative action is sufficiently aggravated as to require a written reprimand. At the time FBIHQ makes a promotional decision, all relevant information including the cause for a disciplinary matter, including probation, is considered. FBIHQ expects the employee's superior to provide a strong favorable recommendation when the employee has been the subject of disciplinary action within the preceding 12 months. Lacking such a recommendation, FBIHQ may determine that a promotion from one GS or Wage level to another should be delayed for a period of up to 60 days for support employees or up to 90 days for Agents. (See MAOP, Part I, 3-1.2.2 (3) & (4).)

SCHEDULE OF DISCIPLINARY OFFENSES AND PENALTIES FOR FBI EMPLOYEES

1. Unexcused or unauthorized absence of 8 hours or less

Applies to: All Personnel

First Offense - Oral Reprimand to 3-day suspension

Second Offense - Oral Reprimand to 5-day suspension

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Third Offense - Oral Reprimand to removal

2. Excessive unauthorized absence (in excess of 8 hours)

Applies to: All Personnel

First Offense - Oral Reprimand to 5-day suspension

Second Offense - Oral Reprimand to 15-day suspension

Third Offense - Oral Reprimand to removal

3. Work deficiencies and/or inattention to duty | (See MAOP, Part I, 8-1.11.) |

Applies to: Agent Personnel

First Offense - Oral reprimand to removal

Second Offense - 5-day suspension to removal

Third Offense - 15-day suspension to removal

Applies to: Non-Agent Personnel (Excluding Fingerprint Examiners, Information Services Section, Criminal Justice Information Services Division, for whom standards of production and accuracy, as well as minimum penalties, have been established.)

First Offense - Oral reprimand to removal

Second Offense - 3-day suspension to removal

Third Offense - 5-day suspension to removal

4. Insubordination | (See MAOP, Part I, 8-1.11.) |

Applies: All Personnel

First Offense - Censure to removal

Second Offense - 5-day suspension to removal

Third Offense - 15-day suspension to removal

5. Unauthorized possession of, use of, or loss or damage to government property other than motor vehicle or aircraft

Applies to: All Personnel

First Offense - No action to removal

Second Offense - Oral reprimand to removal

Third Offense - Censure to removal

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6. ***Unauthorized possession of, use of, loss of or damage to government owned or leased motor vehicle or aircraft.

Applies to: All personnel

First Offense - Oral reprimand to removal
Second Offense - 3-day suspension to removal
Third Offense - 5-day suspension to removal

***Title 31, U.S. Code, Section 1349(b), provides a minimum of 30 days' suspension for employee who willfully uses or authorizes the use of any government-owned or leased motor vehicle or aircraft for other than official purposes. (See MAOP, Part I, 1-3.1.)

7. Traffic violations

Applies to: All personnel

- a. Aggravated (all types)

First Offense - Oral reprimand to removal
Second Offense - Oral reprimand to removal
Third Offense - Oral reprimand to removal

- b. Driving Under the Influence or While Intoxicated. (See MAOP, Part I, 1-30.3 and 8-1.12.2.)

First Offense - 30-day suspension to removal
Second Offense - removal

8. Illegal use of Controlled Substance (Drugs and marijuana)

Applies to: All personnel

First Offense - Censure to Removal
Second Offense - Removal

9. Criminal, dishonest, immoral, infamous or notoriously disgraceful conduct

Applies to: All personnel

First Offense - Oral reprimand to removal
Second Offense - 5-day suspension to removal
Third Offense - 30-day suspension to removal

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10. Failure to honor confirmed financial obligations

Applies to: All personnel

First Offense - Oral reprimand
Second Offense - Oral reprimand
Third Offense - Oral reprimand to removal

11. Unauthorized disclosure of information from Bureau records

Applies to: All personnel

First Offense - Oral reprimand to removal
Second Offense - Removal

12. Falsification of official documents and/or records

Applies to: All personnel

First Offense - Oral reprimand to removal
Second Offense - Removal

13. Availability

Applies to: All personnel

First Offense - Oral reprimand to removal
Second Offense - Oral reprimand to removal
Third Offense - Oral reprimand to removal

14. Fitness for duty (overweight)

Applies to: Agent Personnel

First Offense - Oral reprimand
Second Offense - Oral reprimand to 5-day suspension
Third Offense - Oral reprimand to 15-day suspension

15. Smoking regulations

Applies to: All personnel

First Offense - Oral reprimand to censure
Second Offense - Oral reprimand to 5-day suspension
Third Offense - Oral reprimand to 14-day suspension

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16. Security violations for:

Applies to: All personnel

a. Loss of classified/sensitive information

First Offense - Censure to removal
Second Offense - Suspension to removal
Third Offense - Suspension to removal

b. Mishandling classified/sensitive information by: improper removal, storage (to include unlocked/unsecure safes, vaults, or cabinets), disposal, transporting, reproduction, transmittal, or access

Applies to: All personnel

First Offense - Oral reprimand to removal
Second Offense - Censure to removal
Third Offense - Suspension to removal

c. Computers

Applies to: All personnel

Medium Risk

1. Failure to properly label ADP storage media
2. Unauthorized Software
3. Unlicensed Software
4. Nonofficial use of FBI computers
5. Introduction of malicious code

First Offense - Oral reprimand to removal
Second Offense - Censure to removal
Third Offense - Suspension to removal

High Risk

1. Misuse of accessor IDs and passwords

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2. Improper maintenance
3. Improper equipment and media disposal
4. Failure to maintain proper control of FBI microcomputers and ADP storage media
5. Unauthorized telecommunications
6. Unauthorized access to FBI computers or networks or exceeding authorized codes

First Offense - Censure to removal
Second Offense - Suspension to removal
Third Offense - Suspension to removal

d. Routing of "Top Secret" or SCI information by telelift system, mail-mobile, pneumatic tube, U.S. Postal Service, or other commercial mail service

Applies to: All personnel

First Offense - Oral reprimand to removal
Second Offense - Oral reprimand to removal
Third Offense - Censure to removal

EFFECTIVE: 04/02/96

| 13-13.1 | Moved to 13-14.1 |

EFFECTIVE: 12/01/94

| 13-13.2 | Moved to 13-14.2 |

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EFFECTIVE: 12/01/94

| 13-13.3 | Moved to 13-14.3 |

EFFECTIVE: 12/01/94

| 13-13.4 | Moved to 13-14.4 |

EFFECTIVE: 12/01/94

| 13-13.5 | Moved to 13-14.5 |

EFFECTIVE: 12/01/94

13-14 DISCIPLINARY PROBATION (FORMERLY 13-13) (See MAOP, Part I,
1-30.3, |8-1.12.2.) |

Disciplinary probation is a corrective and/or punitive procedure (which may be imposed with censure and/or suspension when so dictated by the factual situation) to closely monitor an employee's performance with intent to provide counsel and correction during a specified period of time. During the disciplinary probation period, a denial of certain employee benefits may be imposed.

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||13-14.1| Purpose of Disciplinary Probation| (Formerly 13-13.1)|

To provide the employee with notice that the particular area of inefficiency, delinquency, or poor judgment, etc., will be afforded close scrutiny for a specified period of time. During the period of disciplinary probation, the employee is expected to make a concerted effort to improve in the deficient area.

EFFECTIVE: 12/01/94

||13-14.2| Length of Disciplinary Probation| (Formerly 13-13.2.)|

The length of the disciplinary probation period is flexible and will be determined by the Director or Director's delegated representative. In most cases the original disciplinary probation period will be 90 days for Special Agents and 60 days for support employees.

EFFECTIVE: 12/01/94

||13-14.3| Effects of Disciplinary Probation on Employee| (Formerly
13-13.3)|

During the period of disciplinary probation an employee:

- (1) Will not be promoted from one GS or Wage Board level to another;
- (2) Will not be considered for advancement within the Executive Development and Selection Program of the Bureau;
- (3) Will not be considered for a Personnel Resource List Transfer;
- (4) May have a promotion delayed for a period of time not to exceed the period of disciplinary probation if the action

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occurred during the preceding 12 months and has not been offset by a strong favorable recommendation for promotion from the employee's superior. The final determination will be made by the Personnel Officer at FBIHQ.

EFFECTIVE: 12/01/94

||13-14.4| Application of Disciplinary Probation|(Formerly 13-13.4.)|

An employee will be placed on disciplinary probation only when the cause for administrative action is work performance related or work-related.

(1) Work performance considers the technical competence aspect of an employee.

(2) Work-related action involves judgment, common sense, and the impact the cause has on the public's perception of the FBI.

EFFECTIVE: 12/01/94

||13-14.5| Removal from Disciplinary Probation|(Formerly 13-13.5.)|

(1) At the expiration of a disciplinary probation period, the Administrative Summary Unit, Personnel Division, will activate a computer entry into the Bureau's Personnel Management System to remove the employee from probation. No paperwork will be involved on the part of the SAC/AD or FBIHQ for this process to occur. However, should the SAC/AD choose to recommend that an employee remain in a probationary status due to continued deficiency in the area for which the employee was disciplined, the Administrative Summary Unit should be telephonically advised just prior to the end of the period, followed by an appropriate communication detailing the basis for same. It is important that a tickler be set in the respective divisions so this matter can be followed closely.

(2) As a guideline in recommending that an employee

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in a probationary status be continued in this status, the employee must continue to be deficient in the area for which they had been initially disciplined. If the employee is deficient in another area, this would not be sufficient justification to continue the initial probationary status. If additional problems are identified, the SAC/AD should seriously consider recommending an additional disciplinary action to address the other deficient areas, whether it be performance or conduct related.

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SECTION 14. APPEALS AND GRIEVANCES

14-1 INTRODUCTION

(1) The FBI has always attempted to anticipate and avoid possible sources of employee discontent or grievances by following fair and objective policies, uniformly applied to all. To detect and solve grievances which might arise, the FBI depends upon the alertness of its supervisors and officials.

(2) The FBI is confident that its indoctrination and training programs ensure that each employee is fully aware that any grievance should be brought to the attention of their supervisor so that the matter may be discussed, explained and resolved. All employees should be aware that their division head or Special Agent in Charge is always available for further discussion with them of any problem which cannot be handled satisfactorily on the supervisory level; and that any problem which cannot be resolved satisfactorily on any lower level may be brought to the Director's attention in writing, or may be presented orally to an appropriate Bureau official.

(3) Other means by which employees may present their problems include the suggestion program or contact with the inspectors who periodically inspect each division or field office. In addition, certain formal procedures exist as set out in the subsections below.

EFFECTIVE: 02/28/91

14-2 CONTESTING PERFORMANCE APPRAISALS

(See Part I, Section 5 of this manual.)

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14-3 POSITION CLASSIFICATION

Position classification decisions may be appealed in accordance with provisions of Title 5, Code of Federal Regulations, Chapter 1, Part 511. Supervisors should be alert for situations in which it appears an employee may be considering an appeal. Experience has shown that if a supervisor carefully explains to an employee the basis for a given classification action misunderstandings are averted. If difficulty persists in a given case, it may be feasible to take administrative steps, such as readjustment of work assignments, to eliminate it. FBIHQ should be notified of problems which resist settlement. If need arises, FBIHQ will furnish, upon request, the necessary instructions for filing classification appeals.

EFFECTIVE: 02/28/91

14-4 APPEAL RIGHTS

EFFECTIVE: 02/28/91

14-4.1 | Appeal Rights of Preference Eligible Employees
Regarding Adverse Actions

Pursuant to Title 5, United States Code (USC), Section 7511, "preference eligible" employees (e.g., certain veterans) who have completed one year of current continuous service in the same or similar positions with an agency may have certain procedural rights when an adverse action is proposed or taken against them. For the purposes of this manual, an "adverse action" involves removal, suspension for more than 14 days, reductions in grade or pay, or a furlough of 30 days or less. (See MAOP, Part I, 13-10, 13-13(3) & 14-4.2.)

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14-4.2 Appeal Rights in General (See MAOP, Part I, 8-1.11 and 13-13.)

(1) This subsection provides a general overview of the appeal rights of an employee when there is an administrative action of a disciplinary nature. For a discussion of the additional rights of a preference eligible employee when there is an adverse action, see MAOP, Part I, 13-10 and 14-4.1. For the purposes of this manual, an adverse action is removal, suspension for more than 14 days, reduction in grade or pay, or a furlough of 30 days or less. For a discussion of an employee's rights when there is a proposal for the employee to be reduced in grade or removed for unacceptable performance, see MAOP, Part I, 5-4.7 and 5-4.7.1.

(2) Recommendations for adverse actions are made by a field office, headquarters division or the inspection staff and forwarded to the Personnel Management Section, Personnel Division. The matter is reviewed in the Personnel Division and a decision recommended. If, following review of the matter by the Assistant Director of the Personnel Division, it is determined that administrative action is warranted, the action is taken and the employee notified. The action taken (or determination made) by the Assistant Director of the Personnel Division is subject to review by the Deputy Director. If the proposed disciplinary action is against a member of the FBI's Senior Executive Service (SES), below the rank of Assistant Director, or an ASAC, the Deputy Director would determine whether an administrative action is warranted. The action taken by the Deputy Director is subject to review by the Director. If the proposed disciplinary action is against an Assistant Director or the Deputy Director, the Director would determine whether an administrative action is warranted. The actions taken by the Director with regard to an Assistant Director or Deputy Director are subject to review by the Deputy Attorney General.

(3) If the employee has not completed his/her probationary period of employment which began when the employee entered on duty, he/she will be notified that he/she has no right to appeal the action within the FBI (see MAOP, Part I, 21-8). If the employee has completed the probationary period, the employee will be notified that he/she may appeal the action to the next level of authority for appeals. Should an employee who has completed his/her probationary period be concerned about other administrative actions taken against him/her short of adverse action, with the exception of oral reprimands and letters of censure, the employee may express this concern, through channels, to his/her SAC, Assistant Director, office

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head, or the Personnel Officer. In a case where disciplinary action was taken by an SAC, Assistant Director, office head, or the Personnel Officer, the appeal will be handled by the Assistant Director, Personnel Division. When disciplinary action is taken against SES members or ASACs, the Deputy Director is the action authority. The Director is the final appeal authority for disciplinary actions taken by the Deputy Director. Appeals must be received within 30 calendar days after the effective date of the disciplinary action. Thereafter, nonpreference eligible FBI employees in the excepted service do NOT have a right to appeal a disciplinary action to the Merit Systems Protection Board (MSPB). A "preference eligible" employee who has completed one year of current continuous service in the same or similar positions in an agency, in addition to being able to appeal a disciplinary action as indicated above, may also appeal an "adverse action" (e.g., removal, suspension for more than 14 days, reduction in grade or pay) to the MSPB. As a general matter, appeals to the MSPB by preference eligible employees are to be filed within 30 days after the effective date of the adverse action. (See SAC Memorandum 11-90, dated 4/20/90 and MAOP, Part I, 13-2(4) and 13-10, regarding the handling of offenses by SACs and Assistant Directors.)

(4) With the exception of the reference to the appeals rights of preference eligible employees in regard to the MSPB, the rights discussed in this section are not required by statute or regulation and should not be construed to indicate or imply that nonpreference eligible employees in the excepted service have a property interest in their employment such as in the form of an expectation of continued employment with the FBI. (See MAOP, Part I, 13-1(5) & 21-1.)

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14-5 CIVIL SERVICE REFORM ACT (PUBLIC LAW 95-454)

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14-5.1 Public Law 95-454

Public Law 95-454 provides the authority to grant grade retention for a period of 2 years and the authority for granting indefinite pay retention when an employee is demoted through no fault of his/her own. This is provided the demotion is not due to personal cause based upon conduct, character or inefficiency or at the employee's own request or consent.

EFFECTIVE: 04/27/90

14-5.2 Requirement for Grade Retention

When an employee is demoted to a position which is lower graded than the position held immediately prior to demotion, as a result of a reduction-in-force or as a result of a reclassification process, he/she may qualify for grade retention. To qualify, the employee must have had served 52 consecutive weeks in the same agency in a grade or grades higher than the one to which demoted, and the position which is being reduced has to have been classified at the higher grade for a continuous period of at least one year immediately before the reduction.

EFFECTIVE: 04/27/90

14-5.3 Requirement for Pay Retention

Pay retention shall apply to an employee whose rate of basic pay would otherwise be reduced as the result of the following: the expiration of a two-year period of grade retention; a reduction-in-force when the employee does not meet the eligibility requirements of grade retention; the reduction or elimination of scheduled rates; placement of an employee into a nonspecial rate position or into a lower special rate position from a special rate position; placement of an employee in a position in a lower wage area or in a position in a different pay schedule; or the placement of employee in a formal employee development program (upward mobility).

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14-5.4 Appeals

The denial of grade or pay retention benefits can be appealed under some circumstances. See Title 5, Code of Federal Regulations, Chapter 1, Part 511, for appeal rights.

EFFECTIVE: 03/28/89

14-5.5 Temporary Promotion or Reassignment

Employee's entitlement to grade or pay retention is not affected by a temporary promotion or temporary reassignment. However, an employee serving under a temporary promotion or temporary reassignment may not retain a grade or rate of basic pay held during the temporary promotion or temporary reassignment.

EFFECTIVE: 03/28/89

14-5.6 Wage Board Employees

Similar salary retention provisions apply to Wage Board employees.

EFFECTIVE: 03/28/89

14-6 WITHIN-GRADE INCREASE

(1) An employee who is denied a within-grade increase because of failure to perform at an acceptable level of competency may request reconsideration of the Bureau's action by filing a written request within 15 calendar days after receiving the denial notification.

(2) If the employee files a request for reconsideration, FBIHQ will establish a reconsideration file containing all pertinent documents relating to the negative determination and the request for reconsideration. This file will be made available to the employee and/or his/her personal representative for review.

(3) If the negative determination is sustained after

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reconsideration, the employee will be informed in writing of the reasons for the decision and that he/she has the right of appeal to the Merit Systems Protection Board within 20 days of receipt of the notification.

EFFECTIVE: 03/28/89

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SUPPORT PROMOTION AND PLACEMENT

Refer to MAOP, Part I, Section 7-7.

EFFECTIVE: 06/06/95

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SECTION 15. INJURIES AND DISABILITIES

15-1 EMPLOYEE COMPENSATION MATTERS (FEDERAL EMPLOYEES'
COMPENSATION ACT)

EFFECTIVE: 04/14/88

15-1.1 Coverage

The Federal Employees' Compensation Act (FECA) (Title 5, USC, Section 8101 and following) provides compensation and medical care for all civil officers and employees of all branches of the Government of the United States (including instrumentalities of the United States wholly owned by the United States) for disability due to personal injuries sustained while in the performance of duty. The term "injury" includes, in addition to injury by accident, a disease proximately caused by the employment. The law also provides for the payment of funeral and burial expenses and compensation for the dependents if the injury or disease causes the employee's death. The FECA is also applicable to Federal employees while serving as Federal petit or grand jurors and while serving as members of the Reserve Officers' Training Corps and certain other groups, a listing of which is maintained by the Department of Labor. The FECA is administered by the Office of Worker Compensation Programs (OWCP), United States Department of Labor.

EFFECTIVE: 04/14/88

15-1.1.1 Notice of Injury

(1) An employee is required to give his/her official superior (supervisor) written notice of injury in the performance of duty. Compensation may be denied if notice of injury is not given or if the supervisor does not have actual knowledge of the injury. The applicable Form CA-1 or CA-2 is used. OWCP requires the Agency to submit the CA-1 to OWCP not later than 10 days after receipt of the written notice from employee of an injury. Field offices must submit the CA-1 directly to the OWCP District Office which covers their geographical area. The only CA-1 forms which should be forwarded are

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those in which there has been time lost from work and/or medical treatment received by the injured employee. A copy of the CA-1 should be designated to FBIHQ. All other employee compensation matters must be submitted to FBIHQ. FBIHQ forwards compensation cases and related material to OWCP which has the adjudication responsibility.

(2) The CA-1 forms should be submitted to the appropriate District Office listed below:

BOSTON	PHILADELPHIA	KANSAS CITY
Connecticut	Delaware	Iowa
Maine	Pennsylvania	Kansas
Massachusetts	West Virginia	Missouri
New Hampshire		Nebraska
Rhode Island	JACKSONVILLE	
Vermont	Alabama	DENVER
	Florida	Colorado
NEW YORK	Georgia	Montana
New Jersey	Kentucky	North Dakota
New York	Mississippi	South Dakota
Puerto Rico	North Carolina	Utah
Virgin Islands	South Carolina	Wyoming
	Tennessee	
		SEATTLE
DALLAS	CHICAGO	Alaska
Arkansas	Illinois	Idaho
Louisiana	Minnesota	Oregon
New Mexico	Wisconsin	Washington
Oklahoma		
Texas		
		SAN FRANCISCO
CLEVELAND	DISTRICT OF COLUMBIA	Arizona
Indiana	Maryland	California
Michigan	Virginia	Hawaii (HONOLULU)
Ohio	District of Columbia	Nevada
	All Legats	

(3) The U.S. Department of Labor (DOL) has ruled that any employee who is injured while performing a Physical Fitness Program (PFP) authorized exercise is eligible for Workers' Compensation benefits. Conditions of such coverage are that the exercise which gave rise to the injury must be approved by the agency and that the individual employee is enrolled in the agency's PFP. (See Part I, Section 20-5.4, of this manual, for details regarding the Bureau's PFP.)

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In this regard, DOL has issued the following instructions regarding injuries relating to the PFP:

(a) Injuries and occupational diseases arising from participation in an employing agency's PFP are compensable under the Federal Employee's Compensation Act. This ruling covers all injuries, whether they occur on or off duty or during regular work hours.

(b) All Forms CA-1 which attribute an injury to a PFP activity should be accompanied by a statement from the employee's supervisor indicating that the employee was enrolled in the PFP, and that the injury was sustained while the employee was performing authorized exercises under the Program.

(c) When a Form CA-2 is filed claiming that an occupational disease is casually related to the PFP participation, the employee should state specifically what activities caused the condition. A statement should be provided by the supervisor showing what exercises were approved, in order to assure that the activities performed were authorized under the Program.

(d) All employees in a PFP must receive medical clearance to participate. (Be certified by a medical doctor during his/her annual, or in some cases, triennial medical examination.)

EFFECTIVE: 07/06/94

15-1.1.2 Medical Care

An injured employee is entitled to first aid and medical care for the injury; this includes hospital care when needed. The medical care may be provided by any nearby duly qualified physician or hospital of the employee's choice. When travel is necessary to receive medical care, the injured employee may be furnished transportation and may be reimbursed for travel and incidental expenses.

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15-1.1.3 Traumatic Injuries

A traumatic injury is defined as a wound or other condition of the body caused by external force, including stress or strain. The injury must be identifiable as to time and place of occurrence and member or function of the body affected and be caused by a specific event or incident or series of events or incidents within a single day or work shift. Traumatic injuries are distinguished from occupational disease or illnesses in that the latter are produced by systemic infections; continued or repeated stress or strain; exposure to toxins, poisons, fumes, etc.; or other continued and repeated exposure to conditions of the work environment over a longer period of time. Traumatic injuries also include damage or destruction to prosthetic devices or appliances, exclusive of eyeglasses and hearing aids unless the eyeglasses and hearing aids were damaged incidental to a personal injury requiring medical services.

EFFECTIVE: 04/14/88

15-1.2 Continuation of Pay (COP)

An employee who sustains a disabling, job-related traumatic injury is entitled to continuation of regular pay for a period not to exceed 45 calendar days. However, in no event shall this be construed as requiring continuation of a person's employment beyond the date it would have terminated had the employee not been injured. The Bureau will continue the injured employee's pay unless the claim falls in one of the controversial categories listed below. This pay is subject to income tax, retirement, and other deductions. It should be noted that any other benefit (including medical care) is considered to be compensation. An employee's pay during continuation of pay will include premium, night or shift differential Sunday and holiday pay, or other extra pay; however, overtime pay must not be included. Employees have 90 days in which to begin using the 45-day COP. Additionally, if employees use only a portion of the 45-day COP, they are allowed to use the remaining days within 90 days from the date they first returned to work following the date of injury.

(1) In counting COP, use calendar days and not workdays. This includes holidays, weekends and days off.

(2) A day or portion of a day, spent in a light-duty or limited-duty status, within the 45 days of disability, is counted as

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one day of COP. This also includes the days the employee's job was modified to accommodate work restrictions set by the attending physician. However, COP is only chargeable when there has been a formal assignment to an established job which is normally paid at a lower salary and would otherwise result in loss of income to the employee. The employee must be furnished with documentation of the personnel action prior to the effective date of the action. If the employee performs work of a limited light-duty nature in the absence of documentation of a personnel action as described, COP will not be chargeable. Return to work on a light-duty reassignment or detail is to be reported to OWCP on Form CA-3, Report of Termination of Disability and/or Payment. OWCP must be provided with documentation that the employee was found unfit for his or her regular job.

EFFECTIVE: 04/14/88

15-1.2.1 Controverting Claims

If an employee's claim falls into one or more of the categories listed below, it is controverted and the employee's pay stopped. In all other cases it may be controverted; however, the employee's regular pay will not be interrupted during the 45-day period unless the controversion is sustained by the OWCP. FBIHQ or field office will controvert and terminate pay only if:

- (1) The disability is a result of an occupational disease or illness; or
- (2) The injury occurred off the premises and the employee was not involved in official "off-premise" duties; or
- (3) The injury was caused by the employee's willful misconduct; the employee intended to bring about the injury or death of himself/herself or another person; or the employee's intoxication was the proximate cause of the injury; or
- (4) The injury was not reported on Form CA-1, within 30 days following the injury; or
- (5) Work stoppage first occurred six months or more following the injury; or
- (6) The employee initially reports the injury after his/her employment has terminated; or

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(7) When the employee, having been requested to submit a doctor's certificate substantiating incapacitation for duty, fails or refuses to do so.

EFFECTIVE: 04/14/88

15-1.2.2 Procedure for Controverting

(1) COP is controverted by:

(a) Completing the indicated portion on Form CA-1, Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation, and submitting the form to OWCP within 10 days of the time of injury. Include any medical evidence.

(b) Submitting detailed information in support of the controversion to the OWCP.

(2) Where pay is continued after the employee stops work due to a disabling injury, it is not interrupted until information is received to the effect that the employee is no longer disabled; or notification from the OWCP that pay should be terminated; or the expiration of 45 days (the period of COP). If the employee might not return to work by the end of COP, the following procedures are to be followed:

(a) After 30 days of COP: Begin preparations to submit a wage loss claim to OWCP. Office supervisory personnel should give Form CA-7, Claim for Compensation on Account of Traumatic Injury, to the injured employee with instructions to complete Part A and return the form within one week. The employee should be advised that OWCP consideration of the claim will depend on timely submission of the Form CA-7 by the employee and the timely submission by the doctor of medical evidence of disability for work for a specific period (CA-16 or CA-20).

(b) After 40 days of COP: If the Form CA-7 has not been returned, the office should contact the employee telephonically and request immediate submission of the form. If the employee has not returned to work by the 40th day of COP, the office should submit the completed Form CA-7, and any new medical evidence it has, to OWCP. If the employee returns to work after the Form CA-7 has been submitted, the office should notify OWCP BY TELEPHONE IMMEDIATELY and send a Form

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CA-3, Report of Termination of Disability and/or Payment, to verify return to work. Telephone notification is critical to avoid overpayment!

(c) Ten (10) days before the period covered by Form CA-7 expires: If disability is expected to continue beyond the period claimed on the Form CA-7, the office should give the injured employee Form CA-8, Claim for Continuing Compensation on Account of Disability, with instructions to complete and return it to the office. The office should send it to OWCP at least 5 days before the end of the period covered by the Form CA-7 expires. Where disability is expected to continue, and until advised by OWCP that the employee has been placed on its regular roll, the office should continue to obtain and submit Forms CA-8 at least 5 days before the end of the period claimed on the preceding Form CA-8.

(3) Compensation based on loss of wages is payable after the 45th day in traumatic injuries or from the beginning of pay loss in all other types of injuries.

EFFECTIVE: 04/14/88

15-1.3 Injuries Resulting in Total Disability

When an injured employee who has no dependents loses pay due to total disability resulting from an injury, compensation is payable at the rate of $66 \frac{2}{3}$ percent of the pay rate established for compensation purposes. The compensation rate is increased to 75 percent when there are one or more dependents. Dependents include a wife or husband; an unmarried child under 18 years of age or if over 18, incapable of self-support, or a student (until reaching 23 years of age or completing four years of school beyond the high school level); or a wholly dependent parent. Compensation begins when the employee starts to lose pay if the injury causes permanent disability or if there is pay loss for more than 14 days; otherwise compensation begins on the fourth day after pay stops. Compensation may not be paid while an injured employee receives pay for leave. The employee has the right to elect whether to receive pay for leave or to receive compensation.

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15-1.4 Responsibility for Reporting Traumatic Injury

When an employee sustains a traumatic, disabling injury in the performance of duty, the employee or someone acting on his/her behalf must give a written report on Form CA-1 to the supervisor within two working days following the injury. The supervisor must ensure its prompt submission (no later than 10 workdays following written notice of injury from employee) to the OWCP District Office with one copy forwarded to FBIHQ. It must be shown on the form whether the employee wishes sick or annual leave or requests continuation of regular pay for the period of disability. Upon reporting the injury, the employee will be authorized to obtain medical treatment if required. Form CA-16 is used. If treatment is obtained, the employee must inquire from the treating physician the earliest date that he/she will be able to return to work.

EFFECTIVE: 04/14/88

15-1.5 Duty Status Reports

(1) A "Duty Status Report," Form CA-17, will be used to obtain interim medical reports concerning the employee's duty status. If during the 45-day period the treating physician indicates the employee is able to return to work but he/she refuses to do so, the continued absence from work will result in an overpayment. Form CA-17, showing the ability to work, explicit statement of the light-duty job offered to the employee, along with its physical requirement with documentary evidence of the offer, are to be submitted to the appropriate OWCP district office, as evidence that entitlement to COP may be terminated. The period of absence from the job which resulted in the overpayment will be determined by the OWCP and the supervisor may then require the employee to resolve any overpayment.

(2) Similarly, if an employee returns to light duty, with charge against the 45-day period, documentation must be submitted in writing to the appropriate OWCP office, that the employee was found unfit for regular duty by the attending physician, and that the employee was placed in a light-duty job, or that the employee's regular job was modified as a result of the injury.

(3) If medical evidence shows disability is expected to continue beyond 45 days and compensation is desired after expiration of the period, Form CA-7 must be completed and filed with the

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appropriate OWCP district office not more than five working days after the termination of the 45 days. Form CA-8 should be submitted every two weeks until the employee returns to duty or is placed on automatic rolls with OWCP.

EFFECTIVE: 04/14/88

15-1.6 Responsibility for Reporting Nontraumatic Injury

An injured employee, or someone acting on the employee's behalf, is required to give notice of injury and file claim for compensation for disability within 30 days after an injury in the performance of duty or in unusual cases a longer period is permissible. Form CA-2 is provided for this purpose. If the injured employee dies, dependents are required to file claim for compensation for death within the specified time, with the exception that the timely filing of a disability claim because of an on-the-job injury will satisfy the time requirements for a death claim based on the same injury. Notices and claims are to be filed with the employee's supervisor who will submit the notice and claim to FBIHQ for transmittal to OWCP. The person claiming benefits must thereafter submit any other reports and proof that OWCP may require.

EFFECTIVE: 04/14/88

15-1.7 Responsibility of Supervisor (Traumatic Injury Cases)

(1) Upon receiving notice that an employee has sustained a job-related traumatic injury the division head, SAC, or appropriate supervisor will promptly authorize medical care. Form CA-16 must be issued by Bureau official within 4 hours of employee's request, or in case of emergency, at the time the need for medical treatment is recognized by the official supervisor. Provide the employee with Form CA-1 for reporting the injury and upon receipt of the completed form return to the employee the "Receipt of Notice of Injury."

(2) Advise the employee of the right to elect continuation of regular pay or use annual or sick leave, if the injury is disabling. Inform the employee whether continuation of pay will be controverted, and if so, whether it will be terminated, and the basis for such action. If the supervisor controverts the claim (whether or not pay is terminated), explanation for the controversion must be

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submitted on the supervisor's portion of Form CA-1 and/or by separate narrative report for consideration by the Bureau and OWCP. Form CA-1, fully completed by both employee and supervisor, together with all other pertinent information and documents, must be submitted within two working days following the supervisor's receipt of the form from employee (and within 10 days following written notice of the employee's injury) to OWCP District Office in their geographical area (see 15-1.1.1).

(3) Form CA-16 may be released to an Army, Navy, Air Force or Department of Veterans Affairs medical officer or facility, or to a duly qualified private physician.

EFFECTIVE: 08/29/90

15-1.7.1 Selecting Medical Facility or Physician

(1) The injured employee has the option to initially select a duly qualified private physician or hospital in the area. Generally speaking, the area is defined as within 25 miles of the employing establishment or the employee's home. The supervisor shall give the injured employee an opportunity to select the physician. The physician selected by the employee should be contacted by telephone to determine if the physician is available and will accept the employee for treatment. If not, the employee must select another qualified physician. Should the employee wish to change physicians after the initial choice, the OWCP must be contacted for approval.

(2) Medical providers (physicians) who have been convicted under a criminal statute for fraudulent activities in connection with a Federal or state program for which payments are made to providers for medical services are automatically excluded from participation in the FECA program. This means that their bills for services rendered to the employee will not be honored by OWCP. OWCP will periodically distribute the names and addresses of excluded providers, along with those who have been reinstated, to Federal agencies. An excluded physician may be reimbursed only for services rendered in a medical emergency. An employee whose initially chosen attending physician is excluded will be given the opportunity to choose a new physician.

(3) Authorization of medical care is valid for 60 days, unless withdrawn sooner by OWCP, by written notification to the provider.

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(4) OWCP will make no payment or reimbursement if a bill is submitted more than one year beyond the calendar year in which the expense was incurred or the case was first accepted, whichever is later.

EFFECTIVE: 08/29/90

15-1.7.2 Physician Defined

The term physician includes surgeons, osteopathic practitioners, podiatrists, dentists, clinical psychologists, optometrists, and chiropractors within the scope of their practice as defined by state law. The term physician includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct an abnormal subluxation as demonstrated by X-ray to exist, and subject to regulation by the Secretary of Labor. Naturopaths, faith healers, and other practitioners of the healing arts are not recognized as physicians within the meaning of the law.

EFFECTIVE: 08/29/90

15-1.8 Occupational Disease Cases

Upon receiving notice that an employee has sustained an occupational disease, the supervisor should provide the employee with form CA-2 for reporting the occupational disease and upon receipt of the completed form return to the employee the "Receipt of Notice of Injury." Continuation of pay is not applicable in these cases. Advise the employee to furnish supporting medical and factual information requested on the Instruction Sheet, attached to the CA-2. If possible, this information should accompany the form when it is submitted to FBIHQ. Submission of the form should not be delayed. Advise the employee of the right to elect sick or annual leave, pending adjudication of the claim by the OWCP.

EFFECTIVE: 02/28/78

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15-1.9 Permanent Total Disability

When an injury causes permanent total disability, the employee is entitled to compensation until death unless the employee is medically or vocationally rehabilitated. Some, although not all, of the examples of permanent total disability are loss, or loss of use, of both arms; or both feet; or both legs; or both eyes or the sight thereof. Compensation for total disability equals $66 \frac{2}{3}$ percent of the employee's pay, and 75 percent when there is a dependent. The employee may receive additional compensation, not to exceed \$500 per month, when the services of an attendant are needed constantly because of the disability.

EFFECTIVE: 02/28/78

15-1.9.1 Partial Disability; Loss of Wage-Earning Capacity

An injured employee may receive compensation computed on loss of wage-earning capacity when unable to return to usual employment because of partial disability as a result of the injury. The compensation will be paid so long as there is a loss of wage-earning capacity.

EFFECTIVE: 02/28/78

15-1.9.2 Scheduled Awards

Compensation is provided for specified periods of time for the permanent loss, or loss of use, of each of certain members, organs, and functions of the body. Compensation for proportionate periods of time is payable for partial loss, or loss of use, of each member, organ or function. The compensation for scheduled awards will equal $66 \frac{2}{3}$ percent of the employee's pay, and 75 percent of the pay when there is a dependent. Proper and equitable compensation, not to exceed \$3,500, may be paid for serious disfigurement of the face, head or neck, if of a character likely to handicap a person in securing or maintaining employment. Compensation for loss of wage-earning capacity may be paid after the schedule expires.

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EFFECTIVE: 02/28/78

15-1.10 Death

Burial Expense - A sum, not to exceed \$800, may be paid for funeral and burial expenses. When an employee's home is within the United States, an additional sum may be paid for transporting the remains to the home if the employee dies away from home, official duty station, or outside the United States. An additional sum of \$200 is paid to the personal representative of the decedent for reimbursement of the costs of termination of the decedent's status as an employee of the United States.

EFFECTIVE: 02/28/78

15-1.10.1 Dependent Compensation

When there are no children entitled to compensation, the employee's widow or widower may receive compensation equal to 50 percent of the employee's pay until death or remarriage. Upon remarriage, a widow or widower will be paid a lump sum equal to 24 times the monthly compensation being paid on his or her own behalf, except that if such remarriage occurs on or after the age of 60, the lump sum payment will not be made and compensation will continue until the beneficiary's death. When there is a child entitled to compensation, the compensation for the widow or widower will equal 45 percent of the employee's pay plus 15 percent for each child, but not more than 75 percent of the employee's pay. A child is entitled to compensation until he or she dies, marries, or reaches 18 years of age, or, if over 18 and incapable of self-support, becomes capable of self-support. If an unmarried child is a student when reaching 18 years of age, compensation may be continued for as long as the child remains a student or until he or she marries. It may not, however, be continued beyond the end of the semester or enrollment period after the child reaches 23 years of age or has completed four years of school beyond the high school level.

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15-1.10.2 Minimum and Maximum Compensation

Compensation for disability may not exceed 75 percent of the monthly pay of the highest step of grade 15 of the General Schedule. For total disability, it may not be less than 75 percent of the monthly pay of the first step of grade 2 of the General Schedule or actual pay, whichever is less. Compensation for death is computed on a minimum pay equal to the first step of grade 2 of the General Schedule. The total compensation may not exceed the employee's pay or 75 percent of the monthly pay of the highest step of grade 15 of the General Schedule, except that compensation is allowed to exceed the employee's monthly pay if such excess is created by authorized cost of living increases.

EFFECTIVE: 02/28/78

15-1.11 Vocational Rehabilitation

Vocational rehabilitation, job counseling, and placement assistance may be provided an injured employee who is unable to return to usual employment because of permanent disability due to the injury. Additional compensation not to exceed \$200 per month may be paid if it is considered necessary for maintenance when the employee is pursuing an approved training course. Also, an employee will be paid at the rate for total disability while pursuing an OWCP-approved training course.

EFFECTIVE: 02/28/78

15-1.12 Medical Information Needed for Reinstatement

If the supervisor has reason to believe employee or former employee receiving compensation benefits can perform the duties of a job which is available, these are the procedures for offering the employee the job:

(1) If a suitable job offer is made to an employee or former employee, and he/she refuses to accept such employment without adequate reason, compensation benefits may be terminated.

(2) The Bureau has the authority to require an employee currently receiving compensation benefits to submit medical

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information to the Bureau or report for a medical examination for the purpose of determining whether a job that is available is within the limits of the employee's medical condition. If medical information confirms that the job available is within the employee's medical limitations the Bureau has the obligation to offer employment. The Bureau may order an examination by a physician of the Bureau's choice, in which case the Bureau is obligated to pay for the examination.

(3) Medical information dated within the past 3 months and which contains specific information about the medical limitations currently imposed on the employee should usually be considered sufficient for the purpose of making a job offer.

(4) If an employee refuses to provide sufficient medical information so that the Bureau may evaluate an appropriate job offer, the Bureau will notify OWCP of employee's refusal. The OWCP will then review the case. The Bureau does not have the authority to order a former employee receiving compensation benefits to submit to a medical examination for the purpose of reemployment, but the Bureau may offer a medical examination or may simply ask for information from the individual. If the Bureau offers an examination by a Bureau-designated physician, the Bureau is obligated to pay for the examination. If an employee refuses to respond to the offer, the Bureau will notify the OWCP of the refusal.

(5) OWCP has the final authority in determining whether a job offer is suitable, that is, within the employee's medical limitations.

EFFECTIVE: 08/22/85

15-1.13 Buy-back of Leave

(1) An employee may decide to take sick or annual leave, or both, to avoid possible interruption of income. If the employee elects to take leave and the claim for compensation is subsequently approved, the employee may arrange with the employing agency to buy back the leave used and have it reinstated to the employee's account. The compensation to which he or she is entitled would pay a part of the buy-back cost and the employee would have to pay the balance. The amount the employee will be required to pay will depend on several factors such as the length of the period of disability and the amount of Federal income tax which is withheld from leave pay.

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(2) An employee who uses leave and decides to buy it back, may file a claim for compensation on Form CA-7 while still in leave status. In the interim, the OWCP will consider and resolve any points at issue. No compensation payments may be paid, however, while the employee is still in leave status. Arrangements to buy back leave must be made with the Bureau.

(3) Under regulations of the Office of Workers' Compensation Programs, Department of Labor, an agency may establish the period in which a request for buy-back of leave will be accepted. Since FBIHQ maintains leave records for a period of three years, and since these records are essential to processing such requests, effective 6/1/79, FBIHQ will not accept buy-back requests which are in excess of three years old. The time period during which a request will be accepted will commence on the last day of leave utilized in connection with the injury.

(4) If an employee buys back regular annual leave which is reccredited to a prior leave year, and the reccredit causes a leave balance at the end of that leave year to be in excess of the maximum accumulation (240 hours), the excess leave will immediately be forfeited as of the beginning of the leave year following the year to which it is reccredited. In situations in which it appears that the Bureau did not inform the employee of the consequences of buying back leave which would be forfeited, the employee can be retroactively returned to an annual leave status to an extent necessary to avoid forfeiture of the repurchased leave. This procedure would also require a refund of compensation payments to OWCP for the period of annual leave.

(5) If repurchase of sick or annual leave is in the same tax year in which the leave was used, the amount is excluded from taxable income for that year.

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15-1.14 Third Party Liability

The OWCP has the right to be reimbursed from damages recovered in any case of injury or death caused under circumstances creating a legal liability upon someone other than the United States. No person claiming compensation should settle a third party claim arising out of an injury or death without first obtaining advice and approval from the Solicitor of Labor (obtain from the Associate Counsel for Employees' Compensation, Washington, D.C. 20210). In all cases of this kind, the supervisor should advise claimants of these requirements.

EFFECTIVE: 10/29/87

15-1.15 Basic Compensation Forms

Form #	Title
CA-1	Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation
CA-2	Federal Employee's Notice of Occupational Disease and Claim for Compensation
CA-2a	Notice of Employee's Recurrence of Disability and Claim for Pay/Compensation
CA-3	Report of Termination of Disability and/or Payment
CA-5	Claim for Compensation by Widow, Widower, and/or Children
CA-5b	Claim for Compensation by Parents, Brothers, Sisters, Grandparents, or Grandchildren
CA-6	Official Superior's Report of Employee's Death
CA-7	Claim for Compensation on Account of Traumatic Injury or Occupational Disease
CA-8	Claim for Continuing Compensation on Account of Disability

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- CA-16 Request for Examination and/or Treatment
- CA-17 Duty Status Report
- CA-20 Attending Physicians Report
- CA-20a Attending Physicians Supplemental Report

EFFECTIVE: 10/29/87

15-1.16 Penalties

Any person who makes a false statement to obtain Federal employee's compensation or who accepts compensation payments to which he or she is not entitled is subject to a fine of no more than \$2,000 or imprisonment for no more than one year, or both. Any person charged with the responsibility for making reports in connection with an injury who willfully fails, neglects, or refuses to do so; knowingly files a false report; induces, compels, or directs an injured employee to forego filing a claim; or willfully retains any notice, report, or paper required in connection with an injury, is subject to a fine of no more than \$500 or imprisonment for no more than one year, or both.

EFFECTIVE: 10/29/87

15-2 FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

The Federal Employees Health Benefits Program (FEHBP), which became effective at the beginning of the first pay period after July 1, 1960, gave all eligible Government employees an opportunity to enroll in an approved health benefits plan. The Government contributes a portion of the premium and the remainder is paid by employee through payroll deduction. The amount varies depending upon the option and plan chosen.

EFFECTIVE: 04/14/88

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15-2.1 Eligibility

(1) Eligible employees have the choice of enrolling in an employee organization plan (the FBI employee organization plan is SAMBA - Special Agents Mutual Benefit Association), Governmentwide Indemnity Benefit Plan, Governmentwide Service Benefit Plan, or a group-practice or individual-practice plan which is limited to employees in the geographic area served by such plan.

(2) A comparison chart of the major benefits and premiums of all health benefit plans and general information about the FEHBP are included in the Brochure RI 70-1, Enrollment Information Guide and Plan Comparison Chart. The complete description of benefits of each plan is described in the individual brochure for each health benefit plan. Employees should immediately be furnished RI 70-1, Enrollment Information Guide and Plan Comparison Chart; SF-2809, the Health Benefits Registration Form; SF-2809-A, Information for Federal Civilian Employees and U.S. Postal Employees; the SAMBA Application for Life Insurance and SAMBA Allotment Form 299. The new employee should be given a brochure on the health benefit plan in which employee enrolls. In no case should an enrollment be accepted from a new employee without first ensuring that the employee has carefully examined the brochure of the plan in which the new employee is enrolling. Employees who enroll in this program are not required to take a physical examination and are covered regardless of preexisting conditions.

EFFECTIVE: 04/14/88

15-2.2 Effective Dates

Each employee who is eligible must register to enroll or not to enroll within 31 days following entry on duty. Insurance coverage is not available to those temporary appointees whose appointments are limited to a specified period of service and certain other part-time employees including those paid on a contract or fee basis. An employee cannot register to enroll in this program if covered through the registration of another individual who is enrolled under the FEHBP. Enrollments and changes in enrollments (except changes to family plan after birth or adoption of child and changes from self and family to self only because there are no eligible dependents) become effective on the first day of the first pay period after the pay period in which FBIHQ receives the Health Benefits Registration Form. The effective date of an enrollment from self only

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to self and family due to the birth or adoption of a child is the first day of the pay period in which the child is born or adopted. The effective date of the change from self and family to self only may be made retroactive to the first day of the pay period after the one in which there were no family members eligible for coverage. In order for the change to be made retroactive, the employee must request the retroactive change under the Remarks column of SF-2809. A cancellation becomes effective on the last day of the pay period after the pay period in which FBIHQ receives the Health Benefits Registration Form.

EFFECTIVE: 10/29/87

15-2.3 SAMBA

An employee of the FBI who enrolls in the SAMBA Health Benefit Plan must become a member of SAMBA. This is accomplished by executing a SAMBA Application for Life Insurance. Employees enrolling in SAMBA are eligible to purchase SAMBA Group Term Life Insurance with Accidental Death and Dismemberment Insurance and Dependents Group Term Life Insurance in the amount applicable to their grade. The cost of life insurance under SAMBA must be withheld by payroll allotment. The SAMBA Allotment Form 299 must be executed for life insurance premium to be withheld by payroll allotment. Upon separation from service, this life insurance, exclusive of the accidental death and dismemberment clause, may be converted without a physical examination. Retiring employees may continue a specific amount of this life insurance in force under the SAMBA Group Term Life Insurance and Dependents Group Term Life Insurance Plans. In addition, SAMBA offers to members a Dependents Group Life Insurance Plan to cover their spouse and unmarried children to age 22 and a Dependent Health Benefit Plan which insures unmarried dependents from age 22 through 24 years who are wholly dependent. Additional information pertaining to enrollment, costs, benefits, and other plans (Disability Income Protection and Personal Accident Insurance) under SAMBA are set forth in the SAMBA brochure.

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15-2.4 Permissible Changes

Set forth below is a table of permissible changes in enrollment of employees.

TABLE OF PERMISSIBLE CHANGES
IN ENROLLMENT OF EMPLOYEES

Enrollment May be Cancelled or Changed From Family to Self Only
at Any Time

No.	Events That Permit Enrollment or Change	Change Permitted			Time Limit In which Registration Form Electing Change Must Be Filed With Employing Office
		From Not Enrolled to Enrolled	From Self Only to Family	From One Plan or Option to Another	
1	Open Season	Yes	Yes	Yes	As announced by the Office of Personnel Management
2	Change in marital status (Marriage, divorce, annulment, death of spouse)	Yes	Yes	Yes	From 31 days before to 60 days after change in marital status
3	Other change in family status (For example, birth of a child, legal separation, discharge from military service of a spouse or of a child under age 22)	No	Yes	No	Within 60 days after change in family status
4	Move from an area served by a comprehensive plan in which enrolled at time of move	Does not apply	Yes	Yes	At any time after move

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- | | | Does | No | Yes | |
|----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|----------------|----------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| 5 | Termination of enrollment by employee organization plan because of termination of membership in organization | Does not apply | | | Within 31 days after termination of enrollment in plan |
| 6 | Employee, covered as family member of another under FEHB, loses coverage other than by cancellation or change to Self Only of the covering enrollment; or employee, covered under Retired Federal Employees Health Benefits Program or under another federally sponsored health benefits program, loses such coverage for any reason | Yes | Does not apply | Does not apply | Within 60 days after the effective date of termination by death of the person enrolled, within 31 days after termination for other reasons |
| 7 | Employee, covered as a family member of another under FEHB, loses coverage because of change of the covering enrollment from Family to Self Only | Yes, for Self Only | Does not apply | Does not apply | Within 31 days after change of covering enrollment has been filed |
| 8 | Employee transfers to overseas post of duty from the United States, or reverse | Yes | Yes | Yes | Within 31 days before or after move |
| 9 | Return to active civilian duty from military service which was not limited to 30 days or less | Yes | Yes | Yes | Within 31 days after return to active civilian duty |
| 10 | Termination of | Does | Yes | Yes | As set by the Office |

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- | | plan (under this Program) in which enrolled | not apply | | | of Personnel Management |
|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----------------|----------------|--------------------------------------------------------------------------------------------------------------------------|
| 11. | Self Only enrollment under this Program of employee's spouse terminates as a result of change in spouse's Federal employment status or 365 days' nonpay status | No | Yes | No | Within 31 days after termination of spouse's enrollment |
| 12 | Employee who is not enrolled loses coverage under parent's non-Federal health plan or employee covered by parent's enrollment under FEHB loses coverage on reaching age 22 | Yes | Does not apply | Does not apply | Within 60 days after loss of coverage because of parent's death, within 31 days after loss of coverage for other reasons |
| 13 | Enrolled employee retires from overseas post of duty and is eligible to continue enrollment as annuitant | Does not apply | Yes | Yes | Within 60 days after retirement |
| 14 | Enrolled employee becomes eligible for Medicare | Does not apply | No | Yes | At any time after 31 days before becoming eligible for Medicare |
| 15 | Employee's eligible child (or children) loses coverage under another enrollment under this Program | No | Yes | No | Within 31 days after child's (children's) loss of coverage |
| 16 | Employee loses coverage under Medicaid (State program of medical assistance for the needy) | Yes | Does not apply | Does not apply | Within 31 days after termination of Medicaid |

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17. Employee covered Yes as a family member of another under FEHB, loses coverage due to cancellation of the covering enrollment Does not apply You must enroll in the same plan and option as that from which coverage is lost, if eligible to enroll in that plan, within 31 days after cancellation of the covering enrollment. If not eligible to enroll in that plan, you may enroll in the same option of any available plan within the 31-day period
18. Enrolled employee's employment status changes from full-time to part-time career employment as defined in the Federal Employees Part-Time Career Employment Act of 1978 No No Yes Within 31 days after the change in employment status
19. Employee or spouse loses coverage under spouse's non-Federal health plan when spouse terminates employment to accompany employee whose reassignment is directed out of commuting area Yes Yes No Within 31 days before or after move
20. Employee or spouse loses coverage under spouse's non-Federal health plan because spouse was laid off from non-Federal employment Yes Yes No Within 31 days before or after spouse's employment terminates

(1) A change in family status (item 3 above) includes such things as: the birth of a child; the legal adoption of a child; the addition of foster children who live with the employee in a regular parent-child relationship; or return from military service of a child who is still under 22 years of age.

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(2) Notice of Change in Enrollment Status Form (SF-2810) is for the exclusive use of the employing office (FBIHQ) to give official notice to employees and carriers of enrollment actions and must not be executed by a field office representative.

(3) The enrollment of an employee continues without change when an individual enters the service of the Bureau from another Government agency without a break in service of more than three calendar days provided the employee was not enrolled previously in an employee organization plan or a comprehensive plan not covered by the new geographic area. The employee should register again by executing an SF-2809 if previously enrolled in an employee organization plan or a comprehensive plan not covered by the new geographic area. The employee is furnished a copy of the Change in Enrollment Status Form (SF-2810), which will have been executed by the other agency. The employee's copy of this form should immediately be sent to FBIHQ to facilitate transfer of coverage.

EFFECTIVE: 04/26/89

15-2.5 Nonpay Status

(1) Employees in a leave-without-pay status must pay their share of the premium for health benefits for any pay period in which their salary is insufficient to cover withholdings. Employees in a nonpay status may submit payments for health benefits coverage or have the premium withheld upon return to pay status.

(2) Employees who enter the military on active duty may continue their Federal Employees Health Benefit Plan (FEHBP) coverage for up to 12 months in the same manner as employees in other types of nonpay status. Employees who wish to continue FEHBP coverage must pay health plan premiums (employee's share) on a biweekly or monthly basis to FBIHQ, Attention: Payroll Section, Room 1907. If an employee terminates his/her FEHBP coverage while on active duty, this will not count against the employee in meeting the five-year coverage requirement to carry FEHBP coverage into retirement.

EFFECTIVE: 04/26/89

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15-2.6 Cancellation

Enrolled employees may cancel their enrollment at any time by executing an SF-2809. The cancellation becomes effective on the last day of the pay period following the pay period in which the registration form is received at FBIHQ.

EFFECTIVE: 10/29/87

15-2.7 Separation

(1) A Notice in Change of Health Benefits Enrollment, Form SF-2810, will be furnished to the employee within 60 days of the date of termination. The employee must then request conversion information from the health plan carrier within 31 days from the date of the SF-2810, but no longer than 91 days from the date the enrollment was terminated. This regulation has not changed the 31-day period of free group coverage following termination of enrollment.

(2) The effective date of coverage for an individual who converts to a nongroup contract is retroactive to the day following the 31-day period of free group coverage. The individual must pay the premium for the retroactive coverage and is entitled to the benefits of the conversion contract during the retroactive period.

EFFECTIVE: 10/29/87

15-2.8 Retirement

(1) Employees who retire are eligible to continue health benefits enrollment if they meet all of the following requirements: enrolled in a health benefits plan at the time of retirement; retire on disability; retire on immediate annuity, have been continuously enrolled for health benefits during all service since first opportunity to enroll, or, for the five years of service immediately preceding retirement; and the amount of the annuity is sufficient to cover the withholding required for the cost of enrollment in a health benefits plan.

(2) On retiring employees eligible to continue enrollment, FBIHQ will prepare and issue SF-2810 transferring the enrollment to Civil Service Retirement System.

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EFFECTIVE: 10/29/87

15-2.9 Annuitant

If an annuitant who was not previously enrolled for health benefits is reemployed and is not excluded from coverage under the regulations applicable to employees generally, the annuitant must register in the same manner as any other employee. A reemployed annuitant who enrolls during reemployment is eligible to continue health benefits coverage upon separation if all the conditions are met that any other retiring employee is required to meet.

EFFECTIVE: 10/27/86

15-2.10 Survivors

A survivor of an enrolled employee or annuitant is eligible to continue health benefits enrollment if all of the following requirements are met: the employee or annuitant was enrolled for self and family at the time of death; at least one member of the family is entitled to an annuity as the survivor of the deceased employee or annuitant; and the annuity of the survivor is sufficient to cover the withholding required for enrollment in a health benefits plan. If all of these requirements are met, coverage of the family members of an enrolled employee or annuitant is automatically continued when the title to survivor annuity is established. Note: An employee who retires can preserve health benefits coverage for qualified survivors only by electing a reduced annuity.

EFFECTIVE: 10/27/86

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15-2.11 Federal Employees' Compensation Act

An employee or former employee who receives benefits under the Federal Employees' Compensation Act is eligible to continue enrollment if all of the following requirements are met: is enrolled in a health benefits plan at the time compensation starts; has been continuously enrolled for health benefits during all of service since first opportunity to enroll, or for the five years of service immediately preceding the start of compensation under the Federal Employees' Compensation Act, or, from on or before December 31, 1964, until the start of compensation; receives "monthly compensation"; and is determined by the Secretary of Labor to be unable to return to duty.

EFFECTIVE: 10/27/86

15-2.12 Civil Service Retirement Spouse Equity Act

The Civil Service Retirement Spouse Equity Act of 1984 and the Federal Employees Benefits Improvement Act of 1986 amended the Federal Employees Health Benefits Act to permit certain former spouses of civil service employees, former employees and annuitants to enroll in a health benefit plan under the Federal Employees Health Benefits Program (FEHBP). Former spouses who are eligible for health benefits must pay both the employee's and the Government's share of the premium and must register to enroll in the program with the agency where the employee is or was employed at the time the marriage was dissolved.

EFFECTIVE: 10/27/86

15-2.12.1 Conversion Rights and Temporary Extension of Coverage

The former spouse of an employee is covered for health benefits for 31 days after divorce with the right to convert to a nongroup plan. To prevent loss of health benefits coverage, the former spouse may desire to convert to the nongroup policy with the employee's health benefit carrier while waiting for health benefits eligibility under the Spouse Equity Act to be established and the enrollment to become effective. Since the National Finance Center sends information to carriers on the first and fifteenth of each month and it takes insurance carriers at least two weeks after receipt to establish enrollees on their systems, enrollees should prepare for the

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delay between the time they sign up for insurance and the time they receive their identification cards from the carriers. Enrollees should stock up on needed medication and make doctor appointments during the 31-day extension of coverage. (See MAOP, Part I, 15-2.13.3 (3).)

EFFECTIVE: 12/16/93

15-2.12.2 Eligibility Requirements for Health Benefits

The former spouse must meet the following requirements to be eligible to enroll in a health benefit plan:

(1) The former spouse must not have remarried before age 55;

(2) The former spouse must have been covered as a family member in an FEHBP plan at some time during the 18 months preceding the date of the dissolution of marriage; and,

(3) The former spouse must provide evidence of future entitlement to any of the following benefits:

(a) A portion of the employee's annuity based on a qualifying court order under Title 5, United States Code (USC), Section 8345 (j), which requires that the Office of Personnel Management (OPM) shall pay (in part or in whole) another person other than the employee, if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to such court decrees.

(b) Survivor annuity benefits based on a qualifying court order under Title 5, USC, Section 8341 (h), which states that a former spouse of a deceased employee, member, or annuitant is entitled to a survivor annuity if and to the extent expressly provided for in an election under Section 8339 (j) (3), or in terms of any decree of divorce, annulment, court order, or court-approved property settlement agreement incident to such decree.

(c) A survivor annuity elected by the employee under Title 5, USC, Section 8339 (j) (3), which refers to an election to provide survivor annuity to a former spouse which shall be made at the

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time of retirement or, if later, within two (2) years after the date the marriage to the employee or member is dissolved, subject to a deposit in the fund by the retired employee or member, within a two-year period, the amount to be determined by the OPM. An election under this paragraph shall not be effective if it conflicts with any court order or decree or in case an employee or member has remarried; then the spouse's written consent is required.

(4) A special eligibility rule exists for a former spouse who was married to an employee who retired prior to May 7, 1985. Such a former spouse must not be remarried before age 55 and must have been enrolled in a health benefits plan as a family member at any time during the 18 months preceding the dissolution of marriage. Additionally, it is required that either the employee annuitant elected before May 9, 1986, to provide a survivor annuity to the former spouse, or the former spouse satisfies all the following conditions:

(a) the former spouse's marriage to the retiree was dissolved after September 14, 1978;

(b) the former spouse was married to the retiree for at least 10 years of the retiree's creditable civilian service;

(c) the former spouse is not receiving any other employer-produced retirement or survivor annuity;

(d) the spouse has not married before reaching age 55;

(e) the former spouse applies to OPM for a survivor annuity before May 9, 1987; and

(f) the former spouse is at least 50 years old when filing the application.

(5) A special eligibility rule also exists for a former spouse who was married to an employee who died prior to May 7, 1985. Such a person is eligible for enrollment if (1) the deceased employee had been eligible for an immediate annuity on or before the date of death; (2) the former spouse has not remarried before the age of 55; (3) the former spouse was enrolled as a family member in an FEHBP health benefits plan at any time during the 18 months preceding the dissolution of marriage; and (4) the former spouse satisfies all the conditions for a survivor annuity described above.

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(6) A former spouse of an employee who separates from Federal service before becoming eligible for immediate annuity is eligible to enroll only if the marriage to the former employee was dissolved before the employee left Federal service.

(7) When a former spouse who has continued coverage remarries during the 36 months following the divorce or annulment, he/she is eligible for temporary continuation of coverage. This coverage expires on the same date it would have expired if the person had never been eligible for coverage under the spouse equity provisions.

EFFECTIVE: 12/16/93

15-2.12.3 Procedure for Establishing Eligibility

(1) OPM will determine the former spouse's entitlement to a survivor annuity or a portion of the employee's retirement annuity as a prerequisite to the former spouse's eligibility to enroll in the FEHBP. The former spouse should send a written request to the Office of Personnel Management, Compensation Group, Office of Retirement Programs, Post Office Box 17, Washington, D.C. 20044, for the determination. The former spouse should include a certified copy of the court order, the employee's or retiree's name, date of birth, social security number, the last employing agency and, if applicable, the date of retirement.

(2) After reviewing the information provided by the former spouse, OPM will send the former spouse a written decision concerning the former spouse's entitlement to a future survivor annuity. The former spouse must submit a copy of OPM's decision to Headquarters along with a copy of the divorce decree. Upon receipt, the employee's file will be reviewed to determine if the former spouse was covered as a family member in an FEHBP plan at any time during the 18 months preceding the date of dissolution of marriage, to verify the former spouse's age, and if under age 55, that he or she has not remarried. The former spouse is required to certify that the qualifications for eligibility to enroll have been met and that the former spouse will notify the employing office within 31 days of an event that disqualifies eligibility.

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EFFECTIVE: 10/27/86

15-2.12.4 Registration Procedures

If it is determined that the former spouse is eligible, the former spouse will be advised and furnished the appropriate information. To enroll, the former spouse should complete the Health Benefits Registration Form (SF-2809), using his or her own name, date of birth and social security number. The name, date of birth, and social security number of the employee, former employee or annuitant should be entered in the "Remarks" section of the SF-2809. A certification must be obtained from the former spouse that the employing office will be notified within 31 days of an event which would terminate eligibility.

EFFECTIVE: 10/27/86

15-2.12.5 Denial of Enrollment

If it is determined that the former spouse is ineligible for health benefit coverage, the former spouse will be notified in writing and furnished the reason for the denial. The former spouse will be advised in writing of the right to request OPM's reconsideration of the denial within 31 days of the date of the letter stating that coverage has been denied. The former spouse should send a request to the Office of Personnel Management, Compensation Group, Office of Insurance Programs, Program Coordination and Control, Post Office Box 436, Washington, D.C. 20044.

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15-2.12.6 Office Where Former Spouse Must Enroll (See MAOP, Part I,
15-2.13.3(3).)

(1) Former spouses who are receiving payment of survivor annuity or a portion of an employee annuity from OPM must enroll through OPM and pay premiums directly to OPM. Former spouses whose marriages dissolved after the employee retired must also register with and pay premiums to OPM.

(2) Former spouses who have future entitlement to a survivor annuity or portion of an employee annuity but are not yet receiving them, must register with and pay premiums to the National Finance Center.

EFFECTIVE: 12/16/93

15-2.12.7 Time Limitation for Enrollment

An eligible former spouse must apply for health benefits coverage by the latest of the following dates:

(1) February 27, 1987; or

(2) within 60 days after the dissolution of the marriage, or if the marriage is dissolved after retirement, 60 days after the dissolution or after the retired employee elects to provide a survivor annuity for the former spouse; or

(3) within 60 days after the employee annuitant elects to provide a former spouse annuity or after OPM notice of entitlement to a former spouse annuity.

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15-2.12.8 Choice of Plan

A former spouse may enroll in either of the two Governmentwide plans (Service Benefit Plan and Indemnity Benefit Plan), the employee organization plans or the comprehensive medical plans which are available for a specific geographical area. The former spouse is not restricted to the same plan that the employee enrolled under prior to the divorce. To enroll in an employee organization plan, the former spouse must become a member of the sponsoring organization and pay the annual or one-time only membership dues. Former spouses who enroll in the SAMBA Health Benefit Plan are not eligible for the various insurance programs offered by SAMBA.

EFFECTIVE: 10/27/86

15-2.12.9 Type of Enrollment

A former spouse who is eligible to enroll in the FEHBP may elect coverage for self only or for self and family. A family enrollment covers only the former spouse and any unmarried dependent natural or adopted children of the former spouse and the employee, former employee or annuitant, provided the child is not also covered by another FEHBP enrollment. To be eligible for coverage a child must be single and under age 22. An unmarried child over age 22 who is incapable of self-support because of a mental or physical disability existing before age 22 is eligible for coverage.

EFFECTIVE: 10/27/86

15-2.12.10 Effective Date of Enrollment

The effective date of the former spouse's enrollment will be the first day of the pay period beginning more than 30 days after the employing office receives the SF-2809 and satisfactory proof of eligibility.

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15-2.12.11 Payment of Premiums (See MAOP, Part I, 15-
2.13.3(3).)

The former spouse must submit payment (both the employee's and Government's share) of the premiums on a monthly basis to the National Finance Center. If the National Finance Center does not receive payment by the due date, the former spouse will be notified that coverage will be cancelled if payment is not paid within 15 days after receipt of the notice which is sent by certified mail, return receipt requested. The effective date of a termination for failure to pay premiums within the time frame is the last day of the pay period for which payment has been received. Once the enrollment is cancelled, the former spouse will not be entitled to the temporary extension of coverage for conversion, cannot convert to an individual contract, and cannot reenroll.

EFFECTIVE: 12/16/93

15-2.12.12 Opportunities to Change Enrollment

The following events will allow the former spouse to enroll or change enrollment:

(1) A former spouse may change enrollment to self only at any time. If a former spouse changes enrollment to self only, any family members who lose coverage are not entitled to the temporary extension of coverage for conversion, and may not convert to an individual contract.

(2) The former spouse may make an enrollment change during open season or upon the occurrence of one of the following events, in accordance with regulations issued by OPM:

- (a) birth or acquisition of a child,
- (b) move from an area served by a comprehensive medical plan,
- (c) termination by an employee organization plan,
- (d) termination of plan in which enrolled,

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- (e) eligibility for Medicare,
- (f) change from self only to self and family if an eligible child loses coverage under another FEHBP enrollment.

EFFECTIVE: 10/27/86

15-2.12.13 Cancellation of Enrollment by Former Spouse

A former spouse may cancel enrollment at any time by executing an SF-2809. The coverage will be cancelled the last day of the pay period following the pay period in which the SF-2809 is received. However, once the enrollment is cancelled, the former spouse and family members, if any, are not entitled to the temporary extension of coverage for conversion and cannot convert to an individual contract for health benefits. Once the enrollment is cancelled, the former spouse may not enroll.

EFFECTIVE: 10/27/86

15-2.12.14 Termination of Enrollment (See MAOP, Part I, 15-2.13.1(3).)

Upon terminating an enrollment, the former spouse will be furnished a copy of the SF-2810. The former spouse has 36 months in which to convert to nongroup coverage if eligible under temporary continuation of coverage. At the end of the 36 months, the former spouse has an additional 31 days to convert his/her coverage. Once a former spouse's enrollment has been terminated, the former spouse may not reenroll. A former spouse's enrollment terminates, subject to the temporary extension of coverage for conversion, at midnight of the last day of the pay period in which the earliest of the following events occurs:

- (1) Qualifying court order ceases to provide entitlement to survivor annuity or a portion of retirement annuity under a retirement system for Government employees.
- (2) Former spouse remarries before age 55.
- (3) Former spouse remarries the employee, separated

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employee, or annuitant on whose service the benefits are based.

(4) Former spouse dies.

(5) Employee on whose service the benefits are based dies, and no survivor annuity is payable.

(6) Separated employee, on whose service the benefits are based dies before meeting the requirements for a deferred annuity.

(7) Employee on whose service benefits are based leaves Federal service before establishing title to a deferred annuity.

(8) OPM refunds retirement contributions to the separated employee on whose service the health benefits are based.

EFFECTIVE: 12/16/93

15-2.12.15 Termination of Coverage of Family Members

The coverage of a family member of a former spouse terminates, subject to the temporary extension of coverage for conversion, at midnight of the earlier of the following dates:

(1) The day on which the individual ceases to be a member of the family (family members who lose coverage because the former spouse cancels have no temporary extension or conversion rights);

(2) The day the former spouse ceases to be enrolled.

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15-2.13 Temporary Continuation of Coverage

On December 27, 1989, the Office of Personnel Management (OPM), issued implementing regulations to Title II of Public Law 100-654, "Federal Employees Health Benefits Program (FEHB) Amendments Act of 1988." These regulations went into effect on January 1, 1990, to provide for the temporary continuation of health benefits coverage for certain individuals who lose their coverage. These include former employees who separate from the Bureau, children of Bureau employees or annuitants who lose their status as family members, and certain former spouses of employees or annuitants who lose their status as family members.

EFFECTIVE: 12/16/93

15-2.13.1 Eligibility Requirements and Length of Coverage

(1) Three groups of individuals are eligible for temporary continuation of coverage based on the following qualifying events:

(a) Employees who separate from service (voluntarily or involuntarily) unless the separation is due to gross misconduct and would not otherwise be eligible for continued coverage.

(b) Children who were covered under an employee's, former employee's or an annuitant's enrollment, but no longer meet the requirements for coverage. This includes children who:

1. marry before reaching age 22
2. reach age 22
3. lose status as stepchildren or foster children
4. not recognized as natural children
5. disabled children age 22 or older who marry, recover from their disability, or become self-supporting

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(c) Former spouse who was enrolled in an FEHB plan as a family member at some time during the 18 months before the marriage ended and has since remarried before reaching age 55, or is otherwise not entitled to a portion of the employee or annuitant's annuity benefit or a survivor benefit based on the employee or annuitant's service.

(2) Individuals who ARE NOT eligible for temporary continuation of coverage include:

(a) Family members who lose coverage when an employee changes to self only or cancels coverage.

(b) Employees who lose coverage after 12 months in a nonpay status.

(c) Civil Service Retirement System (CSRS) annuitants and survivor annuitants who lose coverage because their annuities are insufficient to cover premiums.

(d) Annuitants whose annuities terminate. This applies primarily to disability annuitants whose annuities stop because of recovery or restoration to earning capacity.

(e) Compensationers who lose coverage because their compensation terminates.

(f) Survivor annuitants whose annuities terminate, unless the terminating event is one that allows temporary continuation of FEHB coverage.

(g) Employees who transfer to a position that is excluded from FEHB coverage by law.

(h) Widow(er)s and children who lose coverage because of the death of an employee or annuitant and who are not eligible for survivor benefits.

(i) Children whose survivor annuities stop because they are no longer students.

(j) Employees who separate from the Bureau due to gross misconduct cannot participate.

(3) The length of temporary coverage for individuals is as follows:

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- (a) Former employees - 18 months after the date of separation from service.
- (b) Children and former spouses of employees and annuitants - 36 months after the date of the change in status.
- (c) Children and former spouse of former employees with temporary continuation of coverage - 36 months after the date the employee separated from the Bureau. (See MAOP, Part I, 15-2.12.14.)

EFFECTIVE: 12/16/93

15-2.13.2 Notification of Eligibility

(1) Eligible individuals have 60 days from the time they lose coverage to notify Employee Benefits Unit (EBU) that continuation of temporary coverage is desired. If the EBU is not notified of a child or former spouse's eligibility for temporary continuation of coverage within the 60-day time limit, the OPPORTUNITY to elect coverage ENDS 60 days after the qualifying event in the case of a child and 60 days after the change in status in the case of a former spouse unless circumstances beyond the enrollee's control occurs which prevent him/her from advising of the qualifying event within the appropriate time frame. HOWEVER, A LACK OF KNOWLEDGE OF THE REGULATIONS DOES NOT CONSTITUTE CAUSE BEYOND HIS/HER CONTROL.

(2) Separating employees will be notified by the employee conducting the exit interview of their opportunity to elect temporary continuation of coverage no later than 30 days after their coverage ends. Former employees must submit their election of continued coverage to the EBU within 60 days after the date of separation.

(3) In the case of children who become eligible, the covered employee has the responsibility of notifying EBU of the change in the child's status within 60 days after the event that caused the loss of coverage. EBU will send an enrollment form and pertinent literature. The child MUST respond within 60 days after the qualifying event or notification by the Bureau to elect coverage in order to ensure temporary continuation of coverage.

(4) If a former spouse becomes eligible for temporary

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continuation of coverage, EITHER THE EMPLOYEE OR THE FORMER SPOUSE must notify EBU within 60 days after the change in status. Within 14 days EBU will contact this individual with a detailed explanation of the program and enrollment procedures. The former spouse must submit the election of continued coverage within 60 days after the later of the date of qualifying event, date coverage under spouse equity provisions is lost, or within 60 days from date notification from the Bureau was received.

EFFECTIVE: 12/16/93

15-2.13.3 Enrollment and Payment of Premiums

(1) To enroll, the eligible individual should complete an SF-2809, Health Benefits Enrollment Form. An individual electing continued coverage may enroll in any plan or option for which he or she is eligible, not necessarily the plan they were in at the time they became eligible for temporary continuation of coverage. After their initial enrollment, individuals may change enrollment during the FEHBP "Open Season" or when there is an event which allows a change in enrollment.

(2) Individuals must pay the full cost of the premium (theirs and the Government's share), plus a 2 percent administrative charge. Once eligibility has been established and enrollment is allowed, EBU will send all necessary materials required for processing to the United States Department of Agriculture, National Finance Center, New Orleans, Louisiana. The Center will establish and maintain enrollee's accounts, perform billing and collection functions, respond to inquiries, and make other appropriate determinations such as cancellation of enrollments and eligibility to make other changes in enrollments.

(3) National Finance Center (NFC) (See MAOP, Part I, 15-2.12.1, 15-2.12.6, 15-2.12.11.)

(a) The NFC acts as the central processing office for collection of premiums and the administrative fee. NFC will issue coupons directly to the enrollee for payment of monthly premiums, conduct open season each year for eligible enrollees, perform billing and collection functions, generate termination or cancellations of enrollees, correspond with enrollees regarding the Direct Premium

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Remittance System, and maintain computer system operations regarding this program.

(b) Since the NFC sends information to insurance carriers on the first and fifteenth of each month and it takes carriers at least two weeks after receipt to establish enrollees on their systems, enrollees should prepare for the delay between the time they sign up for insurance and the time they receive their identification cards from the carriers. Enrollees should stock up on needed medication and make doctor appointments during the free 31-day extension of coverage.

(c) Enrollees should be aware coverage is retroactive to the 32nd day after termination of regular group coverage. If there are delays in notification and processing of enrollment forms, enrollees may have to pay a sizeable LUMP SUM PAYMENT at the time of the first billing for coverage.

EFFECTIVE: 12/16/93

15-2.13.4 Changing Enrollment

(1) Enrollees may change their enrollment from self and family to self only at any time. If an enrollee changes to self only, family members who lose coverage are entitled to the free 31-day temporary extension of coverage before conversion to an individual contract.

(2) Enrollees may change coverage during open season or upon the occurrence of one of the following events: change in family status; change to self alone; move from area served by comprehensive plan, termination of an employee organization plan, termination of the plan in which enrolled, eligibility for Medicare coverage, or child's coverage under another enrollment ends.

EFFECTIVE: 12/16/93

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15-2.13.5 Termination of Enrollment

(1) Former employees and family members who lose coverage other than by cancellation (including cancellation by nonpayment of premiums) or discontinuance of the plan have a 31-day temporary extension of coverage for the purpose of converting to a nongroup contract with their health benefits plan. This is true even when they also have the right to elect temporary continuation of FEHB coverage. The first 31 days of the period of eligibility for coverage under Public Law 100-654 run simultaneously with the 31-day temporary extension of coverage. If they elect continued coverage under Public Law 100-654, their enrollment charges begin on the day after the free 31-day temporary extension of coverage ends. If they elect temporary continuation of FEHB coverage instead of conversion policy, they have another 31-day extension of coverage (with no cost to them) and another opportunity to convert to nongroup coverage when the temporary continuation ends (unless it ends due to cancellation or discontinuance of the plan).

(2) An enrollee may cancel his/her enrollment at any time. However, once canceled, neither the enrollee nor any family member covered by the enrollment will be entitled to a 31-day extension of coverage for conversion to a nongroup plan. In addition, once canceled, the former enrollee cannot reenroll.

(3) If an enrollee does NOT make payments to the NFC within the specified time frame, he/she is considered to have voluntarily canceled his/her enrollment effective with the last day for which premiums were paid. Enrollees whose coverage is canceled by nonpayment of premiums may NOT reenroll or be reinstated unless they were prevented by circumstances beyond their control from making payment within the specified time frame.

(4) An enrollee whose coverage is canceled due to nonpayment of premiums is NOT entitled to the free 31-day temporary extension of coverage NOR to conversion to an individual contract.

(5) Enrollment ends either because the period of temporary continuation expires or enrollee cancels enrollment (including cancellation by nonpayment of premiums). If the enrollment ends because of expiration of the period of temporary continuation of coverage, the enrollee IS entitled to free 31-day temporary extension before conversion to an individual contract.

(6) Coverage of family members ends when the covering

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enrollment ends or when the person ceases to meet the requirements for being considered a family member. A family member who loses the continued coverage for any reason other than cancellation of the covering enrollment (including cancellation by nonpayment of premiums) IS entitled to the 31-day extension of free coverage before conversion to an individual contract.

EFFECTIVE: 12/16/93

15-3 | FBI EMPLOYEE ASSISTANCE PROGRAM (EAP) |

EFFECTIVE: 02/14/92

15-3.1 | Definition of Terms

(1) Alcoholism/Alcohol Abuse - A treatable disorder/disease characterized by repeated episodes of excessive drinking which interferes with an employee's health, social adjustment, and work performance.

(2) Community Resources - Agencies and individual practitioners available to provide professional services to FBI employees referred to them by the Employee Assistance Program (EAP). These agencies and individual practitioners include, but are not limited to: hospitals and other inpatient treatment facilities, mental health clinics, counseling centers, marriage counselors, psychologists, social workers, psychiatrists, financial counseling services, and attorneys.

(3) Drug Abuse - A treatable disorder/health problem characterized by a pattern of repeated episodes of drug use which interferes with an employee's health, social adjustment, and work performance.

(4) Drug Deterrence Program (DDP) - A comprehensive program, within the FBI, which is consistent with the President's Drug-Free Federal Workplace initiative, consisting of: urinalysis testing for drugs of abuse, referral to the EAP for counseling and rehabilitation, employee education, and supervisory training about drug abuse issues.

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(5) Emotional/Behavioral/Mental Health Problems - A wide range of personal problems any of which may be characterized by feelings of distress and/or impairment of an employee's health, social adjustment, work performance, and psychological well-being.

(6) Illegal Drug - A controlled substance as defined by Section 802(a) of the Controlled Substances Act, Title 21, United States Code (USC), the possession of which is unlawful. This does not include the use of a controlled substance pursuant to a valid prescription or other uses authorized by law.

(7) Management Official - An employee required or authorized by the FBI to formulate, determine, interpret, or influence the policies of the FBI.

(8) Supervisor - An employee required or authorized by the FBI to direct or assign work to other employees and who, through observation and the exercise of independent judgment, is able to evaluate their performance.

(9) Employee Assistance Counseling - Confidential counseling by FBI Headquarters EAP staff, Field Coordinators, or other duly authorized individuals, which may include, but is not limited to, basic short-term counseling and referral services for employees with personal problems that adversely affect their work performance.

(10) Self-Referral - The voluntary request for assistance made directly to an EAP staff member by an employee who is, or has a family member who is, experiencing a life problem which may have a negative impact on his or her job performance.

(11) Short-Term Counseling - Approximately one to three sessions required to assess presenting and/or underlying problems and concerns to determine a source for referral. This term is defined on a case-by-case basis as some situations may require longer assessment to identify problems or extended follow-up following referral and treatment.

(12) Supervisory/Management Referral - The referral of an employee to the EAP by a supervisor as a result of recognized deteriorating job performance, conduct problems, and or noticeable distress impacting on employee behavior.

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| 15-3.2 Policy | (See MAOP, Part I, 1-2.1 (8)(g).) |

It is the policy of the FBI to provide confidential, short-term counseling and referral assistance to employees who have personal problems that adversely affect their job performance and health. Ordinarily, an employee will overcome personal life problems independently and there may be little or no effect on job performance. If the employee cannot resolve such problems alone, traditional supervisory practices may serve as the needed motivation or guidance necessary to return the employee's job performance to an acceptable level. In some cases, however, neither the efforts of the employee nor the supervisor are effective at resolving the employee's problems and unsatisfactory job performance persists. The EAP will be available to deal with such persistent employee problems within the following framework:

(1) The FBI recognizes that almost any human problem is treatable if identified early and referral is made to the appropriate community resource for care. These problems include, but are not limited to: alcoholism, drug abuse, physical illness, mental or emotional distress, marital and family problems, and financial and legal concerns.

(2) For the purposes of this policy, alcoholism is a preventable and treatable disease in which the employee's job performance may be impaired as a direct consequence of the abuse of alcohol.

(3) With regard to drug abuse, the FBI recognizes that this is a treatable health problem and employees with this problem will receive the same offer of assistance as that extended to employees having any other illness or health problem. However, the Bureau cannot condone employee drug activity which is contrary to law. When illegal drug use is involved, an individual's participation in the EAP will not preclude the Bureau from taking appropriate disciplinary/administrative action against the employee for his or her use of illegal drugs, except as provided herein for self-referrals. Disciplinary action in accordance with Executive Order 12564 can be initiated and could include the full range of disciplinary/administrative actions up to and including dismissal.

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(4) When supervisors have reasonable cause to believe that an employee's problem also involves criminal conduct directed toward or potentially harmful to the person or property of others, this information should be reported to the appropriate authority in accordance with existing policy set out in the MAOP, Part I, Section 1-4, entitled, "Illegal Activities" and Part I, Section 13, "Disciplinary Matters."

(5) The EAP is not bound to extend assistance to an individual who persists in conduct that is against the law, openly discusses illegal activities, or plans or exhibits behavior that would threaten either his/her own life or the lives of others.

(6) Employees will not have their job security, promotional opportunities, or retirement eligibility jeopardized on account of their request for assistance and participation in the EAP.

(7) Employees found to be using illegal drugs as a result of urinalysis drug testing pursuant to the FBI's Drug Deterrence Program (DDP), or who have otherwise been identified by management officials to have used illegal drugs, shall be referred to the EAP. An employee's decision to participate in the EAP when he or she has been referred under these circumstances will be taken into consideration by management officials and disciplinary/administrative action will be decided on a case-by-case basis depending on all mitigating factors and the totality of the circumstances. Such considerations will include, but are not limited to, the sensitivity of the employee's position and whether the employee's conduct has undermined the Bureau's confidence in his/her trustworthiness. The intent of the EAP policy is rehabilitative and not punitive.

(8) Information concerning individuals who participate in the EAP is confidential and governed by Federal regulations which impose certain criminal penalties for improper disclosure. Records and EAP counselor's notes pertaining to an individual's participation in this program are protected and WILL NOT be referred to or made part of an employee's Official Personnel Folder. The confidentiality of these records/information, whether recorded or not, will be maintained in accordance with Title 42, Confidentiality of Alcohol and Drug Abuse Records (CFR), Part 2, the Privacy Act, Title 5, USC, Section 552a, 1984 and all other relevant laws and regulations. (See MAOP, Part I, 15-3.3.1 (1).)

(9) Employees who decide to undergo a prescribed program of treatment or rehabilitation which will require absence from work will be granted sick leave as is the case with any other health

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problem. If the individual has an insufficient amount of accrued sick leave available, advanced sick leave, annual leave, or leave without pay may be granted for this purpose in accordance with the LEAVE ADMINISTRATION GUIDE. Administrative leave should be allowed, within reasonable constraints, when an employee meets with an EAP Coordinator/Counselor.

EFFECTIVE: 05/13/94

15-3.3 Administration of Program

(1) In order to be an effective and viable program, supervisors must realize the EAP policy is positive--not punitive--and that in cases other than "self-referrals," it will be the supervisor who is in the best position to recognize an employee's problem through job deterioration manifesting itself through such things as absenteeism, changes in quality of performance, and behavioral changes. The supervisor, however, is cautioned not to diagnose; this is the function of a trained clinician. Further, since sensitivity to employee problems and support of the EAP are integral to good leadership, FBI managers are expected to facilitate employee assistance and outreach efforts. To underscore the importance of these efforts, all management and supervisory personnel will be held directly accountable for any inaction on their part under circumstances which reasonably require their intervention. (See MAOP, Part I, 1-30.1 through 1-30.4.)

(2) The management officials and supervisors are responsible for:

(a) Supporting the EAP by continually observing and evaluating the work performance of all employees under their supervision.

(b) The identification and documentation of specific instances of deteriorating work performance and employee behavior that fails to meet acceptable standards of conduct.

(c) Consulting with the EAP Counselor when the employee's problem(s) cannot be resolved by traditional supervisory practices alone and there may be a need for referral to the EAP for corrective action. Managers and supervisors must be able to effectively document and describe the employee's behavior as it

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relates to work performance but they are not to attempt to diagnose or draw conclusions about an individual's personal problem(s). The preliminary assessment of the nature of the employee's problem(s) is an EAP function, especially when it may involve mental health and/or substance abuse problems.

(d) Determining, after consultation with and the concurrence of EAP staff, that referring the employee to the EAP is appropriate.

(e) Conducting an interview with the employee focusing on the behavior that is directly related to poor job performance or deteriorating conduct. Whether or not the employee indicates that his/her difficulty is caused by a personal problem, the supervisor should inform the employee about the EAP services available and offer to refer him/her to the EAP. If the problem persists after the initial consultation with EAP staff, the supervisor should present a firm choice for the employee by encouraging referral acceptance and by describing the consequences of continued unsatisfactory work performance. Participation in the EAP is voluntary and does not preclude supervisors from taking necessary disciplinary action. An employee's acceptance, refusal or cooperation with the EAP, if indicated, should be taken into consideration by a supervisor before he/she proceeds with administrative/disciplinary action. If the employee refuses help and performance continues to be unsatisfactory, the supervisor has complied with his/her program responsibilities and is then obligated to take the necessary adverse action.

(f) Ensuring that their referral to the EAP is documented in writing as well as orally. The written documentation is the supervisor's record that the employee has been offered EAP assistance. The EAP staff can assist the supervisor in preparing a memorandum for this purpose, during supervisory consultation sessions. The memorandum will NOT be placed in the employee's Official Personnel Folder. The memorandum will be maintained by the supervisor as part of his/her recordkeeping system, and the Privacy Act prevents its disclosure beyond the EAP without the employee's written consent. In the event that administrative/disciplinary action is instituted against an employee who has had a documented offer of EAP assistance and who subsequently denies having received it, the memorandum may become part of the adverse action file to dispute the validity of the employee's claim.

(g) Refraining from discussing with the employee the possibility that his/her work performance difficulties may be related to alcohol or drug problems. Again, the supervisor should focus on

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the employee's job performance only. However, when the employee is at work and does not appear to be in full control of his/her faculties, the supervisor should immediately inquire about the employee's physical/medical condition while being aware that behavioral symptoms commonly associated with alcohol intoxication and drug abuse can be caused by other health problems. Where applicable, the employee should be immediately referred to the Health Service/Occupational Health Nurse for assessment and emergency treatment. Locations that have no medical personnel should refer the employee to a private physician, community health service or hospital. Further, any employee who experiences problems with substance abuse must be encouraged to seek professional assistance on an immediate basis. We must be assertive in reaching out to coworkers in need of EAP services and take steps to ensure those in need are promptly afforded whatever counseling, treatment or assistance may be necessary.

Ultimately, if the employee's behavior was determined to be related to alcohol or drug intoxication, the supervisor and/or medical personnel should discuss the facts of the situation with the employee and refer him/her to the EAP.

(3) The Employee Assistance Administrator (EAA) will be assigned on a full-time basis and has the lead role in providing technical expertise, as well as direct program administration, which will include planning, budgeting, organization, implementation, supervision and training responsibilities for the Bureauwide program. In addition, the EAA will be responsible for:

(a) The technical and administrative supervision of the field office and Headquarters EAP Coordinators;

(b) Establishing field office EAP Coordinators and providing them with technical supervision and assistance;

(c) Overseeing the preparation and submission of annual EAP statistical accomplishment reports to the OPM;

(d) Providing consultation to management officials and supervisory staff concerning organizational matters and employees with behavioral problems. Organizational matters are not limited to administrative/operational issues but also include the identification of occupational stressors unique to the FBI, their impact on job related employee problems and resolution strategies;

(e) Ensuring coordination of training services between the EAP and the Behavioral Science Unit;

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(f) Ensuring that the policies and procedures set forth in this manual and all supporting federal directives are followed by all employees under his/her supervision. This includes the adherence to confidentiality requirements and other standards of ethical practice;

(g) Providing for the design and implementation of training programs for managers, supervisors and employees concerning their roles within the program and publicizing the services that are available;

(h) Making recommendations to management officials and supervisory staff concerning the continuing education requirements necessary for EAP personnel;

(i) Developing and maintaining a nationwide listing/register of community rehabilitation and treatment resources available for the referral of employees and/or their family members in need of such assistance;

(j) Representing the FBI through liaison with national, state and local organizations which are public, private and professional on matters concerning EAPs;

(k) Conducting the necessary evaluation, research and monitoring to ensure program effectiveness;

(l) Ensuring that counseling, assessment and referral services are provided to all employees referred by others or upon self-referral;

(m) Overseeing coordination and follow-up of employee rehabilitation through communication with community treatment resources;

(n) Hiring and supervising contractors, personnel, and other resources in order to accommodate EAP needs;

(o) Establishing and maintaining budgetary needs to accomplish program effectiveness.

(4) The EAP Coordinator is responsible for:

(a) The implementation and operation of the EAP within his/her local area (field/Headquarters).

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(b) Providing short-term counseling and referral services to all employees referred to the EAP by others or upon self-referral.

(c) Providing consultation with supervisory staff concerning the identification and management of employees with problems that may be adversely affecting job performance.

(d) Providing educational materials and training to supervisors in order to familiarize them with their roles and responsibilities within the program.

(e) Publicizing the EAP and ensuring that all employees are aware of the services available.

(f) Coordination with the DDP Coordinator in order to educate employees about illegal drug abuse in the workplace and the relationship between the DDP and the EAP. (EAP Coordinators are not to be assigned any responsibilities or duties directly under the DDP which would involve the actual drug testing of employees.)

(g) Referring employees in need of assistance to community treatment/rehabilitation resources and monitoring the employee's progress, through appropriate follow-up, during and after the rehabilitation period.

(h) Adhering to all policies and procedures set forth in the EAP policy and all supporting federal directives. This includes strict adherence to federal confidentiality regulations and other standards of ethical practice.

(i) Preparing and submitting to the EAA biannual statistical accomplishment reports on employee participation in the program. Information provided in these reports will be for statistical purposes only and will not contain any data that would either directly or indirectly reveal the identity of a participating employee.

(j) Conducting periodic evaluations of program effectiveness and, when appropriate, providing feedback to management officials and the EAA.

(k) Maintaining a local listing/register of community rehabilitation and treatment resources utilized for the referral of employees and/or their family members in need of such

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assistance.

(1) Periodically visiting community treatment/rehabilitation resources for assessment and quality assurance purposes.

(m) Maintaining his/her skills and the knowledge base necessary for the effective delivery of EAP services, by participation in continuing education programs.

EFFECTIVE: 03/16/95

15-3.3.1 Employee Responsibility/Self-Referral Procedure | (See MAOP, Part I, 1-2.1 (6).) |

(1) Employees who suspect that their work performance has been negatively affected by an emotional, behavioral, alcohol, or drug abuse problem are encouraged to contact the EAP. In addition, EAP services are offered to the members of an employee's family, to the extent feasible, who may also need assistance with a personal problem. Employees seeking assistance can contact the EAP Coordinator in their respective field office/division or the EAA at FBI Headquarters. Communications between an employee's family members and EAP personnel are subject to all applicable confidentiality requirements previously cited in 15-3.2(8).

(2) When an employee in good faith voluntarily seeks EAP assistance for an illegal drug abuse problem, EAP personnel will not require the employee to waive his/her right to confidentiality before assistance will be provided. These employees, however, must remain drug free as a subsequent finding of illegal drug use will result in the initiation of disciplinary action as detailed in the DDP. Furthermore, if the employee's illegal use of drugs comes to the attention of management subsequent to the employee's receiving EAP assistance or successfully completing a rehabilitative program, no disciplinary action will be taken against the employee for illegal drug use. For example: The employee is treated, rehabilitated, and returned to work. One year later management is informed of the employee's previous drug use for which he/she was treated the previous year. No disciplinary action can be taken against this employee.

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EFFECTIVE: 05/13/94

15-3.3.2 On-Call Schedule

(1) In the event of an emergency during after-duty hours, all employees and their family members are authorized to contact the FBIHQ EAP on-call counselor.

(2) A monthly schedule of counselors on call will be forwarded to the Assistant Director of the Personnel Division and the FBIHQ switchboard.

(3) The switchboard operator will connect the caller directly to the counselor on call that evening.

(4) All major emergencies must be fielded through the EAP Administrator.

EFFECTIVE: 04/21/94

15-3.4 Implementation of the Program

(1) Personnel in charge of field offices and regional support centers are responsible for:

(a) Designating an individual to serve, on a full-time or part-time basis, as an EAP Coordinator. To avoid potential conflicts of interest, the EAP Coordinator (or counselor) or anyone administering the EAP should not also be assigned the responsibilities of Security Countermeasures Program Manager and/or Security Officer. (See MIOG, Part I, 261-1.)

(b) Knowing the Federal confidentiality regulations cited in this manual section and ensuring that EAP Coordinators adhere to these requirements and other standards of ethical practice.

(c) Ensuring that EAP Coordinators are allowed sufficient time, as part of their official duties, to effectively implement the program.

(d) Providing the necessary space, equipment and

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other resource needs required to ensure individual confidentiality and the accomplishment of program goals:

(e) Ensuring that employees under their supervision in need of EAP services are referred to the EAP Coordinator for assistance.

(f) Providing for the training of managers, supervisors, and employees concerning their roles within the program and publicizing the services that are available.

(g) Allowing EAP Coordinators the opportunity to participate in continuing education programs in order to maintain their skills and the knowledge base necessary for the effective delivery of services.

(2) This program should not be construed as a relaxation of FBI standards of conduct. FBI policy continues to require that employees should never cause themselves to be mentally or physically unfit for duty.

(3) While Public Law 91-616 and Merit Systems Protection Board decisions generally require rehabilitation efforts to be made before disciplinary action for unsatisfactory job performance be taken, they do not preclude agency action if rehabilitation fails, is refused, if job performance does not improve, or either actions or activities are present and constitute employee misconduct.

(4) No employee's job security will be threatened by self-referral for counseling or referral assistance provided by the EAP staff.

EFFECTIVE: 11/15/93

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15-3.5 Confidentiality of Information

The law requires that information relating to the identity, diagnosis, prognosis, or treatment of an employee, which is developed and maintained in connection with an EAP function, is confidential and may be released to others only under the following circumstances:

(1) With employee's written consent.

(a) This includes disclosures about the fact that an employee has ever contacted EAP personnel, participated in the program in any way or about any information regarding the employee's problem, unless the employee consents to such disclosure in writing. EAP personnel must discuss this issue during their first contact with an employee to determine the extent and nature of information, if any, to be disclosed to supervisors and/or management officials.

(b) Persons authorized to receive information provided for in an initial disclosure are prohibited from making any redisclosure of this information unless further disclosure is expressly permitted by written consent. This prohibition includes disclosures by EAP personnel to supervisors, management officials, and/or community treatment resources.

(c) Example of circumstances when disclosure can be made with employee consent are:

1. For purposes of diagnosis, treatment, and rehabilitation (e.g., referral to community resources).
2. To an employee's attorney.
3. To an employee's family.
4. To an insurance company, third-party payers, or other funding sources; and
5. To a supervisor or management official.

In all of the above situations, EAP personnel must ensure that consent was given voluntarily and granting the request for disclosure will not be harmful to the employee or the EAP's capacity to provide services.

(2) Without employee written consent:

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(a) These conditions are purposely limited and include medical emergencies and court orders.

(b) If the EAP Coordinator believes:

1. The employee's mental or physical condition is a threat to the employee's safety or to the safety of others or would otherwise affect the national security or law enforcement operations; or

2. The employee's behavior in conjunction with his/her problem undermines the investigative process, the EAP Counselor should immediately advise the EAA at FBI Headquarters and appropriate action will be determined.

EFFECTIVE: 02/14/92

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SECTION 16. SERVICES AVAILABLE TO EMPLOYEES

16-1 HOUSING (FBIHQ)

EFFECTIVE: 04/23/91

16-1.1 Housing Register

A housing register of rooms and apartment developments is maintained in the Personnel Recruiting and Benefits Section of the Personnel Division for the use of support and Agent personnel at FBIHQ and Washington Metropolitan Field Office.

EFFECTIVE: 04/21/94

16-1.2 Housing Circular

The housing circular, FD-273, briefly outlines the housing conditions in Washington, D. C., quotes rentals, and furnishes information as to whom to contact for assistance in securing housing. This circular is used as an enclosure to all Washington support appointment letters and is also used, together with the pamphlet "FBI Career Opportunities," for information purposes in connection with field office applicant interviews. A notification of acceptance of appointment and request for temporary housing accommodations form is also enclosed with the appointment letter, which should be executed by the new appointee and returned to the Bureau. The purpose of this form is to notify the Bureau of the appointee's acceptance of the appointment and, if desired, to request a temporary housing reservation.

EFFECTIVE: 04/23/91

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16-1.3 Housing Reservations

Upon receipt of the notification of acceptance of appointment and request for temporary housing accommodations from a new appointee or a written request from an employee for housing, temporary housing reservations are arranged by the Personnel Recruiting and Benefits Section. After their arrival in the city, permanent quarters are located by this section upon further request; however, in any case, the permanent housing for new employees is handled on a group basis during the support indoctrination class.

EFFECTIVE: 04/23/91

16-1.4 Housing for Employees' Families, Relatives, or Friends

The Personnel Recruiting and Benefits Section also makes reservations at hotels for employees' families, relatives, or friends arriving on a visit, if such assistance is desired and the request is made known to this section.

EFFECTIVE: 04/23/91

16-1.5 Housing - Transfers (See MAOP, Part II, 3-3.2(7) (b), 6-2.4.3.)

All Bureau employees under transfer to a field office or FBIHQ receive a housing form with their transfer letter. Those employees who desire assistance in locating living quarters may then complete this form and forward it to FBIHQ (for headquarters transfers) or to the SAC of the office to which they are being transferred. Upon its receipt, all possible assistance will be rendered the employee desiring housing. Each SAC or division head at FBIHQ, where necessary, is to permit a newly arrived employee who has been permanently transferred five days of absence, not charged to leave, to locate suitable housing. Under no circumstances is the employee to be granted these five days of absence, without charge to leave, when the employee, notwithstanding any trip by the spouse, has had a househunting trip as provided by Federal Travel Regulations.

(Note: Employees transferring to San Juan, Puerto Rico, and other United States possessions and territories may be granted up to seven days of administrative leave to locate suitable housing after

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reporting to their new duty station.) All permanently transferred employees will be entitled to an additional five days of absence, not charged to leave, to handle general matters which arise as the result of relocation. This absence may be utilized in full or in part at either end of the transfer, provided the total absence does not exceed a period of five days in connection with the overall transfer. Employees transferred at personal expense are not included. Under no circumstances is a Bureau vehicle to be used in this endeavor.

Information regarding housing and living conditions in Anchorage, Honolulu, and San Juan is also available in the Personnel Recruiting and Benefits Section.

EFFECTIVE: 02/24/95

16-1.6 Letters to Apartment Developments

Letters over the Director's signature on behalf of Bureau support or Agent personnel regarding their desire to secure housing are directed to apartment developments but must be predicated on a written request setting forth the reason for desiring such a letter and sufficient information upon which to base the letter.

EFFECTIVE: 04/23/91

16-1.7 Deleted

EFFECTIVE: 04/23/91

16-1.8 Memoranda Regarding Housing Matters

Memoranda regarding housing matters should be captioned in such a manner that the fact that a housing matter is involved is readily apparent. The name of the landlord or landlady, as well as the address, is to be set out in the caption. The words "Housing Matter" are also to appear in the caption. Names of all employees involved, if memoranda refers to an incident, are to be listed and carbon copies designated for the personnel file of each, if it is desired that a copy be placed in the employee's file.

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EFFECTIVE: 04/23/91

16-2 HOUSING (FIELD)

Housing registers in field offices need not be maintained except in those areas where housing facilities are so scarce that a register or guide is necessary to assist employees coming to that office in finding suitable housing. The necessity of maintaining such a register is left to the SAC. If the register is maintained, set a tickler to review the situation at least once each year. Each SAC should endeavor to ensure that employees are not living in disreputable or questionable quarters. If the register is maintained, following instructions apply:

(1) The register should contain a list of those apartment developments where furnished and unfurnished apartments are available. Liaison should be maintained with the management of larger apartment projects for the purpose of assisting Bureau personnel, particularly Agents on transfer to field offices, to obtain suitable living accommodations.

(2) This register should contain a list of private homes where suitable furnished rooms may be obtained for both male and female personnel. In those cities where business residences for female employees are in existence, female employees arriving on transfer or entering on duty from other areas of the country may have the opportunity to secure suitable accommodations. It shall be the responsibility of the SAC to arrange for inspection of places recommended to personnel for housing, and the names of individuals operating rooming houses or residences should be checked through office indices.

(3) This register should contain a list of hotels in the field office territory so that accommodations may be secured for Bureau personnel desiring hotel rooms.

(4) In larger field offices, it may be helpful to have available a photocopied list of apartment developments to provide employees on transfer so that it may be used as a guide in seeking suitable living quarters.

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16-3 BUREAU-APPROVED RECREATIONAL ASSOCIATION

EFFECTIVE: 09/25/87

16-3.1 General

(1) Employees of FBI Headquarters (FBIHQ), field offices, resident agencies, or Legats may join together and form a Recreation Association (RA). Each office's association may be operated separate and distinct from any other association.

(2) The purpose of the association shall be to promote and encourage athletic, social, and welfare activity among all members thereof so that there may exist among the FBI employees who are association members a realization of their common interests and goals as well as a feeling of good fellowship and a spirit of camaraderie. So that these objectives may be achieved, the RA of each office shall sponsor and/or encourage athletic, recreational, and welfare activities.

(3) This association shall not knowingly operate in violation of the regulations and/or policies of the FBI. Employees are not to participate in recreational-type activities, i.e., athletic, social, etc., during their official working hours. The association shall look to the FBI for guidance to ensure that the activities of the association do not violate the regulations and/or policies of the FBI. This shall be accomplished by reference to established written codifications and sources of FBI regulations and policies such as the FBI's manuals of regulations and memoranda, and through seeking the advice of FBIHQ whenever such written codifications are not available or applicable.

EFFECTIVE: 09/25/87

16-3.2 FBIRA Membership

(1) All FBI employees working at Headquarters, a field office, resident agency, or Legat, shall be eligible to join an RA operating in that office. Depending on the nature of the association's activities, the association may restrict membership to those paying membership dues, which are to be established by the individual association, board, or executive committee. Membership in a field office association does not necessarily afford members the rights or benefits available to other field office association members; each local association may restrict its benefits to

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current FBI employees who are assigned to the particular field office and are members of that office's association. However, nothing is to preclude any RA from using its organization to notify other employees in other offices of recreational activities, or other information of interest to such employees.

(2) Each local association should determine when the membership drive should begin and should have procedures in place for the election of association officers and/or Board of Directors.

EFFECTIVE: 09/25/87

16-3.3 FBIRA Funds

(1) If any local association collects money from dues, bake sales, sales of FBI memorabilia, or the like, the association must maintain records and books for such income and expenditures in line with appropriate accounting practices. These records and books will be reviewed by the Inspection Division audit staff during each office's inspection process.

(2) Each local association earning profits or income from its operation must properly report such income to the state income tax entity (if appropriate) and to the Federal Internal Revenue Service (IRS). It should be noted that field office associations, if they restrict the source of their income and limit their membership to only local FBI employees, may qualify as a tax exempt organization, and after receiving that status from IRS will not need to file taxes with IRS thereafter. They should also seek tax exempt status from the state and local taxing authorities and operate accordingly.

(3) FBIRA funds are to be used to promote office recreational and social activities for FBIRA members. The FBIRA fund may be used to purchase flowers or gifts in the event of illness, hospitalization, or death of member/employees. Gifts in lieu of flowers may include items like books or fruit, or, in case of death, cards or contributions to favorite charities. Gifts from FBIRA funds are not to be provided in connection with resignations, retirements, promotions, transfers, departures on military leave or maternity reasons, weddings, birthdays, baby showers, and the like. However, FBIRA funds can be expended to buy plaques or gifts recognizing employees who have volunteered their time and effort in connection with RA activities.

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EFFECTIVE: 08/24/87

16-3.4 Formal Organization

(1) A field office association should adopt a constitution and bylaws. The constitution, at a minimum, should set forth the association's purpose, eligibility for membership in the association, the governing body and how they are elected/appointed, the existence of bylaws, provisions for amending the constitution and bylaws.

(2) The bylaws should explain in detail the following:

(a) eligibility for membership in the field office association;

(b) officers of the association, how they are elected/appointed, and their responsibilities; the existence of an executive committee, if any, and its functions and responsibilities;

(c) sources of the RA's income and provisions for approval of each expenditure;

(d) provisions for maintenance of financial records and timely filing of tax returns;

(e) provisions for the auditing of each office's financial records; and

(f) language reflecting that the activities of the association must conform with Bureau regulations and policies.

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16-3.5 Merchandising

(1) The use of the FBI name, initials, and seal are governed by Federal laws and regulations. Title 18, United States Code (USC), Section 709, prohibits, without the written permission of the Director, the use of the name or initials "FBI," or any colorable imitation of such words or initials in any manner which reasonably conveys the impression that the FBI approves, endorses, or authorizes a particular product or business.

(2) In conjunction with this, Title 41, Code of Federal Regulations, Section 128-1.5007(b), provides that "requests for permission to reproduce the seal(s) of the FBI... shall be referred to the head of the Departmental organization for decision." It has been the position of the Bureau to deny all requests for commercial reproduction of the FBI's name and initials where a particular product was to be marketed to the public at large.

(3) The Washington Metropolitan FBIRA has authorization from the Director to market various items bearing the FBI's seal, badge, name, and initials through the FBIRA Store. The use of a single authorization source ensures the integrity of items purchased by Bureau employees. Therefore, all field office FBIRAs must contract through the FBIHQ FBIRA Store for purchase of items.

(4) All offices should be alert to the unlawful use of the FBI seal or initials on products without authorization. Any violations should be referred to the Criminal Investigative Division to determine whether there is a violation of Title 18, USC, Section 709.

EFFECTIVE: 08/24/93

16-4 LITERATURE

EFFECTIVE: 08/24/87

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16-4.1 School Literature

The Personnel|Recruiting and Benefits|Section receives and distributes literature, announcements, and related information concerning schools, colleges, universities, and various educational programs in the District of Columbia and these in turn are furnished to the Assistant Director's offices of the various divisions in the Bureau. This service is maintained for the benefit of Bureau employees and such information is available at all times. Any inquiries received in the various divisions relative to such educational problems which cannot readily be handled in the respective division should be referred to the Personnel|Recruiting and Benefits|Section. Form FD-241 provides information regarding the educational facilities available in the Washington area.

EFFECTIVE: 04/23/91

16-4.2 Recreational Literature

The Personnel|Recruiting and Benefits|Section receives and distributes literature and announcements on various non-Bureau social functions being held in the Washington area to the various divisions. It is the responsibility of the various division heads to ensure that material is properly posted and that the bulletin boards are maintained in a current condition.

EFFECTIVE: 04/23/91

16-4.3 Distribution of Literature

All floaters and announcements of FBIRA activities are distributed to FBIHQ division heads and field offices for information of employees by the FBIRA activity promoter.

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16-5 FBI HEALTH CARE PROGRAMS UNIT: J. EDGAR HOOVER (JEH)
F.B.I. BUILDING AND FIELD OFFICES

EFFECTIVE: 02/14/97

16-5.1 Headquarters

EFFECTIVE: 04/23/91

16-5.1.1 Organization

(1) The Health Care Programs Unit at FBIHQ is located in Room 6344, JEH Building. The Health Care Programs Unit at FBIHQ and authorized Health Services in the field offices are staffed with registered nurses who are required to have a minimum of two years of occupational health experience before entering on duty with the FBI.

(2) FBIHQ Health Care Programs Unit is staffed to provide services from 7:00 a.m. to 5:00 p.m. for employees. The field offices' Health Services provide services during the working day, as established by the SAC/ADIC. Emergency recommendations are given by a nurse, at FBIHQ and in the field office, telephonically during nonduty hours by contacting the switchboard.

EFFECTIVE: 02/14/97

16-5.1.2 Functions of the Health Care Programs Unit

(1) The principal functions of the Health Care Programs Unit are: to provide assessment and first responder treatment, counseling, recommendations, referrals to physicians, interviews regarding health problems and/or omissions on EOD physical examination reports, follow-up service when indicated regarding health problems, home visits to employees in emergency cases only, contacting employees' physicians, and promotion of better health, awareness and

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safety habits through health education and preventive health programs.

(2) Deleted

(3) Immunizations and other injections are given when indicated and required, i.e., international travel, evidence recovery at disaster scenes, etc. In accordance with Bureau policy the employee should contact the Health Service to ascertain specific instructions which must be met in order to receive desired injections. In Health Services staffed with only one nurse, injections are given only when approved by FBIHQ Health Care Programs Unit.

(4) All physical examination reports on support and Agent applicants, hardship transfers, Legat personnel and their families and all physical examinations for special assignments are reviewed in the field Health Services, then forwarded to FBIHQ Health Care Programs Unit for Fitness-for-Duty qualification determination. In those field offices having a nurse, the nurse is responsible, with the SAC's/ADIC's concurrence, for monitoring contracts and scheduling annual physical examinations at nearby contract facilities.

(5) The nurse(s) assigned in the field will be responsible for providing educational programs for employees regarding good health habits, health services operations and preventive health programs available to all employees.

(6) Employees injured on duty may be sent to a medical facility for examination and/or treatment, or may select a duly qualified physician or hospital in the nearby area. The Health Service provides the injured employee with Form CA-16 (Request for Examination and/or Treatment), Form CA-17 (Duty Status Report), and Form CA-1 (Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation), with attached Privacy Act of 1974 Notice.

(7) Health Care Programs Unit coordinates federally mandated programs such as Bloodborne Pathogens, Hearing Conservation, and Medical Surveillance Programs such as lead and other exposures.

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16-5.1.3 Liaison

The Health Care Programs Unit has telephonic liaison with the U.S. Public Health Service, local government clinics, and also with private physicians, hospital emergency services and community resources.

EFFECTIVE: 02/14/97

16-5.2 Field Health Services

The Chicago, Clarksburg Satellite Facility, Cleveland, Detroit, Houston, Los Angeles, Miami, Newark, New York, Philadelphia, Quantico, San Francisco, and Washington Field offices are equipped with Health Services which, as noted above, function along the same lines as the FBIHQ Health Care Programs Unit.

EFFECTIVE: 02/14/97

16-6 VOLUNTEER BLOOD DONORS

EFFECTIVE: 04/23/91

16-6.1 American Red Cross

Through arrangements with the American Red Cross Blood Center, the Personnel Recruiting and Benefits Section of the Personnel Division schedules and operates bloodmobiles in the JEH Building for employees desiring to donate blood at the American Red Cross.

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16-6.1.1 Benefits

Since the Bureau is an active participating member of the Red Cross blood donor program, blood is furnished free of charge when needed to Bureau employees and relatives defined as spouse, parent, minor child of a donor or a participant, or any other relative living in the same household and economically dependent upon the employee. Employees may secure blood replacements when needed, by contacting their supervisors or the central blood donor representative. The person hospitalized must advise the hospital that the Red Cross should be notified if blood is needed.

EFFECTIVE: 04/23/91

16-6.1.2 Requirements

An employee may donate every eight weeks, but only five times in any 12-month period. A donor is accepted from ages 18 through 65; however, from 18 to 21 years, a parent's permission is required unless the donor is married or living away from parental household and self-supporting. A permit must be presented at the center for each time a minor donates. This permit, as well as additional information as to the medical history requirements, may be obtained from the blood donor representative in either the Personnel Division or the Criminal Justice Information Services Division.

EFFECTIVE: 04/21/94

16-6.1.3 Field Offices

Field offices should ensure that employees are made aware of and encouraged to participate in the blood donor program. In the offices in which no blood donor program is available, periodic contact should be made with the American Red Cross or similar facility to determine if a program is being established. FBIHQ should be advised of any change.

EFFECTIVE: 11/28/83

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16-6.2 [Deleted]

EFFECTIVE: 11/28/83

16-6.3 Leave

No leave is to be charged for the time necessary for purpose of donating blood.

EFFECTIVE: 11/28/83

16-7 FEDERAL EMPLOYEES' GROUP LIFE INSURANCE (FGLI)

EFFECTIVE: 11/28/83

16-7.1 General Information

(1) Group life insurance first became available to federal employees by law effective 8/29/54. Effective 2/14/68, all eligible employees (including those who previously waived coverage) were permitted to acquire Regular Insurance coverage of (a) a minimum of \$10,000, if they earned less than \$8,000 per year, or (b) their annual salary (rounded to the next highest \$1,000) plus \$2,000, if they earned \$8,000 or more per year. Employees covered by Regular Insurance could also elect Optional Insurance of an additional \$10,000. Effective 4/1/81, all previous enrollments and waivers of FGLI were cancelled, and all eligible employees were permitted to acquire Basic (formerly Regular Insurance), Option A - Standard (formerly Optional Insurance), Option B - Additional, and Option C - Family. Open enrollment periods, during which eligible employees could enroll or change their FGLI coverage without restriction, were held in 1985 and 1993; those actions took effect 8/1/85 and 5/30/93, respectively. A limited open enrollment period took place in 1995 which allowed employees who had previously waived FGLI coverage to enroll only for FGLI Basic coverage; those enrollments became effective the first day of the first pay period after they were processed by FBIHQ.

(2) FGLI Basic coverage is equal to an employee's annual basic pay (rounded to the next highest \$1,000) plus \$2,000. Locality

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pay authorized by the Federal Employees' Pay Comparability Act of 1990 is included in basic pay, as is Availability Pay for Special Agents. Basic coverage has an Accidental Death and Dismemberment feature which is equal to the basic insurance amount at the time of an employee's accidental death, or varying percentages in the event of loss of a limb. This feature is discontinued at retirement. An extra benefit is given to employees under age 45 at no cost. Beneficiaries of employees who die under age 36 receive double the amount of Basic coverage. The extra benefit payable to beneficiaries of employees who die between 36 and 44 is reduced by 10 percent for each year over age 35 at the time of death; no extra benefit is payable if an employee dies after reaching age 45. The extra benefit is not subject to Accidental Death and Dismemberment coverage. Employees who have Basic coverage may also be covered by Options A, B, and C. Option A - Standard provides \$10,000 of coverage. Like Basic, Option A - Standard has Accidental Death and Dismemberment coverage which is discontinued at retirement. Under Option B - Additional, employees may elect an amount equal to one, two, three, four, or five times their annual basic pay (rounded to the next highest \$1,000). Accidental Death and Dismemberment coverage is not included in Option B - Additional. Option C - Family insures the employee's spouse for \$5,000 and each of the employee's eligible children under age 22 for \$2,500. Children incapable of self-support are eligible for coverage after age 22. Accidental Death and Dismemberment coverage is not included in Option C - Family.

EFFECTIVE: 04/02/96

16-7.2 Cost of FEGLI Coverage

(1) The cost per biweekly pay period of FEGLI Basic insurance to employees is \$0.165 per \$1,000 of coverage. This represents two-thirds of the Basic premium; the Government pays the other third.

(2) The cost per biweekly pay period of Option A - Standard insurance to employees is the full cost of the premium and varies by age as follows: (See MAOP, Part I, 16-7.7(2).)

Age Group

Withholding for
\$10,000 Insurance

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Under age 35	\$0.40
35 through 39	0.50
40 through 44	0.70
45 through 49	1.10
50 through 54	1.80
55 through 59	3.00
60 and over	7.00

(3) The cost per biweekly pay period of Option B - Additional insurance to employees is the full cost of the premium and varies by age as follows: (See MAOP, Part I, 16-7.7(3).)

Age Group	Withholding per \$1,000 Insurance
Under age 35	\$0.04
35 through 39	0.05
40 through 44	0.07
45 through 49	0.11
50 through 54	0.18
55 through 59	0.30
60 and over	0.70

(4) The cost per biweekly pay period of Option C - Family insurance to employees is the full cost of the premium and varies by age as follows: (See MAOP, Part I, 16-7.7(4).)

Age of Employee	Withholding for Family Coverage
Under age 35	\$0.30
35 through 39	0.31
40 through 44	0.52
45 through 49	0.70
50 through 54	1.00
55 through 59	1.50
60 and over	2.60

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16-7.3 Electing FEGLI Coverage (See MAOP, Part I, 16-7.5(5).)

Employees are automatically under FEGLI Basic coverage upon entry-on-duty and will remain so unless they complete a Standard Form (SF) 2817 to decline such coverage. Within 31 days after entry-on-duty, employees should complete a SF-2817 to indicate whether they desire to keep FEGLI Basic coverage, and if so, whether they want to elect any or all of the options. A copy of the completed SF-2817 is filed in the employee's Official Personnel Folder at FBIHQ. Once completed, this form must be promptly forwarded with the other entry-on-duty forms to the Personnel Division for processing. Employees may also elect Basic and/or any optional coverages during any FEGLI Open Season designated by the United States Office of Personnel Management (OPM). However, employees eligible to participate in the 1995 Open Season were limited to enrolling only in FEGLI Basic coverage.

EFFECTIVE: 07/19/95

16-7.4 Effective Dates of Coverages

(1) FEGLI Basic coverage is effective on an employee's first day in pay and duty status. Coverage under Options A, B, and C is effective on his or her first day in pay and duty status occurring on or after the date the completed SF-2817 is received at FBIHQ.

(2) FEGLI Open Season changes are effective on the first day of the first pay period following the date prescribed by OPM and following a pay period in which the employee was in both pay and duty status for at least half of his or her tour of duty. However, no date was prescribed for enrollments in the 1995 Open Season; those enrollments took effect under the provisions of Section 16-7.4(1) above.

(3) A waiver of coverage by a new employee is effective the day his or her SF-2817 is received at FBIHQ, if it is received during the employee's first pay period. If an SF-2817 waiving any FEGLI coverage is received after an employee's first pay period, the waiver is effective on the last day of the pay period in which it is received at FBIHQ. (See MAOP, Part I, 16-7.9.1.)

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16-7.5 Conditions for Changing Elections

(1) Employees who waive coverage and later decide to request Basic and/or any of the options may do so during a FEGLI Open Season regardless of medical condition; however, they must enroll in or maintain Basic coverage in order to elect any option. At times other than an Open Season, an employee who desires to cancel a previous waiver of Basic, Option A, and/or Option B can do so only if (a) at least one year has passed since his or her last change in FEGLI coverage, and (b) the employee provides satisfactory evidence of insurability. To meet the latter requirement, the employee should have a physician complete an SF-2822 (Request for Insurance); the cost of any examination given to complete this form is the responsibility of the employee.

The employee should notify the Personnel Division in writing of his or her desire to cancel a previous FEGLI waiver so that an SF-2822 may be provided to him or her.

(2) Employees may waive any FEGLI coverage at any time by completing an SF-2817 to show what coverages, if any, they choose to keep in force.

(3) Upon marriage, or the birth, adoption, or other acquisition of an eligible child, employees who have Basic coverage may enroll under Option B - Additional. The number of salary multiples of Option B coverage an employee may elect is limited to the number of eligible family members the employee acquires with the qualifying event. For example, an employee who marries someone with no children may elect one multiple of Option B, while an employee who marries someone with three children who become the employee's stepchildren may elect four multiples. A married employee who previously had no Option B coverage and who has a baby may elect one multiple, not two. If an employee already has Option B coverage and either marries or acquires new children, he or she may elect as many additional multiples of Option B (up to the maximum of five) as the number of family members he or she acquired with the qualifying event. No SF-2822 is required to make these changes in Option B coverage; however, the employee must file a new SF-2817 to make the changes within 60 days after the date of the qualifying event.

(4) Employees who have Basic coverage are eligible to

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enroll under Option C - Family after marrying or acquiring an eligible child. No SF-2822 is required to enroll for Option C; however, an employee must file a new SF-2817 to enroll within 60 days after the date of the qualifying event.

(5) Employees who return to Federal service after a break in service of 180 days or more are treated as new employees for FEGLI purposes. This means that all previous waivers of FEGLI coverage are cancelled, and the returning employee is automatically under FEGLI Basic coverage from the date he or she returns to service. This coverage will remain in effect unless the employee waives it. As in 16-7.3 above, the employee should file an SF-2817 within 31 days after returning to service, indicating whether he or she wants to continue Basic coverage and, if so, whether he or she wants to enroll in any of the options. No SF-2822 will be required to enroll in any FEGLI coverage the employee desires under these circumstances.

EFFECTIVE: 04/21/94

16-7.6 Designation of Beneficiaries (See MAOP, Part I, 16-7.12.)

It is not necessary to name a beneficiary if an employee wishes to have FEGLI death benefits paid in accordance with the following order of precedence:

- (1) the employee's widow or widower,
- (2) the employee's children, in equal shares, with the share of any deceased child distributed among that child's descendants,
- (3) the employee's surviving parent(s), in equal shares if both parents are living,
- (4) the duly appointed executor or administrator of the employee's estate, or
- (5) the employee's next of kin, as determined by the laws of the employee's state of domicile at the time of his or her death.

Employees who wish to name a beneficiary other than the ones listed

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above, or who wish to change the order of precedence with regard to a beneficiary named above, may file an SF-2823 (Designation of Beneficiary). Beneficiaries can be designated ONLY by filing an SF-2823, and that form must be received by OPM prior to the death of the employee. A person who signs an SF-2823 as a witness may not be designated as beneficiary of that FEGLI payment. A trust may be named as a beneficiary; such a designation must indicate that the FEGLI benefit is payable to the trustee or successor trustee, give the name of the trust (if any), and show the name(s) of the person(s) who signed the trust document and the signature date. Any designation of beneficiary on an SF-2823 remains in effect until revoked by the employee through another SF-2823. An employee who simply wishes to revoke a previous designation is not required to name a new beneficiary if he or she is satisfied with the above order of precedence; the revoking SF-2823 need only state, "Cancel previous designations."

EFFECTIVE: 10/14/93

16-7.7 Continuation of FEGLI Coverage After Retirement (See MAOP, Part I, 16-7.10.)

(1) Employees may continue their FEGLI Basic coverage (without the Accidental Death and Dismemberment supplement) into retirement if they (a) retire on an immediate annuity, (b) have had Basic coverage for the five years of service immediately before retiring (or all service since their FIRST chance to enroll, if less than five years), and (c) do not convert the Basic insurance into an individual policy (see Section 16-7.9.2). A retiring employee who wants continued Basic coverage after retirement must file a SF-2818, electing whether to have the Basic insurance amount reduced by 75 percent, 50 percent, or zero after he or she reaches age 65. The amount of Basic insurance carried into retirement is the amount in force on the date of separation, and that amount remains fixed until the month after the employee reaches age 65. If the 75 percent reduction has been chosen, the Basic insurance begins reducing at that point by 2 percent each month until the chosen level has been reached; the reduction is 1 percent each month if the 50 percent reduction has been chosen. Employees who elect the 75 percent reduction will pay a premium of \$0.3575 per \$1,000 of coverage until they reach age 65; after then, the Basic coverage is free. Employees who elect the 50 percent reduction will pay a premium of \$0.8775 per

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\$1,000 of coverage until they reach age 65; after then, the premium is \$0.52 per \$1,000 of coverage. Employees who elect no reduction will pay a premium of \$2.0475 per \$1,000 of coverage until they reach age 65; after then, the premium is \$1.69 per \$1,000 of coverage. Employees who desire to continue coverage under Options A, B, or C after retirement must also continue their Basic coverage.

(2) Employees may continue their coverage under Option A - Standard into retirement if they have had such coverage for the five years of service immediately before retiring (or all service since their FIRST chance to enroll, if less than five years) and if they do not convert the Option A coverage to an individual policy. Employees who retire before age 65 and continue Option A into retirement will pay the normal Option A premium for their age (see Section 16-7.2(2)) until they reach age 65; after then, the Option A coverage is free. At age 65, the amount of Option A coverage (\$10,000) begins to reduce by 2 percent per month until it reaches \$2,500 (a 75 percent reduction), where it remains for the rest of a covered employee's life unless cancelled.

(3) Employees may continue their coverage under Option B - Additional into retirement if they have had such coverage for the five years of service immediately before retiring (or all service since their FIRST chance to enroll, if less than five years) and if they do not convert the Option B coverage to an individual policy. Employees who retire before age 65 and continue Option B into retirement will pay the normal Option B premium (per \$1,000 of coverage) for their age (see Section 16-7.2(3)) until they reach age 65; after then, the Option B coverage is free. A retiring employee may carry into retirement only the lowest number of multiples of Option B coverage he or she had during the five years of service immediately before retiring. At age 65, the amount of Option B coverage begins to reduce by 2 percent per month for 50 months; after then, Option B coverage ends.

(4) Employees may continue their enrollments in Option C - Family into retirement if they have been enrolled in Option C for the five years of service immediately before retiring (or all service since their FIRST chance to enroll, if less than five years). Employees who retire before age 65 and continue Option C into retirement will pay the normal Option C premium for their age (see Section 16-7.2(4)) until they reach age 65; after then, the Option C coverage is free. At age 65, the amounts of Option C coverage (\$5,000 for a spouse, \$2,500 for each eligible child) begin to reduce by 2 percent per month for 50 months; after then, Option C coverage ends.

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16-7.8 Effect of Leave Without Pay (LWOP) on FEGLI Coverage
(See MAOP, Part I, 16-7.9.1.)

An employee on LWOP continues his or her FEGLI coverage for up to 365 days in LWOP status. No premium is due for this coverage during LWOP. The insurance terminates after 365 consecutive days on LWOP; if the employee returns to the Federal service afterward in a FEGLI-covered position, the insurance he or she had at the time of termination is restored upon reentry on duty. An employee on LWOP due to a work-related injury or disease may continue FEGLI coverage as a compensationeer (see Section 16-7.10) and would not be subject to the 365 day coverage limit.

EFFECTIVE: 10/14/93

16-7.9 Termination and Conversion of FEGLI Coverage

EFFECTIVE: 10/14/93

16-7.9.1 Termination

FEGLI coverages terminate when an employee files a waiver (see Section 16-7.4(3)), is separated from the Federal service, has been on LWOP more than 365 days (see Section 16-7.8), or transfers to a job where he or she is excluded from FEGLI coverage by law or regulation. The employee's FEGLI Basic and optional coverages (without the Accidental Death and Dismemberment feature) are extended without cost for 31 days after the day the coverages terminate.

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EFFECTIVE: 10/14/93

16-7.9.2 Conversion

(1) Upon resignation or retirement, employees may convert their FEGLI coverages to individual life insurance policies (for other than term insurance). To convert, a former employee should request an SF-2821 (Agency Certification of Insurance Status) from the Employee Benefits Unit, Personnel Division, FBIHQ. The former employee should send this form, together with other documentation outlined on the form, to a participating insurance company as directed by the form. A retiring employee has the same conversion privilege as a separating employee if he or she retires on an immediate annuity and does not choose to carry some or all of his or her FEGLI coverage into retirement. (See MAOP, Part I, 16-7.7(1).)

(2) Effective 1/1/87, employees who entered the military on active duty, including active duty for training purposes, could continue their FEGLI coverage for up to 365 days in the same manner as coverage is continued for employees in other types of nonpay status. At the end of 365 days of military service, an SF-2819, (Notice of Conversion Privilege) will be furnished to employees still in the military in order for them to convert their coverage.

EFFECTIVE: 04/21/94

| 16-7.9.3 | Deleted - See 16-7.12 |

EFFECTIVE: 10/14/93

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16-7.10 FEGLI Coverage During Workers' Compensation (See MAOP,
Part I, 16-7.8.)

Employees entitled to benefits from the Office of Workers' Compensation Programs (OWCP) for a job-related illness or injury may continue FEGLI coverage as a "compensationeer." FEGLI Basic coverage is continued during the first 365 consecutive days of LWOP without cost, and the cost for any of the three options will be withheld from the compensation payments. Following the 365 day LWOP period, FEGLI coverage may be continued through OWCP (with no Accidental Death or Dismemberment feature) for employees receiving benefits from that agency. The qualifications to continue coverage are the same as in Section 16-7.7 for continuing coverage as a retiree.

EFFECTIVE: 10/14/93

16-7.11 FEGLI Coverage for Reemployed Annuitants

A Federal retiree whose annuity continues during reemployment keeps FEGLI coverage in one of two ways. If the retiree is reemployed in a position which does not carry eligibility for life insurance as an employee, his or her FEGLI coverage continues through the retirement system and is administered by OPM. If the retiree is reemployed in a position which carries the right to life insurance as an employee, the coverage as a retiree is suspended and the retiree reacquires FEGLI coverage as an employee (including Accidental Death and Dismemberment benefits). Premiums are withheld from the reemployed annuitant's salary as they would be for other covered employees. If the reemployed annuitant waives or declines any FEGLI coverage while he or she is reemployed, the waiver or declination will also apply to FEGLI coverage as a retiree when he or she retires again. A reemployed annuitant whose annuity is RECALCULATED (not merely supplemented) upon the second retirement has his or her FEGLI retirement coverage determined by the amounts and types of FEGLI coverage in effect on the day of the second separation.

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16-7.12 Filing for FEGLI Death Benefits
(Previously Section 16-7.9.3)

When an employee dies, the person entitled to be paid the FEGLI death benefits (see Section 16-7.6) must complete a Form FE-6 (Claim for Death Benefits). Following the death of a Bureau employee, the completed FE-6 (with a certified copy of the death certificate) is sent to FBIHQ, which files the FE-6 with the Office of Federal Employee's Group Life Insurance (OFEGLI), 200 Park Avenue, New York, New York 10166-0114. When the spouse or child of an employee covered by Option C - Family dies, the employee completes a Form FE-6 DEP (Statement of Claim). A Bureau employee in this situation would send the FE-6 DEP (and certified copy of the death certificate) to FBIHQ, which would file it with OFEGLI. The appropriate survivor of a retired federal employee would obtain the FE-6 from OPM and, upon completion, file it directly with that agency.

EFFECTIVE: 07/19/95

16-7.13 Living Benefits

Effective 7/25/95, a terminally ill employee who is determined by his or her physician to have nine or fewer months to live may apply to be paid all of his or her FEGLI Basic insurance amount, or any multiple of \$1,000 up to the total of the FEGLI Basic insurance amount (less approximately five to six percent of the requested amount, which OFEGLI will retain to represent lost interest to the FEGLI program). No Living Benefits payment may be made from the employee's FEGLI optional insurance amounts, and when the employee dies, any FEGLI optional insurance still in force and any FEGLI Basic amount not previously paid as Living Benefits will be paid to the employee's beneficiaries as described in Section 16-7.6. Should the employee be paid Living Benefits and not die as expected, the employee may not subsequently reenroll in FEGLI Basic insurance. An employee desiring Living Benefits should obtain Form FE-8 (Application for Living Benefits) from OFEGLI and, upon completion, file it directly with OFEGLI.

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EFFECTIVE: 07/19/95

16-7.14 Assignment of Ownership of FEGLI

Employees covered by FEGLI may assign ownership of their FEGLI insurance policies to someone other than themselves, including any firm, corporation, trust, or other legal entity. Assignment transfers from the employee to the new owner of the policy all rights and title to the policy, including the right to designate beneficiaries and the right to decide whether the employee may make changes in his/her FEGLI coverage (including cancellation). Assignment of shares of the policy may be made to more than one new owner; however, if the employee assigns any part of his/her FEGLI policy to a new owner, he or she may not retain any part of the FEGLI policy -- the remainder must also be assigned to someone else. Following assignment, the employee will still be liable for paying the legal FEGLI premiums described above for his/her coverage. Assignment of a FEGLI policy may be made for any reason; but assignment is an irrevocable action. However, the new owner may subsequently assign the policy back to the employee if the new owner so desires. Employees who wish to assign ownership of their FEGLI policies may obtain Form RI 76-10 (Assignment of Federal Employees Group Life Insurance) from the Personnel Division.

EFFECTIVE: 07/19/95

16-8 UNEMPLOYMENT COMPENSATION FOR FEDERAL EMPLOYEES

Unemployment compensation benefits are available to eligible separated Federal employees after terminal leave expires. Tax-free basic benefits extend generally for 26 weeks in a benefit year, but vary in amount per week depending upon the state. Some states augment benefits with additional allowances made for dependents. Eligibility determination rests solely with state unemployment insurance offices. Generally, claimants must register with those offices, must be unemployed, and must be able and available to work when work is offered, or must be in a leave-without-pay status for seven days or more. (See the LEAVE ADMINISTRATION GUIDE re distribution of SF-8 in connection with leave without pay.) Employees should be furnished an SF-8 at the time of the exit interview.

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notifying them of their rights to claim such benefits.

EFFECTIVE: 04/21/94

16-9 FEDERAL SAFETY COUNCILS

The Federal Safety Council and its field affiliates, Regional Federal Safety Councils, are administered by the Secretary of Labor. The Council and its regional affiliates periodically hold meetings for the purpose of assisting Government agencies in preventing and reducing accidents, and developing and maintaining safety organizations to eliminate work hazards and health risks. The President and the Secretary of Labor have in the past requested the cooperation of all Government agencies in this endeavor, and Federal regulations require that agencies should participate in such councils. Accordingly, FBIHQ desires that the SAC or SAC's designated representative participate in such councils in your area in an "observer" status when a local council requests your attendance or when information to be provided would be of benefit to employees or office operations. Only extreme operational requirements should be allowed to justify any given instance of nonparticipation.

EFFECTIVE: 03/26/92

16-10 CHARITY CAMPAIGNS

Since 1956 the guidelines for charity campaigns in the FBI have been governed by the White House policy and program overseeing charitable fundraising within the Federal establishment. See the administrative file for details regarding the policies and procedures. A copy of Executive Order 10927 regarding fundraising within the Federal service is also maintained in the administrative file.

EFFECTIVE: 03/26/92

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16-10.1 Fundraising Activities

(1) An employee may engage in fundraising only in accordance with the restrictions in part 950 of 5 CFR on the conduct of charitable fundraising in the federal workplace and in accordance with paragraphs (3) and (4) of this section.

(2) DEFINITIONS OF TERMS:

(a) Fundraising means the raising of funds for a nonprofit organization, other than a political organization as defined in Title 26, USC, Section 527 (e), through:

1. Solicitation of funds or sale of items; or
2. Participation in the conduct of an event by an employee where any portion of the cost of attendance or participation may be taken as a charitable tax-deduction by a person incurring that cost.

(b) PARTICIPATION IN THE CONDUCT OF AN EVENT means active and visible participation in the promotion, production, or presentation of the event and includes serving as honorary chairperson, sitting at a head table during the event, and standing in a reception line. The term does not include mere attendance at an event provided that, to the employee's knowledge, his/her attendance is not used by the nonprofit organization to promote the event. While the term generally includes any public speaking during the event, it does not include the delivery of an official speech as defined in the following paragraph or any seating or other participation appropriate to the delivery of such a speech. Waiver of a fee for attendance at an event by a participant in the conduct of that event does not constitute a gift for purposes of 5, CFR, Part 2635, Subpart B.

(c) OFFICIAL SPEECH means a speech given by an employee in his/her official capacity on a subject matter that relates to his/her official duties, provided that the employee's agency has determined that the event at which the speech is to be given provides an appropriate forum for the dissemination of the information to be presented and provided that the employee does not request donations or other support for the nonprofit organization. Subject matter relates to an employee's official duties if it focuses specifically on the employee's official duties, on the responsibilities, programs, or operations of the employee's agency as described in 5, CFR, 2635.807(a) (2) (i) (E), or on matters of Administration policy on

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which the employee has been authorized to speak.

(d) PERSONALLY SOLICIT means to request or otherwise encourage donations or other support either through person-to-person contact or through the use of one's name or identity in correspondence or by permitting its use by others. It does not include the solicitation of funds through the media or through either oral remarks, or the contemporaneous dispatch of like items of mass-produced correspondence, if such remarks or correspondence are addressed to a group consisting of many persons, unless it is known to the employee that the solicitation is targeted at subordinates or at persons who are prohibited sources as defined in MAOP, Part I, 1-13.2.1. It does not include behind-the-scenes assistance in the solicitation of funds, such as drafting correspondence, stuffing envelopes, or accounting for contributions.

(3) Fundraising in an official capacity. An employee may participate in fundraising in an official capacity if, in accordance with a statute, Executive order, regulation or otherwise as determined by the agency, he/she is authorized to engage in the fundraising activity as part of his/her official duties. When authorized to participate in an official capacity, an employee may use his/her official title, position and authority. (See (1).)

(4) Fundraising in a personal capacity. An employee may engage in fundraising in his/her personal capacity provided that he/she does not:

(a) Personally solicit funds or other support from a subordinate or from any person known to the employee to be a prohibited source.

(b) Use or permit the use of his/her official title, position or any authority associated with his/her public office to further the fundraising effort, except that an employee who is ordinarily addressed using a general term of address, such "The Honorable," "Doctor" or a former military rank, may use or permit the use of that term of address or rank for such purposes; or

(c) Engage in any action that would otherwise violate the Office of Government Ethics standards of conduct. (See (1).)

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EFFECTIVE: 07/12/94

16-11 PAYROLL MATTER - VOLUNTARY ALLOTMENTS TO FINANCIAL ORGANIZATIONS

(1) Regulations provide that employees can have: a maximum of two deductions made from their salary for savings allotment(s) purposes and sent to a financial organization(s); the entire amount of net pay (after all other deductions) sent to a financial organization for credit to a checking account; separate voluntary allotments for SATI and/or SAMBA life insurance premiums; voluntary allotments for dues to an association of management officials and/or supervisors (including membership dues for the FBIAA, SES and BADGE); charitable contributions to the Combined Federal Campaign; Special Agents' Insurance Fund membership assessment; income tax withholdings; savings for an employee assigned to a post of duty overseas; and a voluntary allotment for child support and/or alimony payments.

(a) Employees desiring to enroll in the Savings Allotment Program and/or net pay checking must execute SF-1199A (Direct Deposit Sign-Up Form) bearing revision date of July, 1984. Public Law 103-356, dated October 13, 1994 mandates that all newly hired employees, who begin to receive federal wage or salary payments on or after January 1, 1995, must be paid by electronic funds transfer. All newly hired employees must sign up for direct deposit, as a condition of employment, within 45 days of their EOD date. This form should also be used to increase or decrease the savings allotment(s). The government agency copy of the completed SF-1199A should be forwarded to FBIHQ, Attention: Payroll Administration and Processing Unit, Accounting Section. The financial organization and the employee should retain the other completed copies of SF-1199A.

(b) Cancellations of savings and net pay allotments to financial organizations may be accomplished by executing FD-434 (Request for Cancellation of Savings or Checking Account Allotments). The completed form should be forwarded to FBIHQ, Attention: Payroll Administration and Processing Unit, Accounting Section. The request for cancellation should be processed by the Payroll Office prior to the account being cancelled at the financial organization.

(2) Amounts withheld for SATI and SAMBA life insurance premiums; Combined Federal Campaign; Special Agents' Insurance Fund membership assessment; and income tax withholdings are deducted as

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separate voluntary allotments and will not affect the two savings allotments.

(3) Optional Form 299 (Request by Employee for Action on Allotment of Pay) must be used to authorize a voluntary allotment for child support and/or alimony payments. A new form should be submitted to increase or decrease the amount of the allotment or to cancel the allotment. The original copy of the completed form should be forwarded to FBIHQ, Attention: Payroll Administration and Processing Unit, Accounting Section. One copy each of the form should be retained by the recipient of the allotment and by the employee.

Extreme care must be exercised when completing Optional Form 299; particularly item eight must show the correct name and mailing address of the recipient of the allotment since the biweekly payments will be forwarded to the recipient by the Department of the Treasury rather than by the FBI. The amount of the allotment will be deducted each pay period and forwarded to the recipient. No deduction will be made when an employee is on leave without pay for a part of the pay period in which the pay is insufficient to cover the entire allotment. An amount will not be withheld for a voluntary allotment from the final salary payment upon separation from the FBI.

(4) A supply of Forms SF-1199A, FD-434 and Optional Form 299 may be ordered by requisition from Bureau supply.

EFFECTIVE: 10/19/95

16-12 THE SPECIAL AGENTS INSURANCE FUND

(1) The Special Agents Insurance Fund (SAIF) was organized on January 29, 1935, for the purpose of providing a sum of money for the families of Agents killed in the line of duty. The policy at that time was to pay to the beneficiary the entire sum collected at the time of death; thus the initial payment was \$4,136.17. Because of the disparity in death benefits paid as a result of this policy, the membership voted during September, 1939, to thereafter pay the sum of \$5,000 to each beneficiary. During November, 1940, the membership voted to extend payments to the beneficiaries of Agents who died from any cause, rather than requiring that the Agent's death be caused by violence. During 1943, the Agent membership voted to increase member contributions to \$10 and to increase the survivor benefits to \$10,000. Assessments and benefits remained constant until April 12, 1967, when the membership voted to

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increase the assessment to \$20 and to increase the survivor benefits to \$20,000. Effective January 1, 1980, the Board of Governors increased the benefits payable to \$30,000 with no increase in the \$20 assessment. The purpose of the fund is to merely supplement, not replace, the Agent's insurance coverage and to provide funds which are immediately available to the surviving spouse.

(2) Historically, an assessment of the membership has been called after six successive deaths or when the assets of the fund fall below a predetermined amount, presently \$500,000. This fund is reinsured with Life Insurance Company of North America (INA) so that in the event of five or more deaths in any one incident (24-hour period) the fund will pay the beneficiary of the first five and INA will then pay the next 90 beneficiaries.

(3) Membership is limited to Special Agents, Inspectors, Assistant Directors, Assistants to the Director, the Associate Director, the Deputy Director, Associate Deputy Directors and the Director of the Federal Bureau of Investigation who are on active duty. To apply for membership in the SAIF prospective members should execute Form FD-253, Application/Renewal of Membership and Designation of Beneficiary.

(4) Because the purpose of SAIF is to provide immediate funds to the beneficiaries of deceased Special Agents, only individuals may be designated as primary beneficiaries. Estates and trust funds may be designated as contingent or secondary beneficiaries. If a minor child is listed as the beneficiary, a delay of payment of the fund may be incurred until a guardian is appointed.

EFFECTIVE: 09/28/90

16-12.1 Bylaws of the Special Agents Insurance Fund

"BYLAWS OF
THE SPECIAL AGENTS INSURANCE FUND

"ARTICLE I
"Name

"Section 1. The name of this beneficial association shall be the Special Agents Insurance Fund, hereinafter referred to as SAIF or the Fund.

"ARTICLE II

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"Objective"

"Section 1. The objective of SAIF is to provide a sum of money by voluntary contributions from members for payment to the designated beneficiary or beneficiaries of a deceased member, or the Fund member's estate if no beneficiary has been designated, upon the death of a member.

"ARTICLE III
"Membership

"Section 1. The membership of SAIF shall be limited to the Special Agents, Inspectors, Assistant Directors, Deputy Director, and the Director of the Federal Bureau of Investigation (FBI) who are law enforcement officers and who are on active duty.

"Section 2. Membership of a person eligible under Section 1 of this Article shall commence with the acceptance of an application and initial assessment by an authorized representative and continues until terminated by any of the following events, except as otherwise provided in Sections 3, 4, and 5 of this Article:

- (a) Death of the member.
- (b) Separation from the rolls of the FBI by the member's retirement, resignation, dismissal, or transfer to another federal agency. Membership shall terminate as of the date and time active duty in the FBI ceases.
- (c) Commencement of leave without pay (LWOP) for active service in the United States Armed Forces. Membership shall terminate as of the date and time active duty in the FBI ceases.
- (d) Failure to pay an assessment within thirty (30) calendar days from the date upon which the SAIF Board of Governors has declared an assessment is due and payable. Membership shall terminate as of close of business on the thirtieth day.

"Section 3. For each newly appointed Special Agent of the FBI, membership in SAIF shall commence immediately upon the administration of the Oath of Office. Membership shall continue only if formal application is made and initial assessment paid by the newly appointed Agent within thirty calendar days of entering on duty as an Agent. Should the new Agent die within the thirty-day period, and before making formal application for membership and payment of the initial assessment, the initial assessment will be withheld from the death benefit. Failure of the new Agent to make formal application for membership and to pay the initial assessment within thirty days of entering on duty will result in an immediate termination of membership.

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"Section 4. Any member of the Fund who is carried on the rolls of the FBI in the status of Leave Without Pay (LWOP) due to illness, any member on LWOP due to a special assignment, and any member on detail to another federal agency or Congressional Committee who is not paid under the FBI's payroll system, shall continue as a member of SAIF, provided that all assessments are paid directly to the Fund.

"Section 5. A retired member who has returned to active duty in the FBI is eligible for membership.

"Section 6. Persons on active duty and eligible for membership, but who have not previously been members of the Fund, may become members upon the acceptance of an application and payment of an initial assessment and all prior assessments since the date they first became eligible for membership in the Fund.

"Section 7. Former members of the Fund who are on active duty and continue to be eligible for membership under Section 1 of this Article, may become members upon the acceptance of an application and payment of all prior assessments occurring after the termination of their membership and while they were on active duty and eligible for membership.

"ARTICLE IV

"Member's Voting Privileges

"Section 1. Each member shall be entitled to cast one vote, by ballot, on all matters submitted to the membership for vote. The Assistant Director of the Personnel Division (PD) shall furnish written proposals and ballots to the membership for voting on any occasion required by the Board of Governors or any occasion covered elsewhere in these Bylaws. The Assistant Director, PD, shall supervise the election process, tally all votes cast and submit a written report of the results to the Chairman of the Board of Governors.

"Section 2. A majority vote cast by the members shall govern in all matters properly submitted to the membership for vote, except as provided in Section 3 of this Article.

"Section 3. In elections held for the purpose of selecting a new Board of Governors, the five (5) nominees with the greatest individual accumulations of votes cast shall constitute the newly elected Board.

"ARTICLE V

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"Board of Governors

"Section 1. The Board of Governors of the Fund shall consist of five (5) members elected by the members of SAIF. The Board of Governors shall serve for a term of three (3) years. Governors may serve no more than two consecutive terms. A newly elected Board of Governors shall take office on December 1, 1985, and each third year thereafter.

"Section 2. Governors will automatically cease to hold office upon termination of their membership in the Fund.

"Section 3. Except as provided in Section 2 of this Article, unless a Governor resigns, the Board shall hold office until a new Board is elected. Completion of term of office shall not be considered disqualifying for the purpose of this Section.

"Section 4. Any vacancy on the Board of Governors shall be filled for the remainder of the unexpired term by appointment of a Fund member by the Chairman of the Board of Governors.

"Section 5. The Board of Governors shall act as a nominating committee to submit to the membership a list of ten (10) nominees for election of a new Board before the expiration of its term of office.

"Section 6. The Board of Governors shall act as advisors to the Director of the FBI, in his capacity as Trustee of the Charles S. Ross Fund, on matters regarding investment of Ross funds and payment of benefits.

"ARTICLE VI

"Organization and Meetings of
The Board of Governors

"Section 1. The Board of Governors shall elect from the Governors, a Chairman who shall hold such office for the remainder of the Board's term or until the Board's successors are elected. The Chairman shall be the presiding officer of the Board, and shall perform all of the duties usually incident to such office.

"Section 2. The Board of Governors shall appoint a Fund member as Recording Secretary to maintain a record of the Governing Board's deliberations. The Recording Secretary serves at the pleasure of the Board of Governors.

"Section 3. There shall be no stated meetings of the Board of Governors, except that the Board must meet at least once annually.

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The Chairman shall convene meetings of the Board from time to time as required by pending business.

"Section 4. Three members of the Board of Governors shall constitute a quorum capable of transacting any business that may come before the Board, except as provided in Section 1 of Article IX.

"Section 5. The following shall be the order of business at meetings:

1. Reading of Minutes of previous meeting
2. Reports of Recording Secretary
3. Unfinished Business
4. New Business
5. Adjournment

"ARTICLE VII

"Powers and Duties of the Board of Governors
in addition to those covered elsewhere
in these Bylaws

"Section 1. The business management and affairs of SAIF shall be under the direction and control of the Board of Governors. The Board of Governors shall have authority to levy assessments on the membership, authorize contracts, incur liabilities, expend and invest funds, and such other matters and things connected with the conduct of the Fund as they may determine. The Board of Governors shall act with due care and diligence and exercise ordinary skill with respect to the management and administration of the affairs of the Fund and in the use or preservation of its property and assets.

"Section 2. The Board of Governors may grant special or general authority to others, and may likewise withdraw such authority, all upon such terms and conditions as the Board of Governors may determine, except that the Assistant Director of the Personnel Division (PD) of the FBI will receive and account for all monies of the Fund. The Assistant Director, PD, shall take necessary steps to announce assessments as required by the Board of Governors and to collect same, and shall disburse benefit payments in appropriate instances. The Assistant Director, PD, shall prepare and submit in writing to the Board of Governors, an annual report on the financial condition of the Fund. All financial, administrative and other records of the Fund shall be placed in the care, custody, and control of the Assistant Director, PD, and be made available to the Board of Governors upon request.

"Section 3. The funds of SAIF shall be deposited only in regular (interest-bearing) savings accounts, certificates of deposit, or money

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market funds, in such banks and financial institutions as the Board of Governors may determine, to be withdrawn only as may be determined by the Board of Directors, except as otherwise provided in Section 4 of this Article.

"Section 4. All transactions concerning investments of SAIF funds shall be approved by the Chairman of the Board of Governors. This approval shall be recorded in memoranda format from the Recording Secretary to the Chairman. In the event time is of the essence, the Chairman may orally authorize the investment of SAIF funds to be confirmed by follow-up memorandum. In the Chairman's absence, another Governor shall be designated by the Chairman to act in his stead.

"Section 5. The Board of Governors shall consider all matters pertinent to the operation of the Fund and all suggestions submitted by members of the Fund and shall submit to the membership of the Fund for vote only those matters deemed appropriate by the Board. When a matter is submitted to the membership of the Fund for vote, the submission shall be in writing and shall be accompanied by a ballot.

"Section 6. The Board of Governors shall cause the financial statements of the Fund to be audited annually by Special Agent Accountants of the FBI and advise the membership of the results of all audits conducted.

"ARTICLE VIII

"Assessments, Benefits and Disbursements

"Section 1. The initial assessment for each new member shall be twenty dollars (\$20) and subsequent assessments in the amount of twenty dollars (\$20) may be levied on the entire membership from time to time by the Board of Governors, as the state of the Fund may require, except as provided in Section 2 of this Article.

"Section 2. A newly appointed Special Agent shall be required to pay an initial assessment of twenty dollars (\$20) to become a Fund member but shall not be required to pay any assessments payable before the completion of New Agents' Training at the FBI Academy.

"Section 3. Members failing to pay an assessment within thirty (30) calendar days from the date upon which the assessment is due shall forfeit all rights under the Fund until they shall have paid the assessment missed and any subsequent assessments. Should a member die within the thirty-day grace period provided for payment of the assessment, the assessment amount will be withheld from the death benefit payable.

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"Section 4. The primary beneficiary designated by a member shall be a person or persons. Estate and trust funds shall not be designated by a member as the primary beneficiary, but may be designated as the contingent beneficiary.

"Section 5. The 'Application for Membership, Designation of Beneficiary Form' (FD-253) shall be executed by all eligible persons to apply for SAIF membership and to designate Fund beneficiaries. Form FD-253 must again be executed in its entirety to change beneficiaries. A change in beneficiaries, to be valid, must be received and processed by the Personnel Division prior to the death of the member.

"Section 6. Except as otherwise provided under Article III, Section 4, of these Bylaws, the initial assessment and all subsequent assessments must be paid through payroll allotment. Payroll allotment Form FD-818 has been established for this purpose. Any member failing to properly execute an FD-818, or who cancels their SAIF payroll allotment, shall immediately forfeit all rights under the Fund.

"Section 7. The liability of the Fund shall not under any circumstances exceed the amount of monies in the Fund at the time any liability shall occur.

"Section 8. Except as provided in Sections 7 and 9 of this Article, payment shall be made upon the death of a member of the Fund in the amount of thirty thousand dollars (\$30,000). Payment shall be made to the designated beneficiary or beneficiaries, or to the estate of the decedent if no beneficiary has been designated.

"Section 9. In the event death of a member is by suicide, no payment shall be made unless the member has been a member of the Fund for a continuous period of at least two years at the time of death.

"Section 10. One signature from each of two groups of signatories shall be required for any and all disbursements of monies from the Fund. One group of signatories shall be composed of all members of the Board of Governors; the second group of signatories shall be composed of the Assistant Director, Personnel Division, the FBI Personnel Officer and the Recording Secretary.

"ARTICLE IX
"Changes in Bylaws

"Section 1. These Bylaws may be altered, amended, or changed only by

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a majority vote of the Board of Governors.

"Section 2. The membership must be notified in writing of any changes to these Bylaws approved by the Board of Governors"

EFFECTIVE: 07/13/95

16-13 CHARLES S. ROSS FUND

(1) The Charles S. Ross Fund was established on December 15, 1944, by Mrs. May C. Ross, widow of Charles S. Ross, with the Director of the FBI as trustee. This charitable trust was established to provide a payment of \$1,500 to the beneficiary of any Special Agent killed in the line of duty. There is no cost for membership in this fund.

(2) In 1980, the U.S. District Court was petitioned to relieve the Director from the \$1,500 limitation on the amount which may be paid to the beneficiary of Agents killed in the line of duty. The Court ruled to allow the Director to pay a sum which is approximately equivalent to the purchasing power of \$1,500 in 1944 dollars. Annually, the amount paid is reevaluated and increased accordingly to the purchasing power of the 1944 dollar.

(3) The Board of Governors for the SAIF serves in an advisory capacity to the Director of the FBI for the Charles S. Ross Fund. Form FD-253, Application/Renewal of Membership and Designation of Beneficiary, is also used for Special Agents to designate a beneficiary for the Charles S. Ross Fund.

EFFECTIVE: 01/23/86

16-14 PUBLIC SAFETY OFFICERS' DEATH AND DISABILITY BENEFITS

(1) The Public Safety Officers' Benefit Act, as amended (Title 42, USC, Section 3796(a) through (f)), provides a lump sum benefit to survivors of Federal law enforcement officers killed in the line of duty or accidentally while on duty. The benefit shall be \$100,000, adjusted annually by the percentage increase in the Consumer Price Index. Eligibility for this benefit will be determined by the Department of Justice.

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(2) Congress has provided in this Act that the surviving spouse of a qualifying law enforcement officer will receive the entire benefit if there are no surviving children. One-half of the benefit will be divided equally among the law enforcement officer's surviving children, with the other half of the benefit paid to the surviving spouse. The surviving children would share the entire benefit equally if there is no surviving spouse. If the law enforcement officer is survived by neither a spouse nor any children, the benefit will be divided in equal shares among the officer's surviving parent(s). If the law enforcement officer is survived by no spouse, child, or parent, no benefit will be paid. Law enforcement officers may not designate any beneficiary to receive the benefit under this Act.

(3) Congress has provided by amendment to this Act that the lump-sum benefit described in paragraph (1) shall be paid to any Federal law enforcement officer who has become permanently and totally disabled as the direct result of a catastrophic personal injury sustained in the line of duty on or after November 29, 1990. Eligibility for this benefit will be determined by the Department of Justice. However, the following prerequisites must be met to receive the disability benefit:

(a) An award of maximum compensation must be granted; and

(b) The disability must result in the law enforcement officer's permanent and complete separation from his or her employing agency.

EFFECTIVE: 10/06/93

16-15 HUMANITARIAN EXPENSE FUND

(1) On 10/27/90 Congress passed Public Law 101-647, 104 Stat. 4916, the Crime Control Act of 1990 (CCA of 1990). For lack of specific statutory authorization, the FBI was never able to provide assistance to survivors (i.e., spouse, parents, children, and in-laws) of employees who were wounded or killed in the line of duty. Under Title 28, United States Code, Section 3201(a), authority was granted to the Director of the FBI to appropriate \$25,000 per fiscal year to pay humanitarian expenses incurred (1) by an employee of the Bureau as

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a result of a serious illness, serious injury, or death occurring while on official business, or (2) by a member of the immediate family of such employee, incident to the serious injury or death occurring while on official business.

(2) Authority for administering the Humanitarian Expense Fund has been delegated to the Employee Benefits Unit (EBU), Personnel Division (PD), with all approved expenses incurred on behalf of FBI employees or their immediate families charged to the EBU's cost code - 0344.

(3) Since the Humanitarian Expense Fund has a cap set by law of \$25,000 per fiscal year, the FBI is not permitted to supplement it by additional funding from other sources. Therefore, in order to ensure funds are disbursed in an equitable and uniform manner, direct reimbursement is limited to \$1,000 per individual and \$3,000 per family. This policy ensures equal treatment and that one accident or other covered matter would not use all the available funding. However, the EBU is authorized to exceed the \$1,000 and \$3,000 limitations in unusual situations.

(4) The fund will be reconsidered in September of each year, if funds are available, to determine whether additional reimbursements can be made. Only those unpaid expenses which are appropriate and which would have been paid in the first place if funding had allowed it at the time will be considered.

(5) Expenses generally fall into two categories, (1) professional services such as psychological counseling, and (2) travel expenses associated with transporting the family to the hospital, when remote from the office of assignment, and survivors to attend funerals, memorial services, and critical incident seminars.

(6) The following procedures are to be used to request use of Humanitarian Expense Funds:

(a) Requests are to be submitted to the EBU with full details and justification for requested expenses. Requests must identify the employee and/or immediate family members involved and detail the nature of the expenses and estimated costs, including travel cost (detail travel on Travel Request Form FD-540), of any FBI employee(s) required to travel with the employee's family members.

(b) Upon approval or disapproval of request by the Assistant Director of PD, the EBU will notify the requestor and provide instructions and financial limitations, if appropriate.

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(c) Professional services approved by the EBU should be documented on Requisition for Supplies and/or Equipment (FD-369) which will be converted into a purchase order. In addition, the vendor may submit invoices for services to the EBU.

(d) Travel-related expenses will require extensive involvement of an on-scene assistance officer, assigned by the field office or FBIHQ entity, who is to coordinate all travel arrangements, pay all related bills, and submit a travel voucher for the expenses incurred by the individuals being provided humanitarian assistance and any accompanying FBI employee. Travel expenses will be limited to the levels currently established by Federal Travel Regulations.

(e) The assistance officer is to make hotel reservations and pay the hotel bill and expenses such as food, taxi, etc., or provide the family with cash to pay their own expenses, ensuring costs are within the per diem rate limits. An advance of funds may be obtained for this purpose.

(f) The assistance officer is to prepare the travel voucher to account for all travel expenses and submit same to EBU for review and approval.

EFFECTIVE: 04/21/94

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SECTION 17. RESIGNATIONS

17-1 RESIGNATIONS

EFFECTIVE: 06/28/91

17-1.1 Notice of Resignation

Employees should give reasonable period of advance notice. FBIHQ approval need not be secured for an employee to cease active duty for purpose of resigning, even though employee will cease duty on same day resignation is submitted. (For resignations submitted during personnel action inquiries, refer to Part I, Section 13-12 of this manual.)

EFFECTIVE: 12/01/94

17-1.2 Manner of Submission

Resignations should be submitted on an SF-52, Request for Personnel Action form, and must be accompanied by an FD-193, Report of Exit and Separation, or FD-193a, Report of Exit and Separation for Temporary Employment. Parts A, B, D and E of the SF-52 MUST be completed to include Action Requested, For Additional Information Call, Action Requested by, Action Authorized by; the official Bureau name of employee resigning; current position title and position number; reason(s) for resignation and the employee's signature; and forwarding address. When the separation is entered into the Bureau Personnel Management System (BPMS), the reason for separation should be obtained from the hard copy SF-52 with the employee's signature.

(1) The FD-193 or FD-193a must contain the cease-active-duty date, which includes both the date as well as the actual time the employee will sign out on the last day employee is physically at work. Unless an unusual situation exists, it is preferable for an employee in a leave status who will not return to active duty to make resignation effective as of date of the letter of resignation.

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(2) The SF-52 and the FD-193 or FD-193a must contain the specific reason(s) for the employee's resignation. Office of Personnel Management (OPM) regulations require that a reason be given in sufficient detail to enable OPM to determine reemployment eligibility and for a state to determine entitlement to unemployment compensation afforded to federal employees. If the employee refuses to furnish a reason on the SF-52, ensure any information known concerning employee's decision to resign is shown under "Comments" on the FD-193 or FD-193a and under Part D-Remarks by Requesting Office on the SF-52 (see 17-2.1 of this section). Any oral statements made by employees should be reported and identified as being made by the employee.

EFFECTIVE: 03/22/96

17-1.3 Transmittal of SF-52 to FBIHQ

The SF-52 must be electronically entered into the Bureau Personnel Management System (BPMS) and the hard copy of SF-52 forwarded to FBIHQ as soon as possible, together with the FD-193 or FD-193a and medical certificate (if employee is resigning for maternity purposes and payment is desired for sick leave), Attention: Policy, Pay, and Leave Unit. A cover letter or routing slip is unnecessary unless unusual circumstances exist which cannot be explained under "Comments" on FD-193 or FD-193a, or SF-52, Part D.

EFFECTIVE: 03/22/96

17-1.4 Effective Dates of Resignations and Payment for Unused Leave

EFFECTIVE: 06/28/91

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17-1.4.1 Routine Resignations

Resignations are normally effective at the close of business on the day the employee ceases active duty, and the employee is paid a lump-sum payment for unused annual leave.

EFFECTIVE: 06/28/91

17-1.4.2 Other Types of Resignations

(1) For details on employees entering military service, see Part I, Section 10 of this manual.

(2) An employee resigning for maternity purposes is generally paid for accrued sick leave for the period of incapacitation and the resignation will become effective upon expiration of accrued sick leave. In order for the employee to be paid for sick leave, a medical certificate must be furnished certifying as to her inability to continue working after the date she will cease active duty, and the date of expected delivery. This certificate must be submitted with the employee's letter of resignation. Employee is paid a lump-sum for any unused annual leave in the year of separation.

(3) For an employee resigning to accept a position at another Federal agency, the resignation is normally effective on the date the employee ceases active duty. Annual and sick leave are transferred to the hiring agency upon request of that agency, provided that agency is subject to the same Annual and Sick Leave Act as the FBI. If this is not the case, the employee will normally be paid for accrued annual leave and forfeit sick leave.

EFFECTIVE: 11/30/81

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17-1.5 Withdrawal of Resignation

Once a resignation is submitted, it may be withdrawn or revoked up until the time it becomes effective, unless a sound administrative reason exists for not permitting the withdrawal, in which case the matter should be coordinated with the Personnel Division. If a submitted resignation is later withdrawn, FBIHQ should be notified on a timely basis.

EFFECTIVE: 04/21/94

17-1.6 Final Payment for Salary and Lump-Sum Leave Payment

Separated employees receive payment for any workdays worked during the pay period in which resignation becomes effective on regular payday for that pay period. Check is mailed to the employee's forwarding address. If employees are carried on rolls until expiration of sick leave, their pay checks are mailed to them at their forwarding address from the Birmingham Financial Center. Lump-sum leave payments are included in employee's final salary check. Where any restored leave is not used before separation and if separation occurs before the specified time limit for use, the employee will receive a lump-sum payment for unused restored leave. Restored annual leave included in a lump-sum payment is not subject to refund of the lump-sum payment and may not be recredited if the employee is reemployed prior to the expiration of the lump-sum period.

EFFECTIVE: 08/12/94

17-1.7 Return of Government Property

Upon resignation, separation, or suspension, SAC shall collect all Government property which has been issued to the employee.

EFFECTIVE: 11/30/81

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17-1.7.1 Field Procedures (See MAOP, Part I, 17-1.7.4, Part II, 6-10.2(3); MIOG, Part II, 12-5.)

In the field, the Bureau Personnel Management System, Issued Personal Property System, must be used to check property assigned to an employee prior to completing Form FD-367 and submitting to FBIHQ with appropriate property. Any property that consists of credentials (Agent and non-Agent), badges, and telephone credit cards is to be packed separately from any other item and forwarded to FBIHQ, Attention: Property Procurement and Management Section, Property Management Unit (PMU), by registered mail. Legal Handbooks for Special Agents are to be packed separately and forwarded to FBIHQ, Attention: Manuals Desk. Upon resignation, any personnel files and medical and security subfiles should be submitted directly to Personnel Records, Information Resources Division, FBIHQ, under separate cover. FBI identification cards, U.S. government licenses, and Handbooks for FBI Support Employees should be disposed of by each field division. Each field division must notify the PMU by submitting an FD-367 for any of the above property. Firearms and Ballistic Protective Undergarments (BPU) are to be packed separately and forwarded to FBI Academy, Room 110, DN Building, Quantico, Virginia, 22135, by registered mail, along with a copy of the FD-367. A notation must be made on the original FD-367 that the firearm and BPU have been forwarded directly to Quantico under separate cover.

EFFECTIVE: 04/25/97

17-1.7.2 Manuals

Manuals that are returned to FBIHQ must be checked out page by page and certified that they are in an up-to-date condition. FD-474 must be attached to each manual returned. Each office is required to maintain a complete set of manuals to be used as check manuals.

EFFECTIVE: 06/15/78

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17-1.7.3 FBIRA Membership Cards

Current FBIRA membership cards of employees who are leaving service shall be secured from employees in every instance and shall be destroyed by SAC. Advise FBIHQ of destruction in communication reporting property return. If employee was not a member of FBIRA, such fact should be reported in communication or on return property receipt.

EFFECTIVE: 06/15/78

17-1.7.4 Support Employee Identification Cards

Upon resignation of support employee, FBI identification card should be secured and destroyed in field and Bureau advised.

EFFECTIVE: 06/15/78

17-1.7.5 FBIHQ Procedures

At FBIHQ, property shall be secured and forwarded to Property Procurement and Management Section with signed return receipt or memorandum. Employee may go directly to Property Procurement and Management Section and return property.

EFFECTIVE: 06/15/78

17-1.7.6 JEH Building Access Cards

Access cards for JEH Building issued to employees leaving service should be handled as in 17-1.7.5.

EFFECTIVE: 06/15/78

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17-1.8 Return of Employee and Family to Continental United States
Following Separation from Duty

Regarding payment for travel and transportation expenses of an employee and his family to continental United States following separation at a post outside the continental United States, the following policy has been established:

(1) Any signed agreement qualifying employee for such travel and costs must have been fulfilled.

(2) Return of employee to continental United States must be within 90 days of separation from service unless employee is prevented from doing so for reasons beyond employee's control, such as lack of adequate transportation facilities, illness in family, etc.

(3) Travel and transportation costs will not be paid by Bureau in any instance in which return to continental United States is more than six months after separation, regardless of reason for delay in returning.

EFFECTIVE: 03/28/89

17-2 EMPLOYEES LEAVING SERVICE

EFFECTIVE: 03/28/89

17-2.1 Exit Interviews (FBIHQ and Field)

Each employee who leaves FBI service is to be interviewed and debriefed by their respective Security Officer. The exit interview should be conducted promptly after the employee advises of his/her intended resignation and/or separation. The report of the exit interview should be recorded by the submission of an FD-193 or FD-193a (temporary employee). The employee's immediate supervisor will provide all required administrative data and will ensure that stated questions are completely answered with the exception of items A and E, which will be completed by the Security Officer during the actual debriefing and exit interview. The Security Officer will obtain the FD-193/FD-193a upon completion of all other questions by the employee's immediate supervisor. He/She will be the last individual handling this form and will be responsible for the

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submission of the form (in a sealed envelope) to FBIHQ. (See 17-1.2 & 17-2.2(3).)

Upon executing the FD-193 or FD-193a the recording official will ensure:

(1) In every instance, the exit interview form will show the name of the supervising official who executed and ensured a response to all stated questions. The form must be signed by the appropriate official in the space provided.

(2) The interview will be conducted in adequate privacy with sufficient time allowed.

(3) The interview should be designed to elicit the motivating reason for the individual's desire to resign; to save a valuable employee if possible; and to serve as a basis for:

(a) Information supplied by the Bureau upon request by state unemployment compensation boards,

(b) Accurate analysis of personnel turnover,

(c) Determining necessary or desirable organizational improvements,

(d) Permitting a recorded recommendation regarding future reinstatement.

(e) An employee should be advised that the information he or she provides will be used for the purposes set forth above.

(4) In connection with recommendation for reinstatement, the executing official should give full consideration to whether or not the employee fulfilled any agreement made, such as in connection with initial appointment, official transfer, special training, foreign assignment, etc. Instructions on FD-193 must be complied with, i.e., field must advise General Ledger Unit, Accounting Section by teletype (at FBIHQ by telephone) if there is any violation of agreement that would result in violation of agreement that would result in employee's being indebted to the government. If the individual resigning is a support employee who is aspiring to the Special Agent position, he/she must be advised that qualifications for this position through support employment are: three years of continuous service in a support capacity, attaining age 23, possessing a four-year resident college

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degree and receiving a Fully Successful rating on his/her most recent performance appraisal. (See MIOG, Part I, 67-17.3.6(1) & (4).)

(5) If an employee does not desire sick leave or if not incapacitated when resigning due to pregnancy, exit interview form must show same. If an employee does desire sick leave when resigning due to pregnancy, exit interview form must show this and a doctor's certificate must be attached showing that employee is incapacitated or may safely continue working to date specified, whichever the case may be. This certificate should also show employee's expected date of confinement.

(6) For involuntary separations exit interview is conducted for the purpose of recording reason and any pertinent comments, it being assumed recommendation would be unfavorable for reinstatement.

(7) FD-193 or FD-193a must include employee's working hours and workweek if other than Monday through Friday.

(8) If employee is resigning to enter on duty with another federal agency, including the U.S. Postal Service or the D.C. government, PLEASE NOTE the name, address, and phone number of the agency, and the anticipated entry-on-duty date with the new agency. This information should be noted on the SF-52 and exit interview form.

(9) When employee is retiring, reason for retiring must be set forth on exit interview form.

(10) Agent personnel should be provided with Form FD-755 "Release of Personal Information" which authorizes the release of their name and address to the Society of Former Special Agents. This form should be completed prior to Agent's separation and forwarded to the Personnel Management Section, Personnel Division.

(11) Employee should be furnished an SF-8 at the time of exit interview.

(12) Attach FD-193 or FD-193a to SF-52, Request for Personnel Action form, and submit to Personnel Division.

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17-2.2 Employees Departing on Absence for Maternity Reasons

FD-309 is to be used to record exit interview, and it should be submitted to FBIHQ immediately following interview. The following points should be followed:

(1) Furnish employee with FD-462 at the same time the FD-309 is executed. FD-462 explains maternity benefits available to employee.

(2) Submit an administrative performance rating only if there has been a substantial change in employee's work performance since last rating. If there is no substantial change, merely so state on FD-309. If absence for maternity reasons extends to the end of the regularly scheduled rating period, an annual performance rating must be submitted at that time.

(3) Employees who resign for maternity reasons, rather than going on absence for maternity reasons, should be handled as described in 17-2.1 above.

EFFECTIVE: 02/28/91

17-2.3 Employees Leaving for Military Service

See Part I, Section 10-5 of this manual for interview of employee leaving for military service.

EFFECTIVE: 10/20/88

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SECTION 18 | FEDERAL RETIREMENT SYSTEMS |

18-1 INTRODUCTION

| All FBI employees are covered by one of two retirement systems, the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS). All employees first hired into a Federal civilian position on or after 1/1/84 are covered by FERS. Employees who reinstate to Federal service and are exempt from FERS because of a previous period of service under CSRS have six months from the date of reinstatement to transfer to FERS if they had more than three days break in service. |

EFFECTIVE: 05/27/93

18-2 | CIVIL SERVICE RETIREMENT SYSTEM (CSRS)

| CSRS is the original Federal retirement system, created by Congress in 1920. CSRS benefits are in the form of a single annuity based on a retired Federal employee's longevity and salary history. The United States Office of Personnel Management (OPM) administers CSRS. While many CSRS-covered employees also earn benefits from Social Security and the Thrift Savings Plan (TSP), they are not a part of CSRS. |

EFFECTIVE: 05/27/93

| 18-2.1 | Eligibility |

EFFECTIVE: 05/27/93

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18-2.1.1 Immediate Retirement

Employees are vested after five years of civilian service and are eligible for an immediate annuity if they have at least one year of civilian service under CSRS during the two years prior to separation. Age and years-of-service requirements are shown below:

Age	Years of Service	Special Conditions
62	5	None
60	20	None
55	30	None
50 Any	20 25	Annuity reduced if under age 55; must be involuntarily separated (i.e., major reorganization or reduction in force (RIF)).
50	20	Law Enforcement (at least 20 years of Federal civilian law enforcement officer service)

EFFECTIVE: 05/27/93

18-2.1.2 Mandatory Retirement

Section 8335 (b), Title 5, United States Code requires a law enforcement officer to retire no later than the end of the month in which they become age 57, provided they have at least 20 years of law enforcement service. If they do not have 20 years of law enforcement service at the age of 57, they must retire no later than the last day of the month in which they acquire 20 years of law enforcement service. Exceptions to mandatory retirement may be made by the agency head as described in MAOP, Part I, 18-2.1.3.

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EFFECTIVE: 05/30/96

18-2.1.3 Exception to Mandatory Retirement (See MAOP, Part I,
18-2.1.2.)

(1) The Attorney General has delegated to the Director of the FBI the authority to grant exceptions to mandatory retirement to Special Agents (SAs) whose continued service is required by the public interest and would promote the mission of the FBI. Exceptions will be made on a case-by-case basis for up to one year at a time and can be made up to the month in which the Agent will reach 60 years of age. A recommendation from the division head for exception must be submitted to the Personnel Division no more than six months prior to the mandatory retirement date. Members of the Senior Executive Service (SES) should submit their requests for exception to the Director 18 months prior to their mandatory retirement date. The request for exception should include the following:

(a) The SA's name, date of birth, length of law enforcement service, and date of mandatory retirement;

(b) The SA's grade, series, title, organizational title, and duty location;

(c) A statement that the SA is willing to remain in government service for the length of the exception;

(d) A thorough description of the reasons the SA's retention is required by the public interest and would promote the needs of the FBI in fulfilling its mission;

(e) The requested duration of the exemption; and

(f) A certification by the SA's division head or SAC that the proposed exemption is required by the public interest and would promote the needs of the Bureau in fulfilling its mission.

(2) No more than 20 exceptions for members of the SES may be granted at any given time. Any SES member who is a Special Agent and desires to extend his/her Bureau service must make their intentions known by submitting a communication to the Director approximately 18 months prior to reaching their mandatory retirement date. The communication must specify to what age or date the

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requestor desires to continue service, not to exceed age 60. Any SES member considering this option is encouraged to discuss the matter fully with the Director.

(3) The SES Board, chaired by the Deputy Director and staffed by the Assistant Directors of the Criminal Investigative, Finance, Inspection, National Security, Personnel, Information Resources, and Training Divisions, as well as the Chairperson of the Special Agent Mid-Level Management Selection Board will review requests for extended service and provide a recommendation to the Director. The Director will then serve as the final authority for approving/denying the request.

EFFECTIVE: 05/30/96

18-2.2 Credit For Service (See 18-3.2.)

Credit is given for years, months, and days of civilian service, military service, and accrued sick leave on the date of retirement. (See important details concerning military deposits in Section 18-2.9.) Approximately 174 hours of sick leave provide an additional month of service. After combining all service and sick leave, only years and months of service are used in computing the annuity. For example:

	Years	Months	Days
Civilian service	28	8	12
Military service	2	0	0
Sick leave	0	10	25
Total	30	18	37
equals	31	7	7
Used to compute annuity	31	7	

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18-2.3 "High-Three" Average Salary (See 18-3.3:)

The total service (years and months) and the "high-three" average salary are the two factors used in computing the annuity. Any consecutive three years of service may be used for the "high-three" average. Although the average must be from three consecutive years, it does not have to be three calendar years. For example, the three-year period can be from 3/27/92 through 3/26/95. Basic pay, Availability Pay (AVP), and locality pay are used in determining the "high-three" average salary.

EFFECTIVE: 04/02/96

18-2.4 Computing the Annuity (See 18-2.10(3), 18-3.4(2) and 18-5.4.)

The general formula used to determine the amount of the annual CSRS benefit is:

1.5% X "high-three" average X each of first five years

plus

1.75% X "high-three" average X each of next five years

plus

2% X "high-three" average X each year over ten years

Special law enforcement retirement rules provide the following annuity computation for Special Agents:

2.5% X "high-three" average X each of first 20 years

plus

2% X "high-three" average X each year over 20

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18-2.5 Contribution Rates

Employees contribute 7 percent of base pay into CSRS.
Law enforcement officers pay 7.5 percent of base pay, AVP, and
locality pay into CSRS.

EFFECTIVE: 04/02/96

18-2.6 Voluntary Contributions (See 18-2.8(1), 18-2.9(5) and
18-3.7(2).)

Employees covered by CSRS may make voluntary contributions to CSRS by filing Standard Form 2804. Voluntary contributions will earn a variable interest rate, compounded annually. Any indebtedness to CSRS such as deposits or redeposits must be paid prior to making voluntary contributions. (See Sections 18-2.7 and 18-2.8 for information on deposits and redeposits.) Voluntary contributions are made directly to the United States Office of Personnel Management (OPM) and must be made in \$25 increments. The amount of voluntary contributions is limited to 10 percent of the total of the employee's pay from the date he/she was first hired by the Government. The full amount of voluntary contributions may be withdrawn at any time prior to retirement; however, a tax penalty for early withdrawal from a retirement account may apply if a withdrawal is made prior to age 55.

Voluntary contributions may remain in CSRS after retirement and will be used to increase the annuity. Each \$100 of voluntary contributions will provide an additional benefit of \$7 per year, plus 20 cents for each full year the annuitant is over age 55 at the time of retirement.

Interest rates on CSRS contributions have been as follows:

1985--13.0 percent	1989--9.125 percent
1986--11.125 percent	1990--8.75 percent
1987--9.0 percent	1991--8.625 percent
1988--8.375 percent	1992--8.125 percent

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18-2.7 Deposits (See 18-2.6 and 18-3.7(2).)

Employees who entered on duty between approximately 1951 to 1978 and were appointed to a nonlaw enforcement position were considered on temporary appointments. Those employees were covered by Social Security and were not covered by CSRS until converted to permanent appointments (usually after three years). At the time of retirement, credit will be given for the years of temporary service; however, the annuity will be reduced by 10 percent of the amount of the deposit owed on the date of retirement (including interest). Interest on deposits accrues at the rate of 3 percent per year, compounded annually, for any nondeduction service prior to 10/1/82. Unpaid deposits can be paid at any time prior to retirement by filing Standard Form 2803.

EFFECTIVE: 05/27/93

18-2.8 Redeposits (See 18-2.6 and 18-3.8(2).)

(1) A redeposit is the amount owed to CSRS for a refund of CSRS contributions for a previous period of service. Interest accrues on redeposits and is compounded annually. For refunds prior to 10/1/82, the interest is compounded at 3 percent per year, regardless of when the employee begins the redeposit or how long he/she needs to complete it. For refunds on or after 10/1/82, the interest is compounded at 3 percent per year through 12/31/84, then at variable rates as shown under Section 18-2.6.

(2) Redeposits may be paid any time prior to retirement by filing Standard Form 2803. If a redeposit for refunded service prior to 10/1/90 is not paid, the annuity will be actuarially reduced. The amount of the reduction depends upon the amount owed at time of retirement (including accrued interest) and the employee's life expectancy.

(3) The following table of factors is used to determine the reduction. The total amount of the redeposit owed, including

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interest, is divided by the factor for the age of the employee on the date of retirement. The result is the amount of the monthly reduction in the CSRS annuity.

CSRS
PRESENT VALUE FACTORS
For annuities commencing on or after May 1, 1991

Age at Retirement	Reduction Factor	Age at Retirement	Reduction Factor
40	322.9	66	162.6
41	317.7	67	157.4
42	312.3	68	151.3
43	306.9	69	145.1
44	301.4	70	139.8
45	293.4	71	133.9
46	285.2	72	128.2
47	277.8	73	122.6
48	270.2	74	117.1
49	263.8	75	111.6
50	257.6	76	106.4
51	251.2	77	101.3
52	245.1	78	96.4
53	239.1	79	91.6
54	232.1	80	86.9
55	225.1	81	82.3
56	218.7	82	77.9
57	213.1	83	73.7
58	207.5	84	69.7
59	202.3	85	65.9
60	197.9	86	62.3
61	192.4	87	58.8
62	186.2	88	55.6
63	180.4	89	52.5
64	174.3	90	49.6
65	168.4		

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18-2.9 Military Service Credit and Deposits (See 18-2.2 and 18-3.9 (1) & (2).)

(1) At time of retirement, credit is given for active duty military service performed prior to 1/1/57. Active duty military service performed on or after 1/1/57 is also creditable; however, a deposit may be due for some employees.

(2) Creditable service includes active duty or active duty for training in the Army, Navy, Air Force, Marine Corps, Coast Guard, service in the Commissioned Corps of the U.S. Public Health Service after 6/30/60, and service as a commissioned officer of the National Oceanic and Atmospheric Administration after 6/30/61. Service performed in the National Guard is creditable only if performed under Title 10 of the United States Code or by "call of the President." Also, active duty for training (often referred to as two-week summer camps) while in the military reserves is creditable if the service was not performed while on leave from a Federal civilian position. Weekend drills while in the reserves are not creditable.

(3) Employees who first entered on duty before 10/1/82 will receive credit for active duty military service at time of retirement. The retired employee will lose credit for post-1956 service at age 62 if the retiree is eligible for a Social Security benefit, unless a deposit is paid.

(4) Employees who first entered on duty on or after 10/1/82 will receive credit for pre-1957 military service. Post-1956 military service is creditable only if a deposit is paid, regardless of future Social Security eligibility.

(5) Under CSRS, the post-1956 service credit deposit is 7 percent of the employee's total military base pay earned while on active duty. Compound interest began to accrue on 10/1/85. The variable rates of interest are given in Section 18-2.6. Military deposits must be made to the Bureau prior to retirement.

(6) Employees who are receiving military retired pay have the option of waiving their military retired pay and receiving credit for their military service in their CSRS benefit. Generally, the military service cannot be used unless the military retirement pay is waived. However, employees who are entitled to military retired pay which was earned because of reserve duty do not need to waive their reserve retirement benefit to receive credit for any creditable active-duty military service they may have performed. Employees whose

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military retired pay was based on a service-connected disability incurred in combat or in line of duty during a period of war, likewise may receive credit for their military service without waiving military retired pay.

EFFECTIVE: 05/27/93

18-2.10 Disability Retirement (See 18-3.10 (1) & (5).)

(1) After five years of civilian service, employees covered by CSRS are eligible for disability benefits. Application is made to OPM. After reviewing the application and supporting documentation, OPM makes the determination as to whether all criteria for a disability retirement benefit are met.

(2) To qualify for disability retirement, employees must have five or more years of civilian service and be physically or mentally unable to perform the duties of their assigned positions or another position that the Bureau could accommodate them in which would have similar duties, pay the same salary, and be within the same commuting distance. Accommodation within the same commuting area is not required if the employee is in a position which is subject to transfer.

(3) The benefit paid will be the greater of (a) the amount obtained under the general formula given in Section 18-2.4 or (b) the guaranteed minimum.

(4) The guaranteed minimum is the lesser of (a) 40 percent of the "high-three" average salary or (b) the amount obtained under the general formula after increasing the actual years of service by the time remaining between the date of separation from service and the date the employee becomes age 60.

(5) An annuitant who is receiving disability benefits is allowed to earn income from wages and/or self-employment. However, if earnings in any calendar year are at least 80 percent of the current rate of basic pay for the position from which the employee retired, the employee is considered to be restored to earning capacity and the benefit is stopped.

(6) Employees who are receiving retirement benefits

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because of disability may be required at any time by OPM to provide a current physician's report. Benefits will be discontinued if the employee is found to be recovered.

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18-2.11 Survivor Benefits - Death in Service (See 18-2.12.)

(1) If an employee dies while covered by CSRS after 18 months of civilian service, his or her spouse will receive an annuity, provided they were married for at least nine months. This requirement does not apply if the death was accidental or if there is a child of the marriage.

(2) Generally, the spouse will receive 55 percent of the annuity earned by the creditable service and average salary. However, if it produces a higher annuity, the spouse will receive a guaranteed minimum which is 55 percent of the lesser of (a) 40 percent of the employee's "high-three" average salary, or (b) the annuity obtained by increasing the service by the time between the employee's death and the date the employee would have reached age 60. The spouse loses the survivor benefit if he/she remarries before the age of 55.

(3) The survivor annuity for the spouse of an Agent who at the time of death had served at least 20 years as a federal law enforcement officer, but had not yet reached age 50, will be computed as if the Agent had met the eligibility requirements for law enforcement retirement. The formula for law enforcement retirement given in MAOP, Part I, 18-2.4 will be used in computing the annuity, resulting in a higher survivor annuity.

(4) Unmarried children under age 18, or 22 if they are full-time students, will also receive an annuity if the employee dies in service. A child incapable of self-support because of a disability incurred before the age of 18 will receive an annuity indefinitely unless the child becomes capable of self-support.

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18-2.12 Survivor Benefits - After Retirement (See 18-3.12(4).)

(1) If the employee is married at time of retirement, the annuity will be reduced to provide the maximum survivor annuity. Under CSRS, the maximum survivor annuity is 55 percent of the full annuity. The reduction will be 2.5 percent of the first \$3,600 of the full annuity, plus 10 percent of the remaining annuity over \$3,600. For example, if the full annuity is \$33,600, the first \$3,600 is reduced by 2.5 percent, or \$90. The remaining \$30,000 is reduced by 10 percent, or \$3,000. The total reduction is \$3,090, and at the time of the annuitant's death, the surviving spouse will receive 55 percent of \$33,600, or \$18,480 per year. The reduction in the annuity ceases if the spouse predeceases the employee.

(2) A retiring employee may elect less than a full survivor annuity or no survivor annuity for his/her spouse. OPM will honor this election only if the retiring employee provides his/her spouse's notarized signed consent to the lower benefit.

(3) If the employee was divorced after 5/6/85, the former spouse may receive, by court order, all or part of the survivor annuity.

(4) An employee who is unmarried at the time of retirement and later marries may elect a survivor annuity for his/her spouse. However, the retiree's annuity must be retroactively reduced, as if the retiree had been married continuously since the date of retirement.

(5) A spouse or former spouse loses the survivor benefit if he/she remarries before the age of 55.

(6) An employee who is in good health at the time of retirement may elect to provide a survivor annuity for a person who has an "insurable interest" in the employee, such as a relative or a current spouse who would not otherwise get a survivor annuity because of a court order awarding an annuity to a former spouse. To provide this benefit, the annuity would be reduced 10 to 40 percent, depending on the difference in the employee's age and the age of the person named. This reduction would be in addition to the reduction for the regular survivor annuity.

(7) Benefits are also payable to unmarried dependent children as stated under Section 18-2.11.

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18-2.13 Leaving Bureau Service Prior to Eligibility

Employees who resign prior to being eligible for an immediate CSRS annuity have two options. They may take a refund of their retirement contributions or leave their contributions in the fund and apply for a deferred annuity at the age of 62.

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18-2.14 Alternative Form of Annuity (AFA) (See 18-3.14.)

An employee, who at time of retirement suffers from a life-threatening illness and is eligible for regular retirement, may elect to receive a lump sum payment equal to the total contributions they have made to CSRS in addition to a monthly annuity. Under the AFA law, the monthly annuity is actuarially reduced by an amount which depends on the retiree's age at retirement and the amount of his/her contributions. Electing the AFA does not affect the potential survivor annuity; however, the election requires the spouse's consent.

The AFA is not an option for an employee who is applying for disability retirement or who has a court-awarded retirement benefit payable to a former spouse.

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18-2.15 Cost of Living Adjustment (COLA) for Annuitants (See
18-3.15 and 18-5.2(3).)

An employee who retires under CSRS receives a COLA effective December 1st of each year after retirement. The COLA is equal to the percentage increase in the Consumer Price Index for the preceding Fiscal Year. The first COLA after retirement will be prorated depending on the number of months since the retirement. For example, if the employee retires on 4/30/92, he/she will receive only 7/12 of the first year's COLA because the employee was retired for only seven months prior to the effective date of the COLA. The individual would receive the full COLA each year thereafter.

EFFECTIVE: 05/27/93

18-2.16 CSRS Offset

An employee who resigns with at least five years of Federal civilian service under CSRS and reinstates after a break in service of more than one year will be placed in a retirement category referred to as CSRS Offset. CSRS Offset employees are covered by CSRS and Social Security at the same time. The eligibility requirements and the benefits are the same as if they were covered by CSRS alone. When a CSRS Offset employee becomes eligible for Social Security benefits (usually at age 62), the CSRS annuity will be reduced by the amount of the Social Security benefit attributable to his/her Federal civilian service covered simultaneously by both CSRS and Social Security.

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18-2.17 Beneficiary Designation (See 18-3.17 and Part I, 20-17 through 20-17.5.)

(1) An employee may designate a beneficiary to receive a lump sum refund of the employee's CSRS contributions in case of the employee's death, provided no survivor is eligible for an annuity. A designation should only be made if the employee does not wish the payment to be made in the legal order of precedence, which is:

(a) To the widow or widower.

(b) If the widow(er) is deceased, to the children, with the share of a deceased child distributed among the decedents of that child.

(c) If none of the above, to the parents in equal shares.

(d) If none of the above, to the executor of the estate.

(e) If none of the above, to the next of kin under the laws of the State in which the employee lived at the time of death.

(2) A designation may be made or updated at any time by using Standard Form 2808. Upon completion, the form should be sent directly to the Office of Personnel Management for validation. The forwarding address is on the form. The Bureau cannot validate this form. It is important to keep the designation of beneficiary current. Changes in family status without a corresponding change in the designation of beneficiary may result in a settlement other than that intended by the employee.

(3) A designation of beneficiary is for a lump-sum death benefit only and does not affect the right of any person who is entitled to a survivor benefit.

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18-2.18 Medicare Benefits (See 18-3.18.)

(1) All CSRS employees began paying the Medicare portion of the FICA tax on 1/1/83. At the age of 65, whether retired or still in service, employees are eligible for Medicare Part A - Hospital Insurance without paying a monthly premium.

(2) Medicare Part B - Supplementary Medical Insurance is also available for a monthly premium. The Part B premium in 1992 is \$31.80 per month.

(3) After retirement, Medicare becomes the primary insurance payer and the annuitant's Federal Employees Health Benefits (FEHB) plan becomes the secondary payer.

EFFECTIVE: 05/27/93

18-3 FEDERAL EMPLOYEES RETIREMENT SYSTEM (FERS)

Unlike CSRS, which derives its entire benefit from a single pension, FERS is a three-tiered retirement plan. All FERS employees are mandatorily covered by Social Security (see Section 18-5). In addition, all FERS employees belong to the Thrift Savings Plan (TSP), regardless of whether or not they personally contribute to the TSP (see Section 18-4). The third tier of FERS is the FERS Basic Benefit, an annuity similar to the CSRS annuity and likewise administered by the United States Office of Personnel Management (OPM). FERS covers all employees first hired since 1984, as well as those former CSRS-covered employees who transferred to FERS during the 1987 FERS open season or following a break in service from which they returned after 1986.

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18-3.1 | Eligibility for FERS Basic Benefit (See 18-3.1.2, 18-3.16
and 18-3.19 (2) & (3)). |

EFFECTIVE: 05/27/93

18-3.1.1 Immediate Retirement - Unreduced

Employees are vested after five years of civilian Federal service. Unlike CSRS, there is no "one-out-of-two" minimum coverage requirement immediately prior to separation. Age and years-of-service requirements are shown below:

Age	Years of Service	Special Conditions
62	5	None
60	20	None
Minimum Retirement Age (MRA)	30	None for unreduced annuity. See Section 18-3.1.2 below for MRA table.
50 Any	20 25	Must be involuntarily separated (i.e., major reorganization or reduction in force (RIF)). Unlike CSRS, no reduction for retiring under age 55.
50 Any	20 25	Law Enforcement (the years on the chart represent the minimum number of years of FEDERAL CIVILIAN LAW ENFORCEMENT OFFICER SERVICE needed to retire at the listed age). (See 18-3.19.)

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18-3.1.2 Immediate Retirement - Reduced (See 18-3.1.1 and 18-3.16.)

An employee can retire under FERS after just ten years of service if he/she retires at the FERS Minimum Retirement Age (MRA). However, if the employee does not meet the age-and-service requirements under Section 18-3.1.1 above for an unreduced immediate retirement, his/her FERS Basic Benefit annuity will be reduced by 5 percent for each year he/she is under age 62 at the time the annuity begins. The annuity reduction, once made, will not decrease as the retiree gets closer to age 62. However, an employee who is at or over his/her MRA and has at least ten years of service on the date he/she leaves the Government may elect not to file for retirement until a later date, thereby diminishing the amount of the reduction (or eliminating it altogether if he/she files at age 62). Such a retirement would still be considered immediate for continuing the employee's Federal health and life insurance into retirement. The table for finding an employee's FERS MRA is shown below:

Year of Birth	MRA
Before 1948	55 years
1948	55 years, 2 months
1949	55 years, 4 months
1950	55 years, 6 months
1951	55 years, 8 months
1952	55 years, 10 months
1953 through 1964	56 years
1965	56 years, 2 months
1966	56 years, 4 months
1967	56 years, 6 months
1968	56 years, 8 months
1969	56 years, 10 months
After 1969	57 years

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18-3.1.3 Mandatory Retirement

Section 8425(b), Title 5, United States Code, requires law enforcement officers covered by FERS to retire no later than the end of the month in which they become 57 years old, provided they have at least 20 years of federal civilian law enforcement officer service. If they do not have 20 such years at the age of 57, they must retire no later than the last day of the month in which they acquire 20 years of federal civilian law enforcement officer service. Exceptions to mandatory retirement may be made by the agency head as described in MAOP, Part I, 18-3.1.4.

EFFECTIVE: 05/30/96

18-3.1.4 Exceptions to Mandatory Retirement (See MAOP, Part I, 18-3.1.3.)

(1) The Attorney General has delegated to the Director of the FBI the authority to grant exceptions to mandatory retirement to Special Agents (SAs) whose continued service is required by the public interest and would promote the mission of the FBI. Exceptions will be made on a case-by-case basis for up to one year at a time and can be made up to the month in which the Agent will reach 60 years of age. A recommendation from the division head for exception must be submitted to the Personnel Division no more than six months prior to the mandatory retirement date. Members of the Senior Executive Service (SES) should submit their requests for exception to the Director 18 months prior to their mandatory retirement date. The request for exception should include the following:

(a) The SA's name, date of birth, length of law enforcement service, and date of mandatory retirement;

(b) The SA's grade, series, title, organizational title, and duty location;

(c) A statement that the SA is willing to remain in government service for the length of the exception;

(d) A thorough description of the reasons the SA's retention is required by the public interest and would promote the needs of the FBI in fulfilling its mission;

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(e) The requested duration of the exemption; and

(f) A certification by the SA's division head or SAC that the proposed exemption is required by the public interest and would promote the needs of the Bureau in fulfilling its mission.

(2) No more than 20 exceptions for members of the SES may be granted at any given time. Any SES member who is a Special Agent and desires to extend his/her Bureau service must make their intentions known by submitting a communication to the Director approximately 18 months prior to reaching their mandatory retirement date. The communication must specify to what age or date the requestor desires to continue service, not to exceed age 60. Any SES member considering this option is encouraged to discuss the matter fully with the Director.

(3) The SES Board, chaired by the Deputy Director and staffed by the Assistant Directors of the Criminal Investigative, Finance, Inspection, National Security, Personnel, Information Resources, and Training Divisions, as well as the Chairperson of the Special Agent Mid-Level Management Selection Board will review requests for extended service and provide a recommendation to the Director. The Director will then serve as the final authority for approving/denying the request.

EFFECTIVE: 05/30/96

18-3.2 Credit for Service

Credit is given for years, months, and days of civilian service and military service on the date of retirement. (See important details concerning military deposits in Section 18-3.9.) Sick leave is not given retirement credit under FERS unless the retiring employee had at least five years of CSRS-creditable civilian service prior to joining FERS. In such a case, the lesser of (a) the sick leave balance as of the separation date, or (b) the sick leave balance as of the date the employee transferred from CSRS to FERS is converted to years, months, and days of credit and added to the CSRS component of the FERS Basic Benefit in the manner outlined in Section 18-2.2. (See Section 18-3.4 for definition of CSRS component.) As under CSRS, only years and months of combined service are used in

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computing the FERS Basic Benefit after the total length of service has been determined.

EFFECTIVE: 05/27/93

18-3.3 "High-Three" Average Salary

The total service (years and months) and the "high-three" average salary are the two factors used in computing the FERS Basic Benefit. Any consecutive three years of service may be used for the "high-three" average, and the "high-three" is determined in the same manner as for CSRS annuities (see Section 18-2.3).

EFFECTIVE: 05/27/93

18-3.4 Computing the Annuity (See 18-3.2, 18-3.7(2), 18-3.8(2), 18-3.10(3), 18-5.5(4) and 18-5.6(3).)

(1) The general formula used to determine the amount of the annual FERS Basic Benefit is:

1% X "high-three" average X length of service

Special law enforcement retirement rules provide the following FERS Basic Benefit computation for Special Agents:

1.7% X "high-three" average X each of first 20 years

plus

1% X "high-three" average X each year over 20

Employees who retire at age 62 or older and have at least 20 years of creditable service at the time of retirement have their FERS Basic Benefits computed at:

1.1% X "high-three" average X length of service

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(2) Employees previously covered under CSRS who had either (a) five years of CSRS-creditable civilian service as of the day of their last separation from the Government and return from the break in service after 1/1/87, with at least some of that service subject to CSRS payroll deductions, or (b) five years of CSRS-creditable civilian service as of 12/31/86, regardless of whether any of it was subject to CSRS payroll deductions if continuously employed since then, will have a portion of their FERS Basic Benefits determined under the CSRS computation rules outlined in Section 18-2.4. This is known as a CSRS component to their FERS Basic Benefits, and applies to (a) all civilian service subject only to the CSRS (not to CSRS Offset or the 1984-86 "interim plan"), (b) all deposit service performed prior to becoming subject to FERS, and (c) all military service performed prior to becoming subject to FERS. The annuity for remaining service to the employees' credit will be computed under the FERS formula described above.

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18-3.5 Contribution Rates

(1) Because all FERS employees pay the full FICA tax, the FERS law links employee contributions to the percentage of salary paid for the Social Security portion of that tax. FERS-covered employees pay 7 percent of their base pay, minus the percentage of that pay used to pay the Social Security portion of the FICA tax, into the Civil Service Retirement and Disability Fund (which pays both CSRS annuities and FERS Basic Benefits). In 1992, employees pay 6.2 percent of their salaries to Social Security, so they pay 0.8 percent of their base pay to FERS. Law enforcement officers pay 7.5 percent of their base pay, Availability Pay (AVP), and locality pay, minus the percentage paid for Social Security. In 1992, this means law enforcement officers pay 1.3 percent of the above to FERS.

(2) The Social Security contribution and benefit base is \$55,500 in 1992. FERS-covered employees earning more than this base are still subject to the FERS withholding rates described above (unlike CSRS Offset, which would revert to the full withholding rates for the pay exceeding the base).

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18-3.6 Voluntary Contributions

Since all FERS-covered employees automatically belong to the Thrift Savings Plan, the FERS law does not permit any FERS-covered employee to make voluntary contributions to the Civil Service Retirement and Disability Fund. This is true even for those former CSRS employees who had opened voluntary contribution accounts under CSRS before transferring to FERS. However, such employees may continue to hold their voluntary contribution accounts, and the voluntary contributions made under CSRS will continue to earn interest while the employees are covered by FERS. No new contributions may be made to those accounts after transferring to FERS.

EFFECTIVE: 05/27/93

18-3.7 Deposits

(1) A significant difference between CSRS and FERS is that deposits for civilian service performed after 12/31/88 which was not previously subject to CSRS or FERS withholdings may not be made under FERS. Deposits may be made for such civilian service if it was performed before 1/1/89.

(2) The amount of a deposit made under FERS depends on when the service was performed and how it will be credited. For former CSRS-covered employees whose deposit service would be credited as part of the CSRS component of their FERS Basic Benefits (see explanation in Section 18-3.4), the amount of the deposit for such service would be 7 percent of basic pay for the period to be credited, plus appropriate interest (see Sections 18-2.6 and 18-2.7). Since other periods of nondeduction service performed before 1/1/89 would be given credit under FERS rules (and applied to the FERS portion of the Basic Benefit), those deposits would be at 1.3 percent of basic pay for service performed through 1987 and 0.94 percent of basic pay for service performed in 1988, plus appropriate interest as described above.

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(3) Unpaid deposits under FERS can be paid at any time prior to retirement by filing Standard Form 3108.

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18-3.8 Redeposits (See 18-3.16.)

(1) Another major difference between CSRS and FERS involves the right to redeposit refunded contributions after an employee returns to the Federal service. If a FERS-covered employee leaves the Government and receives a refund of FERS contributions for a period of service subject to FERS, he/she may not redeposit the refund upon returning to the Federal service.

(2) Two types of refunds may be redeposited under FERS, and both involve previous CSRS-covered service. If a former CSRS-covered employee transfers to FERS with enough previous service to make a CSRS component in his/her FERS Basic Benefit (see explanation in Section 18-3.4) and had received a refund of his/her CSRS contributions for that service, the refund may be redeposited while in a FERS-covered position. In such a case, the amount of the deposit and the interest accrual will be under the CSRS rules in Section 18-2.8 (since the recredited service will lie within the CSRS component). If a former CSRS-covered employee resigns from the Government with fewer than five years of CSRS-covered service (thereby not qualifying for a CSRS component upon joining FERS), receives a refund of that service, and then returns to the Federal service under mandatory FERS coverage, that refund may also be redeposited while in a FERS-covered position. However, if that employee should leave the Federal service again and receive a FERS refund, that redeposited period of service would be considered FERS-covered service and may not be redeposited again.

(3) As is the case for deposits under FERS, redeposits can be paid at any time prior to retirement by filing Standard Form 3108.

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18-3.9 Military Service Credit and Deposits (See 18-3.2.)

(1) The same types of military service creditable under CSRS (see Section 18-2.9) are creditable under FERS. The CSRS rules governing treatment of military retired pay (see Section 18-2.9) also apply to FERS.

(2) A major difference between the systems is the treatment of military service performed after 1956. Under CSRS, provisions are made to make deposit for such service in order to avoid annuity reductions at age 62 based on simultaneous Social Security eligibility. However, there are some circumstances where CSRS employees hired before 10/1/82 can elect not to make the deposit. Under FERS, all employees are mandatorily subject to Social Security, and the FERS law assumes all employees will qualify for Social Security benefits at age 62. Therefore, the FERS law requires a deposit to be made for creditable military service performed after 1956 (even if the employee first entered on duty prior to 10/1/82), or no credit will be given for such service for either eligibility or computation purposes under FERS. The amount of the deposit also differs under FERS; employees with no CSRS component in their FERS Basic Benefits would pay 3 percent of their military base pay earned while on active duty. Compound interest would begin to accrue on the second anniversary of their entry into FERS coverage. On the other hand, employees who performed military service prior to joining FERS and who would have a CSRS component in their FERS Basic Benefits would have the military service applied to the CSRS component. This would mean that the post-1956 military service credit deposit would be made under the CSRS rules in Section 18-2.9. In all cases, military deposits must be made to the Bureau prior to retirement.

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18-3.10 Disability Retirement (See 18-5.3(3).)

(1) Under FERS, an employee is eligible for disability benefits after 18 months of service, regardless of whether the service was performed under FERS alone or some of it was performed under CSRS. Application is made to OPM. After reviewing the application and supporting documentation, OPM makes the determination as to whether all criteria for a disability retirement benefit are met. Other than the minimum length of service, the eligibility rules for disability retirement under FERS are the same as for CSRS (see Section 18-2.10).

(2) Since FERS employees are covered by Social Security, and since the Social Security program also offers disability benefits, the disability benefit computation under FERS takes into account an employee's eligibility for Social Security disability benefits. At the time an employee applies for FERS disability retirement, he/she must also contact the Social Security Administration (SSA) to determine whether he/she also qualifies for Social Security disability benefits. This contact must be made even if the employee has not met the minimum number-of-quarters-of-coverage requirement for Social Security benefits, disability or otherwise. SSA's answer will be included in the employee's FERS disability paperwork OPM will use to compute benefits. The definition of "disability" is stricter for Social Security purposes than it is for CSRS or FERS (i.e., Social Security requires an employee to be unable to perform any job, not just his/her current one), so in most cases, employees will not qualify simultaneously for both benefits.

(3) If the retiring employee is not eligible for Social Security disability benefits, his/her FERS Basic Benefit would be:

First year: 60% of "high-three" average salary

Second year and all future years until employee reaches age 62: 40% of "high-three" average salary

All years after reaching age 62: FERS Basic Benefit computed under the nondisability rules in Section 18-3.4; however, the length of time between the employee's separation and his/her 62nd birthday is added to his/her length of creditable service in computing the non-disability FERS Basic Benefit.

(4) If the retiring employee is eligible for Social Security disability benefits as well as a FERS disability retirement, the FERS Basic Benefit in the first year of retirement is reduced by

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100 percent of his/her Social Security disability benefit. The FERS Basic Benefit for the second year and all years before reaching age 62 is reduced by 60 percent of his/her Social Security disability benefit. After the employee reaches age 62, he/she receives a non-disability FERS Basic Benefit computed in the manner described above.

(5) Under FERS, the 80 percent limit on earnings from wages and/or self-employment, as well as OPM's right to request medical evidence of continued disability, are the same as for CSRS disability retirees (see Section 18-2.10).

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18-3.11 Survivor Benefits - Death in Service (See 18-3.12(4).)

(1) If an employee dies while covered by FERS (with or without eligibility for a CSRS component) after 18 months of civilian service, his/her spouse will receive a special lump-sum payment called the Basic Employee Death Benefit (BEDB), provided they were married for at least nine months. The BEDB consists of an indexed amount (\$20,734.01 in 1996), plus the greater of (a) 50 percent of the deceased employee's "high-three" average salary, or (b) 50 percent of the deceased employee's final annual salary rate. Even though the BEDB is a one-time payment, the survivor would still qualify to continue Federal Employees Health Benefits (FEHB) coverage if the employee had a self-and-family FEHB plan at the time of death. FEHB premium payments would then be paid directly to OPM.

(2) If an employee dies while covered by FERS after ten or more years of creditable service, his/her spouse will receive both the BEDB and an annuity, provided they were married for at least nine months. As under CSRS, the marriage duration requirement does not apply if the death was accidental or if there is a child of the marriage. FEHB coverage can also continue for the survivor if the employee had a self-and-family FEHB plan at the time of death.

(3) The spousal survivor annuity is 50 percent of what the FERS Basic Benefit would have been if the employee had been eligible to retire on the date of death. This is true even if the employee had a CSRS component to the FERS Basic Benefit or if the employee was a Special Agent or other law enforcement officer.

|| The survivor annuity for the spouse of an Agent who at the time of

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death had served at least 20 years as a federal law enforcement officer but had not yet reached age 50 will be computed as if the Agent had met the eligibility requirements for law enforcement retirement. The formula for law enforcement retirement given in MAOP, Part I, 18-3.4 will be used in computing the annuity, resulting in a higher survivor annuity.

(4) Regardless of whether the surviving spouse receives the BEDB alone, the BEDB with a survivor annuity, or no benefit, unmarried dependent children under age 18 (or 22 if they are full-time students) would receive a fixed-rate survivor annuity if the employee dies in service. A child over age 22 incapable of self-support because of a disability incurred before the age of 18 will receive an annuity indefinitely unless the child becomes capable of self-support.

EFFECTIVE: 05/30/96

18-3.12 Survivor Benefits - After Retirement

(1) As under CSRS, a retiring employee may elect a survivor benefit under FERS, with a corresponding reduction in his/her monthly annuity. The maximum survivor annuity under FERS is 50 percent of the employee's full FERS Basic Benefit (with or without a CSRS component). If the employee elects to provide this maximum, his/her FERS Basic Benefit will be reduced by 10 percent. For example, if the full FERS Basic Benefit is \$33,600, the reduction for a maximum survivor annuity is \$3,360, and at the time of the annuitant's death, the surviving spouse will receive 50 percent of \$33,600, or \$16,800 per year. The reduction in the annuity ceases if the spouse predeceases the retiree.

(2) A retiring employee may elect to provide half of the maximum survivor annuity (or 25 percent of the full FERS Basic Benefit). Unlike CSRS, no other percentage of the FERS Basic Benefit can be used as the base for a survivor benefit. The retiring employee can also elect to provide no survivor annuity for his/her spouse. As is true under CSRS, OPM will honor the half-survivorship or no-survivorship elections only if the retiring employee provides his/her spouse's notarized signed consent to the lower benefit.

(3) If a retiree dies leaving a spouse younger than age 60 (when the spouse would qualify to receive Social Security survivor

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benefits), the spouse will receive a Special Retirement Supplement in addition to the FERS survivor annuity. The Supplement would be the lesser of (a) the benefit the spouse would receive if the employee had been under CSRS, minus the regular FERS benefit, or (b) the estimated Social Security survivor benefit the spouse would receive at age 60. The Supplement would be paid until the spouse qualifies for the Social Security survivor benefit.

(4) The provisions regarding former spouse benefits, post-retirement survivor annuity elections, the spouse's loss of the survivor benefit due to remarriage under age 55, and "insurable interest" elections described in Section 18-2.12 for CSRS survivor benefits also apply to FERS. Survivor benefits for unmarried dependent children of retirees are the same as described in Section 18-3.11.

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18-3.13 Survivor Benefits - Former Employee's Death

(1) Unlike CSRS, survivor annuities are available to surviving spouses of former employees who resigned from the Government, did not receive a refund of their retirement contributions, and died before qualifying for a deferred annuity. The former employee must have had at least ten years of creditable service by the time of his/her death, at least five of which were covered by CSRS/FERS deductions or deposits. Also, the spouse had to be married to the employee on the day he/she separated from the Federal service. As with survivor annuities for survivors of retirees, former spouses may receive this survivor annuity based on the death of a qualifying former employee if so directed by a court order.

(2) The survivor can elect to receive this annuity either the day after the former employee would have been eligible for an unreduced FERS Basic Benefit, or the day after death. If the former date is chosen, the survivor annuity will be 50 percent of the deceased former employee's FERS Basic Benefit. If the latter date is chosen, that survivor annuity is actuarially reduced.

(3) The survivor can also decline this survivor annuity and elect to receive the lump-sum credit (i.e., the refund of the unexpended balance of the former employee's retirement contributions).

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18-3.14 Alternative Form of Annuity (AFA)

The rules governing the AFA under CSRS described in Section 18-2.14 also apply to FERS.

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18-3.15 Cost of Living Adjustment (COLA) for Annuitants

The rules governing COLA's for CSRS annuitants described in Section 18-2.15 apply to FERS, with two significant exceptions. The COLA under FERS is one percentage point below the percentage increase in the Consumer Price Index during the preceding Fiscal Year if that percentage increase is 3 percent or greater; otherwise, the FERS and CSRS COLA's are identical. The other difference is that COLA's under FERS are not paid to retirees under age 62, even if they retired earlier than age 62, unless they are (a) disability retirees, (b) retired Special Agents or other law enforcement officers, or (c) survivor annuitants. In those three cases, COLA's are paid in accordance with the same schedule as in Section 18-2.15. In addition, FERS retirees with a CSRS component would have that component increased by the full CSRS COLA each year (once they have completed the first year of their retirements). The FERS COLA rules and payment schedule would apply to the FERS component of their Basic Benefits.

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18-3.16 Leaving Bureau Service Prior to Eligibility

Employees who resign prior to qualifying for an immediate FERS Basic Benefit have several options. They may take a refund of their retirement contributions (but they should remember that refunds of FERS contributions may not be redeposited if they later return to the Federal service--see Section 18-3.8). If they do not take a refund, they may apply for a deferred FERS Basic Benefit (a) at their MRA if they have at least ten years of creditable service (but they should note the reductions for retiring under age 62 in Section 18-3.1.2), or (b) at age 62 if they have at least five years of creditable service and want to avoid reductions for retiring under that age (see Section 18-3.1.1).

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18-3.17 Beneficiary Designation (See MAOP, Part I, 20-17 thru 20-17.5.)

The rules governing designations of beneficiaries (including the order of precedence) described in Section 18-2.17 for CSRS employees also apply to FERS. The FERS designation of beneficiary form is Standard Form 3102, which should be filed with the Bureau (not with OPM, as is the case under CSRS).

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18-3.18 Medicare Benefits

The rules concerning Medicare benefits for Federal employees outlined in Section 18-2.18 also apply to FERS-covered employees. Since all FERS-covered employees pay the full FICA tax (including the Medicare portion), all FERS-covered Federal civilian service is fully creditable for Medicare purposes.

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18-3.19 Special Retirement Supplement

(1) FERS retirees depend on three sources of post-retirement income; the FERS Basic Benefit, the Thrift Savings Plan, and Social Security. However, Social Security does not begin paying nondisability benefits until a retiree reaches age 62. Because many FERS-covered employees may retire before reaching that age, the FERS law authorizes a Special Retirement Supplement to be added to the Basic Benefits of certain FERS-covered employees who retire before reaching age 62. This Supplement is meant to "fill in" for some of the retirees' future Social Security-derived income, and it is paid to retirees until they qualify for Social Security at age 62.

(2) Special Agents retiring under the law enforcement officer rules in Section 18-3.1.1 are eligible for the Special Retirement Supplement. So are other employees who retire on an immediate FERS Basic Benefit (a) at their MRA with at least 30 years of service, or (b) at age 60 after 20 years of service.

(3) The Special Retirement Supplement is computed by multiplying a retiring employee's estimated full-career Social Security benefit (a full career for Social Security purposes is 40 years) by the number of full calendar years the employee worked under FERS, then dividing that result by 40. Since the Supplement is designed to replace a portion of Social Security benefits until the employee qualifies for Social Security, the Supplement is subject to the Social Security earnings test. If the employee, after retirement, earns more than the Social Security earnings limit, the Supplement is reduced by half of the amount by which his/her earnings exceed the limit. Special Agents retiring under the law enforcement officer rules in Section 18-3.1.1 are not subject to the earnings test prior to age 55.

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18-4 | THRIFT SAVINGS PLAN (TSP) | (See 18-3.)

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18-4.1 | Definition of TSP

The TSP is a tax-deferred retirement savings plan, similar to a 401-K plan or an Individual Retirement Account (IRA). Contributions must be made on a regular basis and are deducted from the employee's pay. Employees may not make a lump-sum payment to the TSP, nor roll another retirement account into the TSP.

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18-4.2 | Eligibility to Participate

Employees covered by CSRS or FERS may participate in the TSP. New or rehired employees who were not previously eligible to participate must wait until the second open season after their appointment date to begin participation.

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18-4.3 TSP Open Season

(1) There are two TSP open seasons each year. The first open season begins November 15th and ends January 31st. The second open season begins May 15th and ends July 31st.

(2) During the TSP open seasons, employees may start, stop, increase, or decrease their TSP contribution by submitting a completed TSP-1 election form. Employees may also change the investment fund allocations for future contributions. See Section 18-4.6 for information on the three investment options.

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18-4.4 Maximum TSP Contribution Rates

TSP contributions are withheld from an employee's basic pay, locality pay, and availability pay. Employees covered by the FERS may contribute up to ten percent of their pay. Employees covered by CSRS may contribute up to five percent of their pay. The Internal Revenue Service (IRS) also imposes a maximum contribution amount allowable each year. This amount is indexed each year.

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18-4.5 Government TSP Contributions

(1) Employees covered by CSRS do not receive any TSP contributions from the Bureau.

(2) The Bureau automatically contributes 1 percent into the TSP for employees covered by FERS. The Bureau will match, dollar for dollar, the first 3 percent contributed by employees covered by FERS, plus the automatic 1 percent. The Bureau will also contribute 50 cents on the dollar, for the 4th and 5th percent contributed by the employee. Therefore, employees who contribute 5 percent of their pay to the TSP will have 4 percent of matching contributions plus the automatic 1 percent contributed by the Bureau.

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18-4.6 Investment Options (See 18-4.3(2).)

Employees may diversify their investment by allocating their TSP contributions, including the Government's contributions, into three different funds. Any combination of investment is permitted, with the only restriction being that allocations be in 5 percent increments of the total contribution; i.e., 15 percent in one fund, 35 percent in another fund, and 50 percent in the third fund, totaling 100 percent of the entire contribution.

The three funds are described as follows:

The G Fund is invested in Government securities. This is a risk-free investment and returns a competitive variable rate of interest.

The F Fund is a corporate bond market fund with investments in insurance companies and mortgages. Some risk is involved in F Fund investments.

The C Fund is a stock index fund with investments in common stocks. This fund allows a greater return; however, it also carries a greater risk.

EFFECTIVE: 05/27/93

18-4.7 Interfund Transfers

(1) Participants in the TSP may reallocate contributions already in the funds up to twelve times per year (one time each month) by using the ThriftLine (see section 18-4.14 for ThriftLine information) OR by submitting a completed Form TSP-30 to the Federal Retirement Thrift Investment Board (Thrift Board) at the National Finance Center in New Orleans, Louisiana. The address is on the Form TSP-30. This form CANNOT be processed by the Bureau. Requesting an interfund transfer does not affect future contributions, only contributions already in the account.

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(2) Requests received at the Thrift Board by the 15th of the month will be processed on the last day of that month. Requests received at the Thrift Board after the 15th of the month will be processed on the last day of the following month.

EFFECTIVE: 05/30/96

18-4.8 Vesting in the TSP

All employees are immediately vested in their own contributions and the Government's matching contributions. They must have at least three years of civilian service to be vested in the automatic 1-percent Government contribution. Employees who leave Government service with less than three years of civilian service forfeit the automatic 1 percent plus the earnings on that 1 percent.

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18-4.9 TSP Loan Program

(1) Employees who participate in the TSP may borrow from their own contributions and the earnings on their contributions. They cannot borrow any of the Government's contributions. Employees covered by FERS must have their spouse's consent to take a TSP loan. CSRS employees need only notify their spouses that they are taking out a TSP loan.

There are four specific purposes for which a TSP loan can be taken. They are:

- (a) purchase of a primary residence
- (b) educational expenses
- (c) medical expenses
- (d) financial hardship

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(2) Although the employee is borrowing his/her own TSP contributions, interest is charged on the loan. The interest rate on the loan is the rate that the G Fund is earning at the time of application. This rate is fixed over the life of the loan. Principal and interest payments go back into the employee's TSP account.

(3) The maximum amount of a loan cannot exceed \$50,000, and the minimum amount is \$1,000. The amortization on a loan for purchase of a primary residence can be for 15 years. For all other types of loans, amortization can be for four years.

(4) Loan payments must be made by payroll deduction and the outstanding loan balance can be prepaid at any time without penalty. If an employee resigns or retires with an outstanding TSP loan at the time of separation, the FRTIB will give him/her 60 days to pay off the loan balance. If the total balance is not paid in 60 days, the FRTIB will report the unpaid balance to the IRS as taxable income. The employee will have to pay income taxes on the amount of the unpaid loan balance and, depending on his/her age, the employee may be subject to a 10-percent early withdrawal penalty.

(5) The Form TSP-20 is used to apply for all TSP loans, except a loan for financial hardship. A Form TSP-20H is used to apply for a financial hardship loan.

EFFECTIVE: 05/27/93

18-4.10 TSP Payout Options

(1) Employees cannot withdraw money from their TSP accounts while employed by a federal agency. After an employee has been separated from service for more than 30 days, he/she may elect a withdrawal option.

(2) Regardless of the employee's eligibility for retirement benefits, he/she has many withdrawal options. If the account balance is \$3,500, or less, the account balance will be paid out automatically unless the employee otherwise advises the Thrift Board. Other options are:

(a) The money can be left in the account until age 70 1/2. However, a withdrawal option must be elected before February

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1 of the year following the year in which the latest of these events occurs:

1. The employee becomes age 65.
2. The employee has been eligible for ten years to participate in the TSP.
3. The employee resigns or retires from service.

If the money is left in the TSP account after separation from federal service, the money can continue to be distributed among the three TSP funds. However, no contributions can be made after separation from federal service.

(b) The account balance can be transferred to an Individual Retirement Account (IRA) or other eligible retirement plan under the Internal Revenue Code.

(c) The former employee can receive the account balance in a single payment or a series of equal monthly payments over a fixed period.

(d) The former employee can receive a life annuity. There are many types of annuities from which to choose, including a single life annuity or one with a survivor annuity. The account balance must be at least \$3,500 to purchase an annuity.

(3) A former employee who was covered by the FERS retirement system and is eligible for a FERS basic annuity must have their spouse's consent to withdraw any money from their TSP account. Spouse's consent is not needed if the former employee requests an annuity from the TSP account with a survivor benefit for the spouse. A former employee who was covered by CSRS need only notify their spouse of a withdrawal.

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18-4.11 Taxing of TSP Benefits

Contributions to the employee's TSP account are taken out of the employee's pay before federal (and, in most cases, state) income taxes are computed; this means that the employee does not pay income taxes on contributions to his/her TSP account in the years that they are made. Also, the earnings on the TSP account are not subject to federal income tax while the money is in the TSP. Therefore, all of the money from the TSP account will be taxed as ordinary income for federal income tax purposes in the year(s) that it is received. State and local laws vary in the treatment of TSP withdrawals. Employees should consult with their state or local tax authority concerning taxation of a TSP withdrawal. The withdrawal method chosen determines when income tax must be paid.

EFFECTIVE: 07/17/95

18-4.12 TSP Beneficiary Designation

(1) An employee may designate a beneficiary to receive a lump-sum refund of the employee's TSP account in case of the employee's death. A designation should only be made if the employee does not wish the payment to be made in the legal order of precedence, which is:

- (a) To the widow or widower.
- (b) If the widow(er) is deceased, to the children, with the share of a deceased child distributed among the decedents of that child.
- (c) If none of the above, to the parents in equal shares.
- (d) If none of the above, to the executor of the estate.
- (e) If none of the above, to the next of kin under the laws of the State in which the employee lived at the time of death.

(2) A designation may be made or updated at any time by filing a Form TSP-3 with the Thrift Board. DO NOT SEND TSP

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BENEFICIARY CHANGES TO THE BUREAU. It is important to keep the designation of beneficiary current. Changes in family status without a corresponding change in the designation of beneficiary may result in a settlement other than that intended by the employee.

(3) Upon the death of an employee, the beneficiary must make a withdrawal election. They may not leave the contributions in the TSP account.

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18-4.13 Account Statements

The Thrift Board sends account statements to TSP participants at the beginning of each of the two annual open seasons (see Section 18-4.3). These statements are sent to the participant's home. THEREFORE, IT IS IMPORTANT FOR EMPLOYEES TO KEEP THEIR ADDRESS CURRENT. Employees who have a change of address must advise their division front office so the new address can be entered into the Bureau's computer system. Each pay period, the Bureau's Payroll Office forwards updated employee information to the Thrift Board, including the new address.

EFFECTIVE: 05/30/96

18-4.14 ThriftLine (See 18-4.7.)

(1) The ThriftLine is an interactive voice response system for the TSP. It is available 24 hours a day, seven days a week, from a touch-tone telephone by dialing (504) 255-8777. The ThriftLine offers monthly rates of return for the three TSP funds, monthly account balances, and status of loan requests or withdrawal requests. Also, the ThriftLine can be used to make, change, or cancel an interfund transfer.

(2) Specific information concerning an individual account may be obtained by using the Personal Identification Number (PIN). Individual PIN numbers were given on the account statements sent to participants in November, 1994, and all previous statements, but will

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not appear on future statements, with the exception of the first statement sent to new participants. The ThriftLine can also be used to replace a lost PIN number or to select a different PIN number.

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18-5 | SOCIAL SECURITY (See 18-3.)

The Social Security system was established in 1935 as a supplementary form of retirement income. Since then, the program has been expanded to provide a partial replacement of earnings due to retirement, disability, or death of the wage earner. Social Security is administered by the Social Security Administration (SSA) of the Department of Health and Human Services, and the Bureau's only Social Security-related function is to withhold the Social Security tax for covered employees. However, the vast majority of Bureau employees will be affected by Social Security, either through their own Social Security benefits or those of certain relatives. This section of the MAOP describes the aspects of the Social Security program most likely to affect Bureau employees covered by CSRS or FERS.

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18-5.1 | Coverage

All FERS employees are mandatorily covered by Social Security. So are all Executive Schedule (i.e., Presidential) appointments and noncareer positions in the Senior Executive Service. CSRS-covered employees are simultaneously covered by Social Security (through CSRS Offset) if they returned on or after 1/1/84 from a break in CSRS coverage lasting 366 or more days, or if they return to positions required to be under Social Security by law while retaining their CSRS coverage due to their previous service. Any employee hired for other than a permanent appointment is subject to Social Security; they can also be under CSRS or FERS if the law would also provide coverage under those systems.

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18-5.2 Benefits - Retirees (See 18-5.5(2).)

(1) Social Security retirement benefits can be paid to workers who have at least one work credit, or "quarter of coverage," for each year after the year he/she reached age 21 and before the year he/she reaches age 62 if he/she was born after 1929. Workers born before 1930 must have at least one quarter of coverage for each year from 1950 through the year of reaching age 62. Most Bureau employees would need 40 quarters of coverage by the year they reach age 62 to qualify. However, the 40 quarters do not need to be earned continuously; up to four quarters may be earned each year, so many employees would qualify with just ten years of Social Security-covered employment. These quarters of coverage can be based on non-Federal employment as well as such Federal civilian or military service subject to Social Security. A worker can apply for either (a) full Social Security benefits at age 65, or (b) reduced Social Security benefits at age 62, if he/she has met the minimum coverage requirement by the time he/she applies.

(2) For workers who reach age 62 in 1992, the Social Security benefit (which SSA calls the Primary Insurance Amount (PIA)) is computed as follows:

90 percent of the first \$387 of the individual's Average Indexed Monthly Earnings (AIME) from Social Security-covered employment

plus

32 percent of the next \$1,946 of his/her AIME

plus

15 percent of any remaining AIME over \$2,333 (\$387 + \$1,946)

(3) The dollar amounts in the above formula are called "bend points," and they are adjustable each year. CSRS-covered employees should review Section 18-5.5 to determine how the Windfall Elimination Provision (WEP) would adjust the percentage by which the first bend point is multiplied (thereby lowering the total PIA for affected retirees). The full PIA (after WEP adjustment) would be

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payable if the retiree applies for Social Security benefits at age 65 or later. The PIA would be reduced by 5/9 of 1 percent for each month the retiree is under age 65 if he/she applies for Social Security benefits before reaching that age. A cost of living adjustment (COLA), identical to the one made to CSRS annuities (see Section 18-2.15), is made each year to Social Security retirement benefits.

EFFECTIVE: 05/27/93

18-5.3 Benefits - Others (See 18-5.6(1).)

(1) Fewer than half of all Social Security benefits paid in a given year are paid to retirees. The rest are paid to survivors of deceased retirees, to spouses and other family members of workers, for disability, and for Medicare health benefits.

(2) A spouse of a retired worker is eligible for separate Social Security benefits equal to 50 percent of that worker's PIA if the spouse is age 65 or older. If the spouse is at least age 62, but under age 65, the benefit would be equal to 37.5 percent of the retiree's PIA. If the spouse is caring for the retiree's child and the child is under age 16, the spouse's benefit would be 50 percent of the retiree's PIA regardless of the spouse's age. Former spouses who were married to Social Security-eligible retirees for at least ten years can also qualify for benefits as early as age 62. A CSRS retiree who also qualifies for a spousal Social Security benefit based on his/her spouse's or former spouse's work record may have that benefit seriously affected by the Public Pension Offset (see Section 18-5.6).

(3) Employees can qualify for Social Security disability benefits at any age if they are unable to perform any gainful work and if the disability is expected to last (a) at least 12 months, or (b) until death, if expected sooner. The monthly disability benefit would be equal to an affected employee's PIA at the time the disability occurs, and it would not be reduced if it begins before age 65. See Section 18-3.10 for information about the effects Social Security disability benefits have on the computation of FERS disability benefits. No such effects are found under CSRS.

(4) The surviving spouse of a deceased worker can receive Social Security benefits equal to (a) the worker's full PIA if the

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spouse applies at age 65, (b) 82.9 percent of the PIA if the spouse applies at age 62, or (c) 71.5 percent of the PIA if the spouse either applies at age 60 or is disabled and applies between ages 50 and 59. Former spouses can also qualify for Social Security survivor benefits. As with spousal benefits described above, CSRS retirees who qualify for Social Security survivor benefits based on the work record of a spouse or former spouse may have those benefits seriously affected by the Public Pension Offset (see Section 18-5.6).

EFFECTIVE: 05/27/93

18-5.4 Effect on CSRS Offset Annuities

An employee simultaneously covered by CSRS and Social Security (coverage commonly called CSRS Offset) who retires under age 62 gets his/her full CSRS annuity (see Section 18-2.4) from the date of retirement until he/she reaches age 62 and qualifies for Social Security. At that point, the CSRS annuity is reduced by the amount of his/her Social Security benefit directly attributable to his/her Federal service covered simultaneously by CSRS and Social Security. There is no reduction made to the Social Security benefit on account of CSRS Offset, though reductions may be made to that benefit for other reasons as appropriate. Usually, the combined Social Security and CSRS amounts after the offset provide a greater benefit than the unreduced CSRS benefit alone.

EFFECTIVE: 05/27/93

18-5.5 Windfall Elimination Provision (WEP) (See 18-5.2(3).)

(1) Social Security benefits are weighted in favor of workers who spent most of their work lives in low-salaried positions. But Social Security counts only the employment subject to Social Security coverage in determining benefits. Many CSRS-covered employees qualified for Social Security due to military service and non-Federal employment. However, those employees were treated for Social Security purposes as if their Social Security-covered employment represented their whole life income, thereby drawing

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proportionately higher Social Security benefits than they would have if their Federal service had been considered in computing those benefits. Public Law 98-21, the Social Security Amendments of 1983, contains the WEP in order to reduce or eliminate this unintended "windfall" benefit.

(2) A retiring employee's normal Social Security computation includes 90 percent of his/her Average Indexed Monthly Earnings (AIME) up to the first "bend point" (see Section 18-5.2). The WEP reduces this percentage to 40 percent if the retiree has fewer than 21 years of substantial Social Security coverage. The other two steps in the Social Security computation formula (see Section 18-5.2) are not affected by the WEP.

The percentage of AIME up to the first bend point (\$387 in 1992) varies as follows with years of substantial Social Security coverage:

Years of Coverage	Percentage of AIME to First Bend Point
20 or fewer	40 (full WEP reduction)
21	45
22	50
23	55
24	60
25	65
26	70
27	75
28	80
29	85
30 or more	90 (no WEP reduction)

(3) The WEP does not affect the amount of a Federal retirement benefit. Social Security benefits containing the WEP are paid from the first month the retiree simultaneously receives Social Security and his/her Federal retirement benefit.

(4) The WEP has no effect on FERS Basic Benefits if they are based purely on FERS-covered employment. Some (but not all) FERS-covered employees with a CSRS component to their FERS Basic Benefits (see Section 18-3.4) could be affected by the WEP.

(5) The WEP does not apply to (a) Federal workers first hired after 1983, (b) persons employed on 1/1/84 by a nonprofit organization in a position mandatorily covered under Social Security

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on that date, (c) persons with 30 or more years of substantial earnings under Social Security, (d) persons whose only pensions are based on railroad employment, (e) persons whose only non-Social Security employment was before 1957, and (f) Federal workers who were first eligible for either Social Security or an immediate CSRS annuity on or before 12/31/83.

EFFECTIVE: 05/27/93

18-5.6 Public Pension Offset (PPO) (See 18-5.3 (2) & (4).)

(1) Under Social Security rules, an individual who qualifies for a Social Security benefit based on his/her own employment and for a spousal or survivor Social Security benefit based on someone else's work record (see Section 18-5.3) would have the spousal or survivor benefit reduced by the amount of the benefit based on his/her own employment. The PPO provides similar treatment to retired Federal employees whose Federal pensions are based on work not covered by Social Security, but who qualify for Social Security spousal or survivor benefits based on someone else's work record.

(2) The PPO reduces a retiree's Social Security spousal or survivor benefit by two-thirds of the amount of his/her Federal pension. Often, this reduction will completely eliminate the Social Security spousal or survivor benefit. However, employees should bear in mind that (a) the PPO does not apply to individuals still working for the Government (other than reemployed annuitants), and (b) the PPO does not reduce the Social Security spousal or survivor benefits of a Federal employee's or retiree's spouse, unless the spouse also earned a Federal pension in his/her own right.

(3) FERS-covered employees who have no CSRS component (see Section 18-3.4) are exempt from the PPO. So are those FERS-covered employees who transferred from CSRS during the 1987 FERS open season and 1988 belated election opportunity. FERS-covered employees who transferred from CSRS after 1/1/88 due to returning from a break in service must be subject to FERS for five years in order to escape the PPO. CSRS Offset employees are exempt from the PPO because they will be retiring from Social Security-covered employment. Also exempt are employees first eligible for a CSRS annuity before 7/1/83 and were receiving one-half support from their spouses. Anyone first eligible for a CSRS annuity before 12/1/82 who met the Social Security

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requirements for spousal benefits in effect on 1/1/77 is also exempt from the PPO.

(4) The PPO has no effect whatsoever on a Federal retiree's eligibility for Medicare benefits at age 65 based on the work record of his/her spouse.

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SECTION 19. EMPLOYEE CLAIMS FOR LOSS OR DAMAGE TO PERSONAL
PROPERTY

19-0 INTRODUCTION

The Military Personnel and Civilian Employees' Claims Act of 1964 provides for the settlement of claims against the United States by civilian officers and employees of the Department of Justice for damage to or loss of personal property incident to their service with the Department. Authority for handling such claims was vested in the Attorney General for employees of the Department of Justice, and authority to settle all claims of Bureau employees has been delegated to the Director by Department of Justice Order ||2110.23B effective 6/21/84. |

EFFECTIVE: 10/30/84

19-1 SETTLEMENT OF CLAIMS

(1) "Settle" means consider, ascertain, adjust, determine, and dispose of any claim, whether by full or partial allowance or disallowance. All claims filed under the Act are subject to the approval of the Director.

(2) The acceptance of an award by the claimant constitutes a release for the United States of all liability to the employee based on the occurrence giving rise to the claim for which the award is made. The claimant accepts an award upon negotiation of the settlement check. Prior to negotiating the settlement check, a claimant may discuss the amount of the award with the approving official.

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19-2 ALLOWABLE DAMAGES AND/OR LOSSES

Claims are allowable under the Act for damage to or loss of personal property if:

- (1) Such damage or loss was incident to the employee's service with the Department and the possession of that property is determined to be reasonable, useful, or proper under the particular circumstances involved.
- (2) Such damage or loss was not caused either wholly or partially by the negligent or wrongful act of the claimant, his/her agent, dependent or co-worker. Negligence is defined as the failure to exercise the care which a reasonable and prudent person would have exercised under the same or similar circumstances.
- (3) Such damage or loss involved:
 - (a) Personal property located in quarters when such quarters were assigned or provided in kind by the Federal Government, or when such quarters are located outside the United States and the employee involved is not a local or native resident of the area.
 - (b) Personal property located in a storage place designated or authorized by the employee's supervisor or an official who has been delegated the authority to approve such authorization for storage of the property.
 - (c) Personal property, including personal clothing, subjected to extraordinary risks in the performance of duty, or hazardous circumstances beyond the control of the employee while at the place of employment. (Ordinarily, a sudden, unexpected act of God does not constitute an extraordinary risk.)
 - (d) Personal property transferred under a Government Bill of Lading, or by a commercial carrier which operates in intrastate or interstate commerce under an authorized certificate or permit relative to a change of duty station or other authorized transfer or travel.
 - (e) Property owned by the United States when the employee is financially responsible for it.
 - (f) Personal property used for the benefit of the Government at the direction of a superior authority.

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19-3 DAMAGES AND/OR LOSSES NOT ALLOWABLE

Claims are not allowable under the Act for damage to or loss of personal property if:

(1) The loss or damage occurred at quarters occupied by the claimant within one of the fifty states or the District of Columbia, unless the quarters were assigned to him/her or otherwise provided in kind by the Government.

(2) Such damage or loss involved:

(a) Property used primarily in Government offices for the personal convenience, gratification, comfort, diversion, or entertainment of the employee.

(b) Property acquired for sale, or being used for personal business or profit.

(c) Property acquired, possessed or transported in violation of law or regulations.

(d) Amounts recoverable from insurers or carriers, or pursuant to the performance of a contract.

(e) Transportation losses involving baggage, household goods, or other shipments if the claimant chose an unlicensed carrier without obtaining prior approval from the Director or the official who authorized the employee's change of station.

(f) Contractors or other persons who, while under contract to the Government, caused an incident which resulted in the loss or damage to an employee's personal property. Though the Government is secondarily responsible primary liability rests with the contractor. (The term "contractor" excludes those carriers referred to in 19-2 (3)(d).)

(g) Motor vehicles or trailers when mileage payment is authorized, unless extraordinary risks are involved that would permit the employee to be covered by 19-2 (3)(c). (Generally, uninsured collisions resulting from wanton negligence when mileage is authorized are not compensable under the Act.)

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(h) Loss or damage of articles sent through United States or international mail systems, or loss or damage of articles of extraordinary value. Such articles should be insured by owners. (See 19-12.)

(i) Money and currency, unless it can be shown that the employee is required by the nature of his/her assignment to carry money or currency. Reimbursement for loss of money or currency shall be limited to an amount determined to have been reasonable for the claimant to have had in his/her possession at the time of the incident. It must be conclusively shown that the money or currency was in a locked container and that the quarters themselves were locked, or that the loss was the direct result of an incident occurring because the employee was known to be on official business.

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19-4

INFORMATION TO EMPLOYEES - INSURANCE

Most claims for damages to or loss of personal property arise during shipment and storage of household goods incident to permanent changes of station. Employees should be informed prior to such moves of the contents and applicability of this Order. They should also be informed of the advisability of obtaining commercial insurance to cover such shipments since damages or losses that can be paid are limited by the Act and repayment for damages or losses incurred may not be as rapid as the payment of insurance claims. Such insurance is desirable to cover claims specifically excluded or limited by this Order. Employees should be advised of the difference between losses covered by carriers based on released weight of shipments and losses covered by commercial insurance.

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19-5 CLAIMS INVOLVING PARTIES OTHER THAN THE GOVERNMENT

In cases where loss or damage of personal property has occurred, employees are cautioned not to sign a release, or a statement containing a release, if there is a possibility of recovery against a carrier, warehouse, insurer or other contractor. Employees must file and diligently pursue any claim they may have against parties other than the Government prior to submission of a claim under the Act. Employees are further cautioned not to sign any release or statement that property was received in good condition unless and until they have performed a reasonable inspection and are satisfied that no loss or damage occurred. Failure to file and pursue such a claim, or the signing of a release or statement of arrival in good condition will prejudice the handling of the claim under the Act.

EFFECTIVE: 08/29/90

19-6 ASSIGNMENTS

A claimant shall subrogate, i.e., assign, to the United States Government his/her right, title and interest in any claim he/she may have against a carrier, insurer or other party for damage to or loss of personal property for which a settlement was received under the Act. The assignment shall extend to the amount of the settlement payment accepted by the claimant. In addition, the claimant shall furnish the Department such evidence as may be necessary to enforce the claim against the carrier, insurer, or other party. After payment of his/her claim by the United States, the claimant will, upon receipt of any payment from a carrier or insurer, pay the proceeds to the United States to the extent of the payment received by him/her from the United States. Such amount should be forwarded by the claimant to the Relocation Management Office, Property Procurement and Management Section, Finance Division.

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19-7 LIMITATION OF ATTORNEY FEES

No more than 10 percent of the amount paid in settlement of each individual claim shall be paid, delivered to, or received by any agent or attorney on account of services rendered in connection with that claim (Title 31, USC, Section 243).

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19-8 FILING OF CLAIMS

All claims allowable under the Act shall be filed with the Director, FBI, in accordance with the procedures set forth herein.

(1) Who May File a Claim

(a) A claim may be filed by any civilian officer or employee of the Department for damages to or loss of personal property incident to his/her service in the Department.

(b) If a person is deceased, an allowable claim may be filed by the personal representative of the decedent's estate, or the decedent's surviving spouse, children, father or mother or both, or brother(s) or sister(s) or both, provided such claim arose before, concurrently with, or after the decedent's death. Claims of survivors shall be settled and paid in the order listed.

(c) Claims filed by an agent or legal representative of a claimant must be supported by a power of attorney or other satisfactory evidence of authority to file on behalf of the claimant.

(2) Time Limitation on Filing Claims

A claim should be presented as soon as possible after discovery of the damage or loss. Immediate action by a claimant will facilitate the processing of his/her claim. Delays cause difficulty in securing statements of essential witnesses and necessary documents. In order for any claim to be considered for any form of settlement, it must be presented in writing within a two-year period after the occurrence of the loss, except that if the loss occurred in time of war or in time of armed conflict in which the claimant is a Government participant, or if such a war or armed conflict intervenes within two years after the occurrence of the loss and good cause is shown, the claim may be presented not later than two years after that cause

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ceases to exist, or two years after the war or conflict is terminated, whichever is earlier. For purposes of the Act, the beginning and ending of an armed conflict are the dates established by concurrent resolution of Congress or by a proclamation of the President.

(3) Maximum Amounts Allowable Under the Act

(a) The maximum amount which may be paid for a single claim is \$25,000. The submission of two or more claims arising from the same incident in order to circumvent the statutory ceiling is prohibited. However, if upon submission of a claim additional losses or damage are discovered, supplemental claims may be filed but all the claims shall be processed and considered as one claim under the Act.

(b) Claims for Damage in Foreign Countries. Employees with claims arising from incidents occurring in foreign countries on or after December 30, 1978, may be paid an amount not to exceed \$40,000 provided the employee was evacuated from that country on or after December 31, 1978, in accordance with a recommendation or order of the Secretary of State or other competent authority which was made in response to incidents of political unrest or hostile acts by people in that country, and that damage or loss resulted from that evacuation or from any such incident or hostile act; or that damage or loss resulted from acts of mob violence, terrorist attacks, or other hostile acts, directed against the United States Government or its officers or employees. Any claim which falls in this category which has been settled prior to December 12, 1980, may be resubmitted for settlement for any amount not paid initially by reasons of the previous \$15,000 limitation.

(c) Employees with claims in excess of the statutory ceiling are not prohibited from recovering the full amount since they may request the Congress to enact private relief legislation on their behalf in lieu of settlement under the Act. Within 15 days from the date the claim is settled, the claimant may submit a written request to suspend payment of the settlement amount and to request the Congress to enact private relief legislation. Each organization head is responsible for insuring that the Congress is furnished adequate information to consider the claim. All such requests must be submitted through the Assistant Attorney General for Administration, Department of Justice, to the Comptroller General of the United States.

(d) Minimum Claims. Claims are not payable for damage to or loss of property in an amount less than \$25.00.

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(4) Submission of Claim

All claims shall be submitted on Form DOJ-110 (January, 1980) "Employee Claim for Loss or Damage to Personal Property," and Form DOJ-110A, "Schedule of Property." Upon completion of the applicable sections, the claimant shall forward the original and two copies of the form(s) together with appropriate supporting evidence to either his/her supervisor or the official who authorized the use, transfer, etc., of the personal property.

(5) Processing of Claims

The Relocation Management Office at FBIHQ has the responsibility for processing and adjudicating claims for loss/damage to household goods and personal effects under the Acts. Claims will be submitted on DOJ Forms 110 and 110A to FBIHQ, Attention: Relocation Management Office, Room 1638. Relocation Management Office will process employees' loss/damage claims and will then file a claim against the carrier to recover monies due the Government. The following documents MUST be attached to DOJ Forms 110 and 110A when filing a claim:

- (a) Copy of estimate of repairs/replacement (where applicable).
- (b) Copy of receipts for repaired/replaced item (where applicable).
- (c) Copy of Carrier's Descriptive Inventory.
- (d) Any other documents or photographs to support loss/damage as claimed.

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19-9 EVIDENCE IN SUPPORT OF CLAIM

The burden of proof as to the loss or damage of personal property and the value of such property rests with the claimant. The extent of documentation required in support of a claim shall be determined by the official authorized to settle claims. The following documentation should be provided as a minimum, when applicable, by the claimant when submitting his/her claim:

(1) One itemized repair estimate, one estimate as to the value of property prior to damage, and/or one estimate for replacement cost.

(2) A copy of the document authorizing, assigning, or providing the location where the personal property was located at the time the loss or damage occurred.

(3) Evidence, in those cases where a possibility of recovery exists against a carrier, warehouse, insurer, or other contractor, that a claim was filed and denied or there was a refusal to pay the claim in full. The reasons for the denial or refusal to pay in full should be included as part of this evidence.

(4) Statements of witnesses and/or other persons having personal knowledge of the facts underlying the claim.

(5) A copy of the travel authorization if personal property was lost or damaged while in transit and/or while in temporary storage during the transit process.

(6) A power of attorney or other satisfactory evidence of authority to file when the claim is filed by an agent or legal representative of the claimant.

(7) Where a report of loss or damage has been made to local authorities, the case or report number, date, and identity of the officer to whom the report was made. Same as to claims made to carriers and insurers.

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19-10 SUPERVISORY REVIEW

The facts and circumstances surrounding the damage to or loss of the claimant's personal property shall be reviewed by the claimant's supervisor or the official who requested the use of such personal property. This individual, if satisfied that the article(s) in question was in fact reasonable, useful, or proper under the circumstances existing at the time and place of the incident, and also if in his/her opinion the damage or loss was not caused by the negligent or wrongful act of the claimant, his/her agent, dependent or co-worker, then that individual will certify his/her concurrence on the Form DOJ-110 (January, 1980), or if unsatisfied as to the bona fides of the claim, official shall indicate his/her nonconcurrence and forward the claim and all other supporting documentation and justification to the Property Procurement and Management Section, Finance Division, FBIHQ, for review, evaluation, and investigation of the claim. Form DOJ-110 and all supporting evidence shall comprise a claim file.

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19-11 DETERMINING VALUE OF DAMAGED OR LOST PERSONAL PROPERTY

All amounts claimed, recommended, approved or disapproved shall be computed under the guidelines set forth herein.

(1) Factors for Determination of Compensation - Compensation allowable for an item of personal property shall not exceed the depreciated value of the item at the time of its damage or loss. Depreciated value shall be determined by taking into consideration the following factors:

(a) Replacement Cost - The value of damaged or lost personal property is primarily based on the replacement cost at the claimant's duty station at the time of the incident. Replacement cost should be computed on the basis of a new item which is identical to or substantially similar in nature to the item which was damaged or lost. However, in no case shall the replacement cost, within reasonable limits, exceed the original cost of acquiring the item. In these situations, employees should obtain adequate insurance coverage to guard against unusual losses. (See 19-4.)

(b) Estimated (Appraised) Value - If the cost of

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replacing a damaged or lost item of personal property cannot be accurately placed because of the uniqueness or individuality of the item or for other reasons, valuation may be dictated by qualified, reputable, and credible evidence of value at the time of the incident. (See 19-12, on items of extraordinary value.) Appraisals and/or other evidence shall be furnished to ascertain the credibility, reliability, and impartiality of the claim, the appraisal and the resulting valuation.

(c) Adjusted Value - If the value of damaged or lost personal property cannot be determined by other means, the purchase price, or value, at the time of acquisition shall be adjusted to reflect the increased cost of replacing the item resulting from the declining value of the dollar. Sufficient information shall be furnished to enable a sound evaluation to be conducted to arrive at a fair valuation.

(d) Depreciation - Depreciation represents the decrease in the value of an item due to wear and tear, natural deterioration, obsolescence, lack of care and depletion. The rate of decrease varies by type of property. Rates of depreciation for various types of property are found in the Table of Rates of Depreciation.

(e) Salvage - Salvage value represents that portion of the cost of personal property that is recovered at the end of its productive life. Some articles such as typewriters and automobiles are traded in on similar assets at the end of their useful life. Generally, the salvage values of such articles are their trade-in values. Ordinarily, other articles of personal property possess no trade-in value and little or no salvage value but may possess scrap value for its intrinsic material content. Salvage value will be based on the most reliable estimates available and shall be included in all claims where its effect is material.

(f) Collectibles - A collectible is any amount due an individual from an insurance company, carrier, or other person resulting from damage to or loss of an insured article of personal property, or an article lost or damaged while under the care of a carrier or other person.

(g) Cost of Repair - If the property can be economically repaired, the allowable compensation is the actual or estimated net cost of repairs necessary to restore the property to substantially the condition which existed immediately before the damage. The cost of repairs may be established by a receipted bill or one estimate signed by reputable dealers or repairers. If the cost of repairs exceeds the depreciated value of the item at the time of damage, then the depreciated value shall be used as the maximum basis for

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compensation. Claims are not normally payable for fees paid to obtain estimates of repair (or appraised values) in conjunction with submitting a claim under this Act. However, where, in the opinion of the approving officer, the claimant could not obtain an estimate without paying a fee, such a claim may be considered in an amount reasonable in relation to the value and/or the cost of repairs of the articles involved, provided that the evidence furnished clearly indicated that the amount of the fee paid will not be deducted from the cost of repairs if the work is accomplished by the estimator.

(h) Depreciated Value - Depreciated value is that value which remains after depreciation is applied against the replacement cost, estimated value, or adjusted value of an item of damaged or lost personal property. The depreciated value shall be the maximum amount to be awarded in settlement of a claim filed under the Act.

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19-12 ITEM OF EXTRAORDINARY VALUE

An item of extraordinary value is not totally compensable under the Act. An item of extraordinary value is one which because of extraordinary quality of workmanship or design, the high value of materials it contains, or its association with a past event or period, or historical figure, possesses a value far beyond the usual value of an item of like nature. Such an item includes those articles which primarily serve an artistic or decorative purpose, or which are collector's items and should be insured by employees as stated in 19-4. For purposes of this order, an item of extraordinary value is any single item; i.e., painting, china cabinet, or set of items such as silverware or china which has a value in excess of \$3,000. Reimbursement for loss or damage to an item of extraordinary value shall be limited to \$3,000.

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19-13 EMERGENCY PARTIAL PAYMENTS

Quite frequently a claimant is in immediate need of funds to replace damaged or destroyed property and avoid unnecessary hardship and inconvenience. An emergency partial payment is authorized under the following circumstances:

- (1) A hardship situation must exist;
- (2) The total amount claimed is within the monetary jurisdiction of the approving or settlement authority involved; and
- (3) It is determined that the claim is clearly payable under the Act, in an amount exceeding the amount of the proposed emergency payment. Prior to making any advance payment, the authority approving such payment normally will obtain an executed acceptance agreement from the claimant or his/her representative in the language and format indicated below:

EMERGENCY PARTIAL PAYMENT ACCEPTANCE AGREEMENT

(Date)

I, _____, agree to accept the sum of \$ _____ as a partial payment in order to alleviate immediate need and in partial settlement of my claim for (property damage) (property loss) sustained by me as the result of an incident on _____ involving a (shipment of household goods) (loss in quarters) _____ (other).

I understand that this amount will be deducted from any award made in final settlement of my claim.

(Claimant's signature)

(Name printed)

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||19-14| INSTRUCTIONS FOR PREPARING FORM DOJ-110

Complete an original and two copies in accordance with the instructions in the following paragraphs which are keyed to the form on a following page.

(1) Name of Claimant - Enter the full name of the claimant. If the claimant is other than the employee, enter the name of the employee in parentheses below that of the claimant.

(2) Title of Position - Enter the position of the employee at the time the loss or damage occurred.

(3) Address of Claimant (Include ZIP Code) - Enter the current mailing address of the claimant.

(4) Office Where Employed/Telephone No. - Enter the name of the office (organizational unit) which employed the employee at the time the loss or damage occurred.

(5) Location of Office (at Time of Incident) - Enter the name of city and state where the employee's office was located at the time the loss or damage occurred.

(6) Social Security No. - Enter the social security number of the claimant.

(7) Location Where Loss or Damage Occurred - Enter the address of the building where the property was located when the loss or damage occurred. If the property was in transit, state the point of origin and destination.

(8) Date of Loss or Damage - Enter the date on which the loss or damage occurred. If the property was in transit and the date is not known, indicate the dates on which the property was in transit.

(9) Facts and Circumstances of the Incident - State in detail all the facts and circumstances under which the loss or damage occurred.

(10) Affirmations and Claimant Certification - Answer in the appropriate block either "Yes" or "No" for each of the indicated questions. The claimant shall then sign his/her full signature and date. When signing this claim, the claimant certifies that he/she is entitled to any payments made and is aware of penalties for willfully making a fraudulent claim.

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(11) Amount of Claim - Enter the sum of the figures from the amount claimed column of the Schedule of Property (DOJ-110A). From this total subtract any amount collected or collectible from an insurance company or carrier to arrive at the total amount claimed.

(12) Supervisory Certification - Have the employee's supervisor or the cognizant supervisory official who corrected the use of the article(s) in question attest to the validity and propriety of the claim by signing and dating the claim.

(13) Claims Recommendation - Leave blank. This section is to be completed by the reviewing official.

(14) Approval of Claim - Leave blank. This section is to be completed by the settling official.

(15-17) Voucher No., Schedule No., Paid by Check No. - Leave blank. To be completed by accounting officials.

(18) Accounting Classification - Leave blank. To be completed by accounting officials.

NOTE: See sample of Form DOJ-110 which follows.

FORM NOT AVAILABLE AS IMAGE ON MAINFRAME - SEE ERL SEARCHING GUIDE

EFFECTIVE: 10/30/84

||19-15| INSTRUCTIONS FOR PREPARING FORM DOJ-110A

Complete an original and one copy in accordance with the instructions in the following paragraphs which are keyed to the form.

(1) Claimant - Enter the full name of the claimant. If the claimant is other than the employee, enter the name of the employee in parentheses below that of the claimant.

(2) Page of - Consecutively number each page of the Schedule of Property. Indicate the total number of pages comprising the schedule. This information will ensure that all pages are accounted for.

(3) Line Number - Consecutively number each article listed.

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PART I

SECTION 19. EMPLOYEE CLAIMS FOR LOSS OR DAMAGE TO PERSONAL PROPERTY

DEPARTMENT OF JUSTICE
 EMPLOYEE CLAIM FOR LOSS OR DAMAGE TO PERSONAL PROPERTY
 (SUBMIT IN TRIPLICATE)

INSTRUCTIONS TO CLAIMANT

To present a claim for an incident to service loss pursuant to 51 U.S.C. 240-243, a request for the payment of a specific sum of money must be submitted in writing within two (2) years of the date of the incident giving rise to the claim. The two-year period of limitation, being statutory, may not be waived.

Items 1-11 of this form should be completed fully and signed by the claimant. Item 12 shall be completed by the official who authorized the use of the articles for which the claim is submitted. Item 13 shall be completed by the designated reviewing official. Item 14 shall be completed by the official authorized to approve payment. Item 15-18 are reserved for accounting use.

If the claim is for loss of, or damage to, personal property while being transported or stored incident to the service or employment of the claimant, all documents relating to such transportation or storage, e.g., the Government Bill of Lading, Warehouse Receipt, transfer orders, etc., must be attached.

You are entitled to claim the following:

- a. The reasonable local repair cost if an item is economically repairable. In such case, a written estimate of repair from a reliable, disinterested concern, or if repairs have been completed, a signed itemized receipt should be attached.
- b. The reasonable local replacement price if an item is lost, destroyed or not economically repairable. A statement from a reliable, disinterested concern must be attached attesting to the replacement price of the same or a substantially similar item.
- c. The reasonable cost of obtaining local estimates of repair/replacement cost, provided such estimates can not be obtained without cost and such costs are not refundable upon completion of repairs.

Further instructions or information are prescribed in Order DOJ 2110.23A.

CLAIM IS HEREBY SUBMITTED FOR DAMAGE TO OR LOSS OF PERSONAL PROPERTY INCIDENT TO SERVICE OR EMPLOYMENT

1. Name of Claimant		2. Title of Position	
3. Address of Claimant (Include Zip Code)		4. Office Where Employed/Telephone No.	
		5. Location of Office (at Time of Incident)	
6. Social Security No.	7. Location Where Loss or Damage Occurred		8. Date of Loss or Damage

9. Facts and Circumstances of the Incident (State facts in detail, use additional sheet if necessary.)

10. Affirmations and Claimant Certification:

- a. Was the damage or loss for which claim is made caused in whole or in part by any negligence or wrongful act on your part, your agent's part, or another employee's part?
- b. Have you recovered any of the property or has any of it been replaced by the Government?
- c. Do you have private insurance?
If answer to c. is "YES" is all correspondence with your insurer, including a copy of your demand for reimbursement, attached?
- d. Has a demand been made against the common carrier or warehouseman involved?
If answer to d. is "YES", is all correspondence with carrier or warehouseman attached, including a copy of the demand for reimbursement?
- e. Were any of the claimed items Government property? If answer is "YES", then so indicate on Form DOJ-110A (Schedule of Property).
- f. Was any portion of property claimed, acquired, or held for sale or disposition by commercial transactions, or for use in a private profession or business enterprise?
- g. If any of the property for which claim is made is later recovered, I agree to give written notice to the office paying this claim.
- h. All documents required are attached hereto, and a detailed list of the property is set forth on Form DOJ-110A (Schedule of Property) and made a part of this statement. I have full knowledge of the penalties involved for willfully making a false, fictitious, or fraudulent claim. (Section 287 of Title 18, U.S.C., provides a maximum fine of \$10,000 or imprisonment for five years or both.)
- i. I hereby assign to the United States, to the extent of any payment on this claim accepted by me, all my right, title, and interest in and to any claim I have against any carrier, insurer, or other party arising out of the above described incident and will, upon request, furnish such evidence as may be required to enable the United States to enforce such claim.
- j. I further authorize the United States to withhold from my pay or accounts for any payments made to me by a carrier, insurer, or other party when I am also reimbursed by the United States and for any payments made by the United States in reliance on the information contained herein which thereafter is determined to be incorrect or untrue.
- k. I hereby authorize my insurer to release any information to the United States regarding insurance coverage I have for this loss.
- l. I have not made a previous claim against the United States for loss or damage now claimed.

(N.B. If explanations are necessary, provide same on additional sheet and attach hereto.)

	YES	NO
a.		
b.		
c.		
d.		
e.		
f.		
g.		
h.		
i.		
j.		
k.		
l.		

11. Amount of Claim (In U.S. Money Taken from Form DOJ-110A)

Amount of Loss/Damage _____

Less: Insurance Collected or Collectible _____

Total Amount Claimed _____

Signature of Claimant _____ Date _____

PREVIOUS EDITIONS OBSOLETE

Form DOJ-110 January 1980

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SECTION 19. EMPLOYEE CLAIMS FOR LOSS OR DAMAGE TO PERSONAL PROPERTY

12. Supervisory Certification: I certify that the article(s) in question was reasonable, useful and proper under the circumstances, and also to the best of my knowledge the damage or loss was not due to a negligent or wrongful act of the claimant, his/her agent, dependent or co-worker.

Signature:

Name

Title

Date

13. Claims Recommendation:

This claim has been reviewed, evaluated, and investigated, and is forwarded herewith together with supporting papers marked Exhibits _____ through _____. On the basis of such examinations which were deemed necessary under the circumstances surrounding the claim, the claim is recommended for final settlement as follows:

Date Claim Received

Disapproved

Approved

Amount

Organization

Typed Name of Claims Officer

Signature of Claims Officer and Date

14. Approval of Claim:

After due consideration I have determined that this claim is meritorious and is cognizable under 31 U.S.C. 241; the claimant is a proper claimant; and an award of \$ _____ is approved.

After due consideration I have decided to disapprove the claim for the following reason(s):

Typed Name of Approving Authority

Signature and Date

DATA REQUIRED BY THE PRIVACY ACT OF 1974 (5 U.S.C. 552a)

AUTHORITY: 31 U.S.C. 240-243 and 951-953

PRINCIPAL PURPOSE: Filing, investigation, processing and settlement of claims.

ROUTINE USES:

a. Information is principally used to provide a legal basis for administrative payment of claim against the Government. Information is also used in connection with:

- (1) Recovery from common carriers, warehousemen, other third parties or their insurers for damage, loss, or destruction of personal property of employees while in transit or storage at Government expense.
- (2) Collection from claimant of improper payment or overpayment.
- (3) Investigation of possible fraudulent claim.
- (4) Possible criminal prosecution by the Department of Justice if fraud is established.

b. SSN is used to insure correct identification of claimants as this is the only means of insuring payment to proper claimant and to avoid payment of duplicate claims.

MANDATORY OR VOLUNTARY DISCLOSURE AND EFFECT ON INDIVIDUAL NOT PROVIDING INFORMATION: Disclosure of information is voluntary. Failure to supply information in substantiation of claim will cause delay in settlement and may result in denial of a portion or all of the claim.

15. Voucher No.

16. Schedule No.

17. Paid by Check No.

18. Accounting Classification

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(4) Description of Article - Enter the name of the article. If known, also enter the brand, manufacturer and model, serial or ID number, or other information available to more specifically describe the article. For claims regarding household goods, include inventory item number as listed on carriers' Household Goods Descriptive Inventory.

(5) Nature and Extent of Damage

(a) Describe the nature and extent of damage received by each damaged article listed.

(b) Insert the word "missing" next to each lost article listed.

(6) Date of Purchase or Acquisition - Enter the month and year for purchase or acquisition. When the month is unknown, enter June. When the exact year is unknown, enter the best estimate.

(7) Value of Item/Basis - Enter the value of the lost or damaged article of personal property less applicable salvage value. The value of the item shall be based upon either the replacement cost, the estimated value as supported by appraisals, or the original purchase price if known. The basis upon which the article is valued should be indicated by inserting after the value either an "R" for replacement cost, "E" for estimated value, or "O" for original purchase price.

(8) Depreciation (Rate) - Leave blank. This column to be utilized by the adjudicating officer.

(9) Depreciation Amount - Leave blank. This column to be utilized by the adjudicating officer.

(10) Maximum Amount Allowable - Leave blank. This column to be utilized by the adjudicating officer.

(11) Cost of Repairs - Enter the cost of repairing a damaged item of personal property as supported by a receipted bill or estimate signed by a reputable dealer. If the item is missing, then insert an "N/A" in this column to indicate that this step is not applicable.

(12) Amount Claimed. Enter the amount which is claimed.

(13) and (14) Reserved for Reviewing Official. Leave blank. These columns are to be utilized by the reviewing officials.

NOTE: See sample of Form DOJ-110A which follows.

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| Sample: DOJ-110A |

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SECTION 20. MISCELLANEOUS PERSONNEL MATTERS

| 20-1 | DELETED |

EFFECTIVE: 11/15/93

| 20-1.1 | Deleted |

EFFECTIVE: 11/15/93

| 20-1.2 | Deleted |

EFFECTIVE: 11/15/93

20-2 CHANGES IN STATUS

Changes in status are to be reported to FBIHQ immediately as set out below. In reporting a marriage, birth, illness, accident, death, or any similar situation, include the employee's residence address. In instances in which the employee is called out of town, set out length of anticipated absence and the address where employee will be located along with the permanent residence address.

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20-2.1 Address and Telephone Number

Report to FBIHQ each change in address of an employee
(separations from Bureau excluded) on Form FD-310.

EFFECTIVE: 07/27/90

20-2.2 Births

Report births on Form FD-207a.

EFFECTIVE: 07/27/90

20-2.3 Deaths

EFFECTIVE: 09/25/87

20-2.3.1 Deaths of Relatives

Submit Form FD-208 in cases of death of a close relative of an employee. The deaths of other relatives need not be reported unless there is a particular reason why FBIHQ should be advised. If the employee is temporarily assigned elsewhere, as in cases where on an inspection assignment, the official to whom he/she is then assigned should notify FBIHQ in addition to notifying the employee's office of assignment.

EFFECTIVE: 09/25/87

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20-2.3.2 Death of Bureau Employee

When a Bureau employee dies, promptly notify FBIHQ of death and surrounding circumstances. Render all assistance possible to relatives. Promptly advise FBIHQ of funeral details as soon as available since this information is disseminated throughout FBIHQ and the field. FBIHQ will then issue instructions separately regarding handling of certain aspects of the deceased's estate which pertain to employment.

EFFECTIVE: 09/25/87

| 20-2.4 | Deleted |

EFFECTIVE: 09/20/93

20-2.4.1 Return to Duty

(1) In those instances in which FBIHQ has been advised of an employee's absence for illness, Form FD-277 must be submitted upon return to duty with the following items executed for Agent personnel:

(a) Physician's statement indicating employee's qualification for duty;

(b) "Employee returned to active duty _____;"

(c) "Employee's physical condition is _____."

(2) Only items (b) and (c) need be executed for support employees. If condition warrants an Agent having medical mandates (restrictions), indicate on Form FD-277 that this is being done UACB.

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20-2.5 Change in Marital Status - Payroll Name

EFFECTIVE: 09/25/87

20-2.5.1 Marital Status (See also Manual of Investigative Operations and Guidelines, Part I, 67-18, "Reinvestigation of FBI Personnel.")

Form FD-292, "Change in Marital Status" form, must be executed by all employees sixty days prior to the contemplated marriage date, if practicable. If marriage is to take place between two Bureau employees, submission of this form is not necessary. Upon receipt of this form, office indices must be checked on the intended spouse, as well as their close relatives. Check name of intended spouse through all files of local law enforcement agencies covering residences, places of employment, and/or schooling for the five years preceding contemplated marriage, but not before intended spouse reached age 15.

(1) If the intended spouse is not a native citizen of the United States, verify naturalization through Immigration and Naturalization Service (INS) records or court records. When setting forth leads to have naturalization verified, it is imperative that sufficient information be furnished, such as date and place of entry into the United States, date and place of naturalization, and naturalization number.

(2) If the intended spouse is not a U.S. citizen, review files of INS and report any pertinent information. If record is not located in local INS Office, determine where it is located and set forth lead to have record reviewed.

(3) If the intended spouse presently resides or is known to have resided in a foreign country, the files of the Central Intelligence Agency (CIA) are to be checked, except when the intended spouse's foreign residence occurred while serving in the armed forces of the United States. CIA checks will be handled by FBIHQ through the Office of Liaison and International Affairs, Domestic Liaison Unit. The office initiating the investigation should ensure sufficient identifying data to establish the intended spouse's identity is provided for conducting such checks.

(4) Any derogatory data should be immediately furnished to FBIHQ. The office where the employee is assigned should set forth

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any necessary leads to any other offices in whose territory the intended spouse resided during the pertinent period. Such leads are to be set forth by Form FD-388, with an information copy to FBIHQ enclosing the original of Form FD-292. A five-day deadline should be set in this type of case.

(5) If the intended spouse has served in the military service during the past five years or is currently a member of the armed forces, set out a lead to have complete military record reviewed. Also check records of the intelligence and criminal investigative divisions of the appropriate branch of the armed forces.

(6) | In all change in marital status cases, prior to submission of the FD-292 to FBIHQ, the Security Officer of the processing field office should review the FD-292 for completeness and determine if the employee's marriage could result in the possible coercion or undue influence by the intended spouse over the employee so as to possibly compromise the interests of national security or whether the intended spouse or intended spouse's family members are non-U.S. citizens which indicates possible security consequences. (See MIOG, Part I, Section 67-18.1.2, "Marriage Program.") |

| (7) | Investigative results are not to be maintained in field office files; immediately after submitting information to FBIHQ, the field office communications containing the investigative results are to be destroyed. Such matters should be captioned with the employee's name, followed by "Change in Marital Status, Personnel Matter." | The field office may retain a copy of the FD-292 in the employee's field personnel file for administrative purposes. | Form FD-207 should be executed and submitted to FBIHQ immediately upon confirmation of the marriage. Any change in payroll name, including those as a result of marriage, should be forwarded on this form. Employees who return to active duty from service in the armed forces shall execute Form FD-224, and FBIHQ will set out any leads necessitated by the marriage of an employee during their absence in the military service.

EFFECTIVE: 04/27/90

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20-2.5.2 Divorces, Annulments or Separations

Promptly submit Form FD-207 to advise FBIHQ of any divorce or annulment action involving an employee or of any permanent separation of an employee from spouse. Furnish pertinent details in all instances.

EFFECTIVE: 04/27/90

20-2.5.3 Name Changes

(1) The general rule on the use of a name on an employee's record is consistency. Employee's name should be shown the same way on all Government records. Submit Form FD-207 when an employee's name changes as a result of marriage or a court action, such as divorce or a legal name change. Copies of the court action should be attached to the FD-207.

(2) Requests received which reflect a nickname, enclosed in parentheses or quotation marks, will not be considered part of the employee's official Bureau name.

(3) Employees may hyphenate their last name providing the last name does not exceed 15 spaces with the total name not to exceed 20 spaces.

(4) Personnel documents that require a middle name or initial and employee has no middle name or initial, "NMN" should be indicated.

(5) The Bureau must accept and process any request of an employee's name change which results from marriage or a court action. The Bureau is under no obligation to process a name change which is not the result of one of the above actions.

(6) The Bureau will accept a request that is not the result of marriage or a court action, when the following three conditions are met:

(a) The laws of the employee's state of residence do not expressly provide that name changes can be accomplished only by court action.

(b) The agency has no reason to believe that the

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name change is being made by the employee with the intention of fraud or deceit.

(c) The employee expects to continue to use the new name in all employment and employment-related records.

EFFECTIVE: 04/27/90

20-2.6 Name of Parent, Foster Parent, Stepparent, Guardian, etc.

Advise FBIHQ of change by letter using FBI memorandum paper. Communication must set out name, address, age, place of birth, occupation, and, if pertinent, date and place of naturalization.

EFFECTIVE: 07/27/90

20-2.7 Emergency Notification Designee

Advise FBIHQ of change in information regarding person to be notified in case of emergency by reporting change on Form FD-310.

EFFECTIVE: 07/27/90

20-2.8 Deleted

EFFECTIVE: 07/27/90

20-3 FBI SKILLS BANK

The FBI Skills Survey Form, X422, must be completed by all employees entering on duty. Thereafter, forms will be updated annually on a preprinted form. Each employee will receive the preprinted form in October or November. The Skills Form will be used to maintain an automated data base from which all personnel information, including skills data, can be obtained. The data is used for a variety of functions, including resource management projections, staffing, crisis management, and for further development and implementation of other automated systems. Data obtainable includes,

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but is not limited to, employees': hobbies, interests, abilities, and experience; educational levels; special Bureau qualifications; and personnel information, such as age, assignment(s), grade(s), etc. Data can be obtained or manipulated depending upon information needed.

EFFECTIVE: 04/23/91

20-4 PERSONNEL FILES

EFFECTIVE: 06/09/95

20-4.1 Field Personnel Files

(1) One field personnel file is to be maintained for each employee and kept in the sole possession of the SAC. The file should contain memoranda or other documents bearing on the employee's efficiency, or on such matters as authorizing an Agent to carry a personal firearm. There should only be one copy of each document and it should be serialized, stamped with the office stamp, and initialed for filing. When an employee is transferred to a new office, their personnel file is sent there and the new office continues to serialize where the previous office left off. The index must be searched to locate any investigative files regarding the employee when an employee reports to an office. Duplicate serials from the investigative file should be discarded and the remaining serials consolidated into the personnel file. (See MAOP, Part I, 11-1.3(1), Part II, 2-4.2.1(4) & Legal Attache Manual, Section 4-3.)

NO documentation regarding Equal Employment Opportunity (EEO) discrimination matters, to include precomplaint counseling, are to be placed in any personnel file or field office file. Examples of such documents are: EEO settlement agreements, EEO administrative leave matters, notification communications to division heads advising that a complaint was filed, and communications from complainants, their attorneys, the FBI's Office of Equal Employment Opportunity Affairs (OEEOA) and the Equal Employment Opportunity Commission which identify complainants. This also includes any and all documents generated during an EEO complaint investigation. To maintain confidentiality throughout the EEO process, all such documentation is to be retained by

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b2
the OEEOA, unless advised to the contrary by OEEOA. Documents pertaining to EEO administrative matters, which DO NOT relate to or identify an EEO complainant are not considered confidential and may be serialized in a personnel file or field file as deemed appropriate. In any instance where assistance is needed to determine where a document should be filed, contact should be made with the OEEOA at FBIHQ, extension [REDACTED]

(2) Information contained in medical records is protected by the Privacy Act of 1974, Title 5, United States Code, Section 552a. The Privacy Act precludes disclosure or dissemination of protected information to secondary parties without the written permission of the subject or pursuant to the enumerated exceptions in subsection (b) of the Act. Any employee who willfully discloses medical material in any manner to any person or agency not entitled to receive it is guilty of a misdemeanor and could be fined.

(a) A separate medical file is to be created as a subfile to the employee's personnel file and designated Sub M. To illustrate, if the employee's existing file is numbered 67-AL-12345, the corresponding Employee Medical File System (EMFS) subfile will be numbered 67-AL-12345 Sub M.

(b) Documents that should be filed in the EMFS subfile are:

1. Physical examination reports and records
2. | FD-856 - Request for Reasonable Accommodations (and all attachments) |
3. Correspondence relating to Medical Profile System, medical mandates (restrictions) - when an illness is described
4. FD-277 - Return to Duty Matters - when illness is mentioned
5. Physical condition matters - when illness is described
6. Compensation forms describing accident/illness
7. Communications relating to physical examination matters and overweight matters

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8. Doctor's certificates when an illness is described

9. Communications relating to psychiatric status/care

(c) Documents that should NOT be filed in the EMFS subfile and should remain in the personnel file are:

1. Maternity leave matters

2. Deleted

3. Deleted

4. FD-277 - Return to Duty Matters - when illness is NOT mentioned

5. Physical condition matters - correspondence relative to leave during extended illness/hospitalization - when the illness is NOT described

6. Compensation forms NOT describing accident/illness

7. Doctor's certificates when an illness is NOT described

The main file and the corresponding EMFS subfile are to be cross-referenced to each other in the "See also Nos" space provided on the file cover, Form FD-245d. The EMFS subfile will accompany the main personnel file to an employee's new office upon transfer. When an employee retires, resigns, etc., both files will be forwarded to FBIHQ in accordance with guidelines in Section 20-4.1 (4).

(d) In field offices the EMFS subfile must be kept under lock and key under the SAC's supervision in such a manner that no employee will have access to his/her own file. The SAC may designate an employee to have oversight of the medical files. In field offices with a permanent Health Service, this duty shall be assigned to the Occupational Health Nurse. It is imperative that all employees with access to medical files understand the legal ramifications of this responsibility.

1. It will be incumbent upon the field office Occupational Health Nurse, or designated personnel, to not only

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designate the items for inclusion in the EMFS but also provide the authorization for the folder's release to appropriate users, noting the sensitive medical and psychological material that is occasionally contained therein. The field office should maintain a list of individuals authorized to receive medical files.

2. All medical information coming to the attention of the SAC should be directed to FBIHQ, Chief Medical Officer, via the Health Care Programs Unit. In the event that questions arise regarding the propriety of the release of medical information, the FBIHQ, Occupational Health Nurse Manager, should be consulted for guidance.

(3) A separate security file is to be created as a subfile to the employee's personnel file and designated Sub S whenever a security adjudication is initiated at FBIHQ, or whenever a personnel security-related document is generated by the field, or whenever a similar document is received from FBIHQ. To illustrate, if the employee's existing file is numbered 67-BF-12345, the corresponding Employee Security subfile will be numbered 67-BF-12345 Sub S. (See Legal Attache Manual, 4-3.)

(a) The Employee Security File subfile will contain documents such as:

1. FD-190 Interview
2. Polygraph examinations
3. Relative sheet
4. All background matters
5. SF-61 appointment affidavits
6. 2-46 FBI pledge
7. FD-291 employment agreement summary brief
8. OPF - Official Personnel Folder
9. FD-294 Agency check results
10. FD-814 Five-Year Reinvestigation

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11. Bankruptcy matters
12. Administrative inquiry pertaining to security
13. Roommate background check matters
14. FD-388 marriage background and FD-292 marriage status
15. Foreign travel information of any kind (FD-772)
16. Security clearances, briefing and debriefing material
17. Bureau employee residing in close proximity to communist bloc personnel
18. SF-189 nondisclosure agreement
19. Bureau acquaintance interview
20. Five-year reinvestigation results

The security subfile will accompany the main personnel file to an employee's new office upon transfer. When an employee retires, resigns, etc., both files will be forwarded to FBIHQ in accordance with the guidelines in MAOP, Part I, Section 20-4.1 (4).

(4) When an employee transfers to FBIHQ or becomes an SAC, the personnel file, the EMFS subfile and the Employee Security subfile are sent to FBIHQ. The files of an employee who resigns or retires should be retained for 90 days and then sent to FBIHQ for final disposition. The files of a permanent or temporary indefinite employee leaving for military service are maintained in the field office inasmuch as employees have certain mandatory restoration rights and may return to that office, and because, in their absence, they have a right to be considered for promotions that arise. The file should thus be available for review for qualifications. Upon notification from FBIHQ that an employee no longer has restoration rights, the files are to be forwarded to FBIHQ. (See (2) and (3) above & MAOP, Part II, 2-4.2.1(4).)

(5) The main personnel file and the corresponding EMFS subfile and Employee Security subfile must be kept under lock and key

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under the SAC's supervision in such a manner that no employee will have access to his/her own file.

EFFECTIVE: 12/13/96

20-4.2 Employees' Access to Personnel Files (See MAOP, Part I, 1-3.6; MIOG, Part I, 190-2.6; Legal Attache Manual, Part 1, 4-3.)

(1) An employee may request and be afforded access to his/her official personnel file without submitting a Privacy Act request. For the purposes of this access provision, an official personnel file is defined as an employee's 67 file record along with any subfiles which exist as a part of the 67 file record such as the Sub M, Sub S, etc. Any employee for whom there are both a field office file and an FBI Headquarters (FBIHQ) file will have the option of indicating whether he/she wants access to one or both files. To access his/her official personnel files without submitting a Privacy Act request, an employee should execute an FD-834.

(2) With the exception of LEGATs, each FBIHQ division and field office will be responsible for responding to requests for access to official personnel files by employees assigned to their respective division/office. (LEGATs will forward requests from employees assigned to their offices to FBIHQ for handling.) Field offices will also be responsible for handling requests from employees assigned to resident agencies within that office's territory.

(3) Field office employees will submit an executed FD-834 to the Special Agent in Charge (SAC) or Assistant Director in Charge (ADIC). FBIHQ employees will submit an executed FD-834 to the Assistant Director (AD) of their assigned division or their office head.

(4) An employee's field office personnel file will be made available for inspection within 15 days of his/her request. An employee's FBIHQ personnel file will be made available for inspection within 45 days of his/her request. The 15- and 45-day periods for providing access to field office and FBIHQ personnel files, respectively, will begin upon RECEIPT of the employee's request by the SAC, ADIC, AD or office head.

(5) Upon review of the file, an employee will be afforded

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an opportunity to submit to the respective SAC, ADIC, AD or office head a response or rebuttal to any information in his/her official personnel file for inclusion in that file.

EFFECTIVE: 04/03/96

20-5 PHYSICAL PROGRAM

EFFECTIVE: 04/23/91

20-5.1 Physical Examinations

Such examinations are required for all Special Agents, Electronics Technicians, and support employees assigned to all foreign offices and San Juan (Anchorage and Honolulu excluded). Such examinations are not to include routine chest X-rays. Additionally, each Language Specialist will be afforded an annual audiometer examination to ensure the hearing of each Language Specialist is adequate for that position.

EFFECTIVE: 04/23/91

20-5.1.1 Date and Frequency of Examinations

(1) Special Agents, Electronics Technicians (ET), and support employees assigned to all foreign offices and San Juan (Anchorage and Honolulu excluded) must receive fitness-for-duty physical examinations on a triennial basis up to age 33 and annually thereafter at a Government examining facility, or an approved private medical facility. On SF-88 "Report of Medical Examination," ensure that items 2 and 5 are properly executed. Item 2 should indicate SA, ET or support employee and item 5, for all categories listed above, should specify "fitness-for-duty." Maintain a tickler for July 1st of each year and submit a report to FBIHQ at that time, alphabetically listing names of those delinquent. Include dates when they have been scheduled for examination. Include in report an alphabetical list of those who had examinations but whose reports have not been received from the hospital or forwarded to FBIHQ. Report dates when those in the latter category received their examinations. At same time,

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certify that there is a tickler maintained for such employees in your office. A quarterly check of physical examination ticklers must be made to prevent such personnel from becoming delinquent.

(a) To obtain the services of a private facility, information must be submitted documenting the inadequacy of current physical examinations and recommending an alternative delivery of medical services.

(b) Requests for authorization for private medical examinations should include an estimate of the number of persons to be examined annually, the cost per examination and estimated total annual expenditures for all medical examinations. Such requests must be fully documented and include comparative cost estimates reasonable for the area. If extensive time and travel costs are incurred, physical examinations may be performed locally by a private physician when it is more efficient and economical to do so. All fitness-for-duty examinations must be performed under the supervision and direction of a qualified doctor of medicine.

(2) Each Language Specialist will be afforded an audiometer examination on an annual basis. Results of these annual audiometer examinations are to be submitted to FBIHQ for review. SAC, or FBIHQ division head, and employee will be advised of any negative information developed as a result of the annual audiometer examination.

EFFECTIVE: 04/23/91

20-5.1.2 Employee Responsibility to Provide Information

Employees undergoing such examinations must, when interviewed by the medical examiner, advise examiner of pertinent physical symptoms, medical history, including any defects or injuries for which such employee may be receiving pensions or compensation awards from the Office of Workers' Compensation Programs, Department of Veterans Affairs, and the like, in order that the medical examiner may adequately consider this information as relating to the scope of the examination.

EFFECTIVE: 08/29/90

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20-5.1.3 Employee Responsibility to Report Treatment

All investigative personnel, Electronics Technicians and Language Specialists must promptly notify their SAC or division head when they receive treatment, care or attention from a private physician for a condition which might impair an employee's fitness for duty. These employees must also notify division head or SAC of any condition manifesting itself to the extent of impairment of fitness for full duty, even though such condition is not being treated by a physician. FBIHQ should be promptly advised of treatment for any serious condition. Colds and other minor illnesses need not be made a matter of record.

EFFECTIVE: 08/29/90

20-5.1.4 Provision of Information to Medical Examiner

The medical examiner must be furnished with a copy of the previous report of medical examination (SF-88), its attachment (FD-300), and SF-93, a report of medical history. Form SF-93 must be executed in advance of the physical examination and be reviewed by the SAC or division head to ensure it has been fully executed in respect to the listing of all significant medical history and current physical complaints. The medical examiner will, therefore, be fully informed at the time he/she renders his/her fitness-for-duty physical determination. In any case in which the nature and extent of physical defects indicate a serious question of fitness-for-duty, SAC or division head must not only advise the medical examiner of such conditions but also advise medical examiner of the nature of duties required of Special Agents and Electronics Technicians. SF-93 must be used for all fitness-for-duty examinations for all personnel mentioned above and for those support personnel required to undergo an examination whose foreign office assignment is contingent upon the satisfactory results of a physical examination. SF-93 should not be used in clerical applicant cases. SF-93 must not be placed in an official personnel folder. It should be retained permanently and separately, apart from field and FBIHQ personnel files, preferably with the electrocardiogram tracings. SF-93 should not be sent to FBIHQ with the SF-88 and its attachment, FD-300. Upon separation from the service SF-93 should then be sent to the Employee Benefits and Health Care Programs Unit, Personnel Recruiting and Benefits Section, with the electrocardiogram tracings for permanent retention.

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EFFECTIVE: 08/29/90

20-5.1.5 Authority for Examinations and Related Follow-Up Actions

No fitness-for-duty physical examination is to be arranged for any individual without prior authority of FBIHQ. The exceptions are the required physicals and annual audiometer examinations afforded at designated medical facilities that are assigned by the Fitness-for-Duty Subunit, Health Care Programs Unit. Physicals arranged by employees with their private physicians will not serve as a substitute for the Bureau-required fitness-for-duty physical. The FBI will not pay for any physicals that have not been properly authorized.

EFFECTIVE: 12/27/93

20-5.1.6 Requirement for Electronics Technicians

Electronics Technicians who wear glasses while performing their duties must wear nonmetallic electrically safe eyeglasses.

EFFECTIVE: 03/26/92

20-5.2 Medical Profile System

(1) This system outlines the medical, physical, and job-related environmental parameters determined necessary to accommodate the employee's physical or mental capabilities or restrictions. Medical Profile is a system in which an employee is identified in a particular category relative to his or her current individual medical status or condition. Each profile states whether or not the employee is medically qualified to perform the full duties of his or her job description.

(2) The Medical Profile System also includes medical mandates that outline the medical, physical, and job-related environmental parameters needed to accommodate the employee's medical condition or disability.

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(3) A physician's medical diagnosis, laboratory and examination results will be kept in a separate, strictly confidential record system. The diagnostic information will be revealed only in accordance with the standards of practice and medical confidentiality, i.e., with permission of the employee.

EFFECTIVE: 12/27/93

20-5.2.1 Special Agents

(1) Medical mandates (restrictions) are assigned by the Bureau's Chief Medical Officer (CMO), a Bureau physician, or a private physician utilized by the employee when he/she has an illness, injury, physical/medical or mental condition that precludes or limits their ability to perform the expected duties of their position.

(a) Condition will be followed closely by the Fitness-For-Duty Subunit, Health Care Programs Unit to effect the proper assignments of medical mandates (restrictions) as well as the removal of medical mandates.

(b) Nonarduous duties will be designated based on the medical mandates that are assigned to the employee, taking into consideration his/her physical and/or medical capabilities.

(c) It will be determined by the physician if an employee is medically capable of assignments involving raids, arrests, and use of firearms.

(2) Agents on Medical Profile System with assigned medical mandates (restrictions) are to be permitted to participate in firearms training, including defensive tactics, provided the Agent's evaluating physician is fully familiar with the Agent's condition, the nature of the training to be undertaken, and furnishes a written statement that, in the physician's opinion, such participation would not be injurious to the Agent's health or dangerous to others. (See MIOG, Part II, 12-16 (1).)

(3) In instances where the evaluating physician does not certify the Agent to attend training and the prospects for future participation are remote due to the Agent's condition, authority to

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carry a firearm will be rescinded and any Bureau-issued weapon turned in. (See MIOG, Part II, 12-16 (2).)

(4) When a doctor recommends removal of medical mandates (restrictions), a medical statement from the physician must be submitted to Fitness-for-Duty Subunit, Health Care Programs Unit, FBIHQ to support the employee's removal from medical mandates subject to approval by the FBI's CMO.

(5) Special Agents with a seizure disorder (epilepsy) will be assigned medical mandates (restrictions) that will include no authorization to carry a Bureau firearm, no participation in raids, arrests, dangerous assignments, and no stressful or strenuous situations that may cause a potential danger to themselves or others.

(a) Driving restrictions will be imposed according to state requirements.

(b) Special Agents not on anticonvulsant therapy will be maintained on these medical mandates until: 1) They are seizure-free for a period of one (1) year, and 2) They have a normal awake-and-asleep electroencephalogram, free of epileptiform abnormalities at the end of that one (1) year.

(c) Special Agents with a seizure disorder on anticonvulsant therapy will be maintained on medical mandates until the following requirements are met:

1. They are seizure-free, while on medication, for a period of one (1) year.

2. They are evaluated by a neurologist or epileptologist for the possibility of slowly being tapered off anticonvulsant therapy after the one (1) year seizure-free period. A statement must be obtained from the neurologist or epileptologist stating that the Agent has been evaluated and that tapering the medication is not contraindicated.

a. Irrespective of state motor vehicle requirements, a Special Agent being tapered off the anticonvulsant therapy will not be permitted to drive a government motor vehicle.

3. They are seizure-free for one (1) year after being tapered off anticonvulsant therapy.

4. They have a normal awake-and-sleep

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electroencephalogram free of epileptiform abnormalities at the end of the one (1) year seizure-free, medication-free period.

EFFECTIVE: 04/07/97

20-5.2.2 Resident Agents

(1) No Agent with assigned medical mandates (restrictions) will be designated or continued as a Senior Resident Agent, Alternate Senior Resident Agent, or Resident Agent. This applies also to any Agent who has any physical disability of any kind or who is being treated for any disability. In considering a recommendation for designation of resident agency personnel, carefully evaluate physical qualifications and include a statement with your recommendation that there are no physical disabilities or there is no ongoing treatment for any disability. In each case you should receive assurance from the Agent involved that he/she has no physical disability of any kind and is not being treated for any physical disability nor has there been any manifestation of a disability. Ensure that FBIHQ is advised in each instance in which a Resident Agent becomes disabled, is being treated for a disability, or in which there is any question concerning this. When recommending retention, complete justification must be furnished, together with comments whether sufficient amount of nonarduous work exists to keep such Agent fully occupied and that sufficient Agents are available to handle emergency assignments.

(2) FBIHQ should be advised at least once every 60 days of employee's condition unless the condition is such that more frequent correspondence is necessary.

(3) In forwarding any communication to FBIHQ pertaining to Resident Agents, caption should include appropriate designation. If the Agent has a disability or is under treatment, include complete information regarding prognosis, as well as specific date Agent will be restored to full-duty status. Such data must be substantiated by statements from a qualified medical examiner.

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20-5.3 Weight Standard

All Special Agents, male and female, are expected to comply at all times with the weight standards as contained on Form FD-300. It is the aim of the Bureau to apply weight standards which are reasonable for our Special Agent staff to maintain good health, an excellent businesslike appearance, and capacity to properly perform the work involved. Special Agents are to be weighed on the occasion of their Government physical examination. Any Agent identified as overweight by exceeding his/her maximum allowable weight will be required to submit to a body fat measurement to be administered and certified by the field fitness advisors. Results of body fat measurements are to be submitted on an FD-277, which accompanies the Agent's physical examination. If the Agent does not exceed his/her maximum allowable body fat percentage, then he/she is not considered overweight. Should the Agent exceed his/her maximum allowable body fat percentage, then he/she will be placed in the overweight program. The Agent will continue to be required to submit to a monthly weigh-in and/or body fat measurement until he/she complies with either the maximum desirable weight or body fat percentage. Any Agent identified as overweight will be required as of May 1, 1990, to lose not less than two pounds per month. At any time an Agent fails to comply with the mandatory two-pounds-a-month weight loss, the matter will be referred to the Administrative Summary Unit (ASU) for possible administrative action. Agent personnel not receiving annual physicals should be weighed annually on or about the anniversary date of their triennial physical examination to ensure that Bureau weight standards are adhered to. No other regular weighing of Special Agents is necessary. Form FD-475 (Physical Exam Card) may be used for record purposes. Division heads, SACs, Inspectors, and other officials may weigh Special Agents any time circumstances indicate such action is desirable. FBIHQ is to be promptly advised of the identity of any overweight Special Agent. Thereafter, a communication is to be directed to reach the Personnel Division no later than the last day of each month recording new weight until the employee reduces to his/her maximum desirable weight limit. Exceptions to the weight standards set forth on FD-300 will be granted only where a Government medical examiner specifies the frame of a given individual exceeds Large and specifies a maximum weight for that individual which exceeds the maximum on the chart. Exceptions are to be granted only when medically proper in the evaluation of the examiner. FBIHQ expects the maintenance of proper weight standards by support employees also. In this regard, reliance will be placed on the evaluation of the interviewer concerning personal appearance of applicants.

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EFFECTIVE: 04/21/94

20-5.4 Physical Fitness Program (See MAOP, Part I, 15-1.1.1(3).)

Special Agents are encouraged to establish and sustain a high level of physical fitness. Physical fitness enables Agents to cope more readily with the stresses of a law enforcement career and handle critical contingencies readily and confidently. The success of the program, in terms of benefits to the individual and the Bureau, depends on the professionalism of each Agent participant and on the management of the program by our SACs, ASACs, Field Supervisors and Field Fitness Advisors. Accordingly, the following guidelines have been established for the maintenance of the FBI Focus on Fitness Program:

(1) Each Special Agent is responsible for his or her availability while participating in the program. Rapid response should be of paramount concern to each Agent. As such, it is incumbent upon each individual participating in the program to establish a recall procedure in the event of immediate need.

(2) Exercise periods will be TURKED to classification 66E on the Attendance Register/TURK Form FD-420a and a code established to allow the Agent, via FM radio, to advise of his/her location.

(3) Three one-hour exercise periods per week have been authorized for Special Agents. AVP guidelines prohibit claiming exercise periods as overtime. Workouts may be coupled with lunch periods.

(4) Agent workout programs should consist primarily of exercises that build and maintain aerobic capacity (such as running, lap swimming, etc.), and muscular strength, endurance, and flexibility (such as weight training, and calisthenics). With the approval of the SAC, these exercises may be supplemented by the addition of participation in strenuous competitive sports that produce similar physical benefits such as basketball, racquetball, and singles tennis. Nonstrenuous sports, such as golf and bowling, and strenuous sports that expose participants to a high risk of serious injury, such as football, should not be approved. Workouts are not to be conducted at home.

(5) Field Fitness Advisors are directed to publicize benefits of participation in the program to encourage maximum

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participation. These benefits include, but are not limited to, such areas as the following: decreasing the risk of coronary heart disease through the lowering of blood pressure, decreasing pulse rate and cholesterol levels, improving diet and weight control, reducing stress and tension, improving emotional and physical well being, and increasing energy, alertness, and productivity. Suggestions, recommendations, or requests of a specific nature should be directed to the Training Division, Attention: Physical Training Unit.

(6) All Special Agent personnel whose most current annual physical examination certified them "fit for duty" are required to participate in the semiannual FIT tests scheduled by their respective field divisions or Headquarters divisions. This FIT test is to be administered by a Certified Special Agent Fitness Instructor. "Certified" means that this Agent, acting in the capacity of a Fitness Instructor, has attended and successfully completed the one-week Basic Law Enforcement Fitness Instructor Certification Course in-service taught by the Training Division at the FBI Academy or at a field school taught by members of the Physical Training Unit of the FBI Academy.

(a) Agents who are on Medical Profile System with assigned medical mandates (restrictions) are required to comply with the FIT test participation mandate by having the resting heart rate, blood pressure, body weight and body composition assessment done.

(b) Each Agent's results are to be entered in the Fitness Information Terminal System (FITS) and he/she is to be furnished a personalized, confidential fitness history form showing past performance and current performance compared to existing Bureauwide performance norms by sex, age and event.

(7) Injuries and occupational diseases arising from participation in an employing agency's Physical Fitness Program (PPF) are compensable under the Federal Employees' Compensation Act. Workers' Compensation benefits may be paid for injuries or occupational diseases only if the exercise causing such was approved by the agency and the individual employee was enrolled in the agency's PPF. (See Part I, 15-1.1.1, of this manual, for instructions on submitting claims.)

(8) Participation is also encouraged for field Electronics Technicians (ETs), inclusive of supervisory ETs and Telecommunications Managers, following guidelines and policies set forth above. Participation of ETs assigned to FBIHQ is encouraged but is with the consent of their Assistant Director.

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20-6 OUTSIDE EMPLOYMENT (See MAOP, Part I, 1-16, 1-24,
20-6.3.2 and 20-28.3; Legal Attache Manual, 4-10.)

EFFECTIVE: 01/16/97

20-6.1 Departmental Order 350-65 (See MAOP, Part I, 20-28.3.)

(1) No employee may engage in any outside employment that will interfere with proper performance of his or her official duties, create or appear to create a conflict of interest, or reflect adversely on the Department. A "conflict of interest" exists whenever the performance of the duties of an employee has or appears to have a direct or predictable effect on a financial interest of such employee or of their spouse, minor child, partner, or person or organization with which he or she is associated or is negotiating for future employment.

(2) No professional employee may engage in the private practice of his or her profession, such as law, although the Deputy Attorney General may on request make a specific exception in unusual circumstances. (See MAOP, Part I, 1-1(2).)

(3) Except in the proper discharge of his or her official duties, no employee may act as an attorney (a) for prosecuting any claim against the United States or receive any gratuity or interest in any such claim for his or her assistance in prosecution thereof or (b) for anyone before any department, court, office, or commission in any matter where the United States is a party or has a direct and substantial interest; or directly or indirectly receive or solicit any compensation for services rendered by himself or herself or another before any department, court, etc. An employee may, if it is not otherwise inconsistent with proper performance of his or her duties, (a) act as attorney without pay for any person in a federal personnel administration proceeding or; (b) represent any cooperative,

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voluntary, professional, recreational, or similar organization or group not established or operated for profit, if a majority of the organization's or group's members are current officers or employees of the United States or of the District of Columbia, or their spouses or dependent children; or, (c) with FBIHQ approval, act as attorney with or without pay for a member of his or her family or other person or estate for which he or she is executor or other personal fiduciary, except in matters he or she participated in personally and substantially as a government employee through decision, recommendation, investigation, etc., or matters which are the subject of his or her official responsibility. Exception (b) applies only so long as the matter at issue is not a claim; a judicial or administrative proceeding where the organization or group is a party; or involves a grant, contract, or other agreement (including a request for such items) providing for the disbursement of federal funds to the organization or group. This is not to say that an employee is prohibited from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt. (See MAOP, Part I, 1-1(2).)

(4) No one whose government employment has ended may knowingly act as an attorney for anyone other than the United States in connection with any proceeding wherein the United States has a direct or substantial interest and wherein he or she participated personally and substantially while an employee.

(5) No former employee may, within two years after his or her employment has ended, appear personally before any court or government office as attorney for anyone other than the United States in connection with any matter wherein the United States has a direct or substantial interest, which was under his/her official responsibility as a government employee at any time within two years preceding the termination of such responsibility. (See MAOP, Part I, 1-1 (11)(g).)

(6) No partner of an employee may act as attorney for anyone other than the United States in connection with any matter wherein the United States has a direct or substantial interest in which matter such employee is participating or has participated personally and substantially as an employee, or which is the subject of his/her official responsibility.

(7) All employees have been furnished a copy of the Ethics Handbook, which summarizes Departmental Order 360-65, and must comply with its provisions.

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EFFECTIVE: 03/24/97

20-6.2 Bureau Authorization

(1) Prior FBIHQ authority must always be obtained for an employee to engage in other work, employment, occupation, profession, business, or partnership. This regulation applies to all personnel and includes self-employment and employment by a third person. Requests for authority to engage in outside employment should be submitted to FBIHQ on Form FD-331. The form shows information which should be submitted.

(2) A check of the field office indices is necessary where the prospective employer is not well known. The results of the check made on the name of the firm and on the name of the owner or manager if readily obtainable, should be shown on or as a supplement to Form FD-331. Where the name of the owner or manager is not readily obtainable and no reason exists to secure it, no effort, either through investigation or credit check should be made to obtain this information. The reason for not securing the name should be shown. If the prospective employer is, for example, a long-established and well-known department store, an indices check is not necessary, but the form should show this fact. With regard to employees at FBIHQ, Bureau indices on the prospective employer will be checked by the Personnel Section.

(3) FBIHQ must be advised in all cases in which an employee terminates his/her outside employment, including the reason if other than routine (Form FD-331a is used for this purpose). FD-331a is also to be used to advise FBIHQ when an employee does not accept employment which FBIHQ has already approved.

(4) Each division must also advise FBIHQ by January 15th of each year that verification has been made that each employee authorized for outside employment is still so engaged. An administrative tickler is to be maintained to this effect. A copy of each FD-331 submitted to FBIHQ or some other tickler for following on authorization granted may be maintained.

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20-6.3 Bureau Policy

The Bureau desires wherever possible to grant requests for outside employment; however, in reviewing such requests the Bureau must consider the following factors:

- (1) Legal restrictions or statutes and departmental regulations
- (2) Conflict with or capitalization on Bureau employment
- (3) Whether compatible with position as employee of law enforcement agency
- (4) Nature of employment and employer
- (5) Interference with regular attendance or efficient performance of duties (employee's current work performance should be no less than minimally acceptable)
- (6) Interference with general availability of employee
- (7) Impairment of health or efficiency of employee

EFFECTIVE: 04/14/88

20-6.3.1 Special Factors

(1) Dual compensation - Federal employees are not entitled to receive basic compensation from more than one civilian Government job for more than an aggregate of forty hours of work in any calendar week. Bureau positions being typically full time; not part-time, the law thus prevents our employees from holding any other Federal job.

(2) The Bureau will not approve outside employment on the part of any of its employees in lines of work where the duties would be questionable or might reflect adversely on employee or the Bureau; employments involving forms of gambling, or evasions of the law are obviously employments that the Bureau will not approve.

(3) No employee will be allowed to work for any concern which has received unfavorable publicity regarding its merchandise, methods, or general reputation of its employees.

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(4) If a Bureau employee has been approved to engage in outside employment and a situation occurs wherein it is questionable to allow the continuation of such employment, FBIHQ should be immediately advised with appropriate recommendations.

(5) An employee on sick leave undoubtedly will, by the same token, be unable to engage in an outside job. If he/she desires to do so on any day for which sick leave has been requested, he/she must secure prior Bureau approval.

(6) Security reasons dictate that no employee should submit to a polygraph examination as a prerequisite for outside employment.

(7) Wives of Legal Attaches and other personnel assigned abroad are not to accept outside employment in the country to which they are stationed without FBIHQ approval.

EFFECTIVE: 12/12/91

20-6.3.2 Outside Employment of Special Agents | (See MAOP, Part I, 1-1 (10), 1-16, 1-24, 20-6.1, 20-28.3.) |

| Outside employment may create a conflict of interest, reflect adversely upon the FBI, or interfere with the complete availability or the proper and effective performance of the duties of the Special Agent position and accordingly is prohibited by law, Bureau policy and the Code of Federal Regulations.

(1) It is the intention of Bureau policy to prohibit outside employment activities wherein a Special Agent renders services or is actively or materially involved in managing, creating, developing or transforming something to produce economic gain or to generate income pursuant to an informal or formal contract. The nature of the activity, the extent of the Special Agent's participation, and the understanding between the parties are factors considered in making a determination.

(2) For purposes of applying this prohibition against compensated outside employment, the receipt of economic benefit or gain for work is the essence of employment. This includes gain derived from personal services actually rendered, wages, salaries,

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honoraria, commissions, professional fees and any other form of compensation or thing of value. (See MAOP, Part I, 1-1(2).)

(a) Self-employment is considered to be outside employment.

(3) A Special Agent shall not:

(a) Engage in any compensated outside employment except as permitted by this section;

(b) Receive compensation for serving as an officer or board member of any association, corporation, or other entity, to include nonprofit entities such as charitable organizations and professional associations, as well as any unit of state or local government;

(c) Accept a fee from an outside source on account of a public appearance, speech, lecture or publication if the public appearance or the preparation of the speech, lecture, or publication is part of the official duties of the Agent;

(d) Receive compensation or anything of monetary value for any consultation, lecture, teaching, discussion, writing or appearance the subject matter of which is devoted substantially to the responsibilities, programs, or operations of the Department of Justice or Federal Bureau of Investigation, or which draws substantially on official data or ideas which have not become part of the body of public information;

(e) Engage, whether with or without compensation, in teaching, lecturing or writing that is dependent on information obtained as a result of his/her government employment except when that information has been made available to the general public or when the Deputy Attorney General gives written authorization for the use of nonpublic information on the basis that the use is in the public interest.

(4) Uncompensated participation in civic, religious or charitable activities or organizations will not be considered employment.

(5) An Agent may receive compensation for hobby, recreational and writing activities, which have not been formally or informally contracted for in advance, provided the activity is not prohibited by any other manual provision, statute or regulation and

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will not create or appear to create a conflict of interest, reflect adversely upon the Department of Justice, or in any manner interfere with the complete availability or the proper duties of the Special Agent position.

(6) Special Agents are obviously permitted to manage their own assets and to generate income through outside passive-type investments such as stocks, bonds, annuities, income from life insurance contracts and endowment contracts, interest, dividends, capital gains, and nominal rental property to name a few.

(a) Agent involvement with rental property may often constitute outside employment based on the Agent's degree of active participation or involvement. The rental of property will be considered outside employment when the Agent's involvement consists of more than the mere collection of rents, occasional minimal maintenance, etc., such as to call into question the Agent's availability or would otherwise be inconsistent with this policy. For example, while it is permissible to rent a portion of one's primary residence, an entire residence as a result of an official transfer, or vacation property, it is impermissible to regularly purchase, refurbish, and sell houses, directly collect rents from several tenants in an apartment complex or several residences unless managed by another, such as a rental management company.

EFFECTIVE: 02/07/97

20-7 FLEXIBLE AND ALTERNATE WORK SCHEDULES (AWS) (See also MAOP, Part II, 1-2.4.2.)

EFFECTIVE: 08/23/93

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20-7.1 Flexible Schedules (See MAOP, Part I, 8-6(3), Part II, 1-2.4.2.)

(1) A flexible work schedule or flexitime is any schedule which provides support and Wage Board personnel (hereinafter, support employees) a measure of control over their own working hours. Flexitime breaks the workday into two distinct kinds of time: core time is the portion of the day when all employees must be at work, and flexible time is the portion of the workday when the employee has the option of choosing a starting and quitting time, within prescribed limits. This represents an alternative to the traditional fixed, rigidly controlled work schedules, but is not meant to replace the traditional work schedules nor the odd-hour shifts. (See MAOP, Part I, 20-8.)

(2) The two requirements of any flexible work schedule are:

(a) The employee must be at work during core time, except for leave and other authorized absences.

(b) The employee must account for the total number of hours scheduled for work each day.

(3) Each SAC or division head must ensure the availability of sufficient personnel to adequately discharge the FBI's responsibilities. Therefore, the granting of flexible work schedules, as with the granting of leave, must have the approval of designated supervisory personnel.

(4) The utilization of a flexible work schedule within each division will be at the discretion of each SAC or division head, or their designee. The most extensive flexible work schedule will permit the flexible bands to start at 6 a.m. and end at 6 p.m. at 15-minute increments with provisions for a mid-day flex and core-time deviation. The SAC or division head may institute more restrictive use of flexible work schedules at any time, consistent with work requirements within each office.

(5) Employees on flexible work schedules should neither receive favored treatment nor be penalized as a result of flexitime, but rather, they should be treated in an equitable manner with employees working on a standard nonflexible work schedule.

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20-7.2 Alternate Work Schedules (AWS) (See MAOP, Part I,
8-6(3); Part II, 1-2.4.2(3).)

(1) AWS are schedules that offer support and Wage Board employees (hereinafter referred to as support employees) the option of establishing a permanent schedule that compresses their basic work requirement of 80 hours into a period of less than the traditional 10 days in a biweekly period which fulfills their personal scheduling needs and meets the responsibilities of the FBI. Part-time employees may also participate in AWS by fulfilling their basic work requirement of 16-32 hours per week in less than the normal two to four days per week. The AWS Program provides support employees much more flexibility in scheduling their workday and week than the conventional flexitime schedule. AWS should not be confused with odd hour shifts. Because of overtime, premium pay and holiday pay restrictions, participation is voluntary--support employees cannot be required to work AWS.

(2) Implementation of an AWS Program is at the discretion of each SAC, division head, or their designee who may limit participation by individual, group, function or the entire office to ensure the availability of sufficient personnel to adequately discharge the responsibilities of the FBI. Final approval of AWS rests with the office or division head, or their designee. AWS is a time capture matter which should be recorded by the time and attendance person at the initiating office or division; no input from FBIHQ is required.

(3) Participation in AWS is open to support employees, including part-time and odd-hour shift employees; however, approval of any AWS, as with leave, is the responsibility of designated supervisory personnel.

(4) Requirements for any AWS work schedule:

(a) The employee must request authorization to work an AWS in writing, by memorandum. The request must clearly state that the employee understands participation in the AWS Program is voluntary and that he/she fully understands the benefits, limitations and drawbacks of the particular schedule being requested. This request should be maintained as a permanent record.

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(b) The request must clearly state the schedule being proposed.

(c) Deleted

(d) Offices should maintain, as a matter of permanent record, any participation in an AWS Program, number of employees participating, number of schedule terminations (reverting to traditional work schedules), reasons for terminations, and any evaluations or studies conducted to determine the impact of these schedules on morale and the effectiveness and efficiency of office operations.

(e) A more restrictive use of an AWS may be instituted at any time, including restricting or suspending participation of any individual, group or the entire office depending on a variety of factors, such as office work requirements, performance and production considerations or abuse.

(f) Program oversight responsibility is situated with the Policy, Pay and Leave Unit. Any questions pertaining to AWS Programs should be directed to Policy, Pay and Leave Unit.

EFFECTIVE: 03/27/96

20-8 ODD-HOUR SHIFTS (See MAOP, Part I, 20-7.1, & Part II, 1-2.4.2(2)(g).)

(1) Odd-hour shifts, i.e., any scheduled working hours different from the regular Monday-through-Friday day shifts, may not be established without prior authority of the SAC or division head. Such shifts are to be authorized only where factual justification is shown that these shifts will enhance the operation of an office, and/or such shifts will provide necessary services at a time beneficial to employees with no interference in the efficient operation of the office. It is the responsibility of each division head to select the best qualified and most deserving employees for assignment to any odd-hour shifts.

(2) Odd-hour shifts may be approved at the discretion of the SAC or division head for employees who desire same for justifiable

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reasons. If the shift is established solely at the request of/and benefit for an employee, premium pay will not be paid for work performed on a day or hour of the day for which premium pay would ordinarily be authorized.

(3) Support personnel may be assigned Saturday duty on a rotating basis to provide for essential services. Employees should be assigned a Tuesday through Saturday workweek for the week they have Saturday duty. When scheduling an employee for a Tuesday through Saturday workweek, the employee must be advised of his/her new shift at least one week in advance.

(4) The general policy on work schedules is to economize on night differential pay, and to achieve the utmost standardization in the working hours consistent with work requirements of each office and consideration to specific employees' needs.

EFFECTIVE: 08/23/93

20-9 WORK PERMITS (FBIHQ)

(1) Bureau employees under the age of 18 years, with the exception of those who will reach their 18th birthday within a month after they enter on duty, must secure work permits. The names of new employees in this category are automatically tabulated by the Personnel Management Section of the Personnel Division. A schedule is set up for the employee to be interviewed, and a written request for a work permit is furnished to the employee to be presented personally to the Department of School Attendance and Work Permits of the District of Columbia. An employee applying for a work permit must have in his/her possession a birth certificate or attested transcript issued by a registrar of vital statistics or other officer charged with the duty of recording births. In the absence of such a birth certificate, suggestions as to other acceptable proof of birth can be found in Public Law 618-70th Congress, an act to regulate the employment of minors within the District of Columbia.

(2) The Bureau follows the policy of restricting the assignment of employees under 18 years of age to the regular day shifts. In addition, employees under 18 years of age may not work more than 8 hours in any one day, nor more than 6 days in any one week. Therefore, any hours worked beyond the regular 40-hour workweek must be performed on the sixth day rather than on the employee's

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regular workdays. (See MAOP, Part I, 20-23 (4).)

EFFECTIVE: 04/21/94

20-10 TOURS OF DUTY OF WOMEN AND MINORS

Each field office must comply with the provisions of any applicable child labor laws governing the territories under its jurisdiction. Although this Bureau and other Federal agencies are not legally bound by state regulations regarding the employment of females, it is desirable that efforts be made to comply with the provisions of such regulations. Accordingly, the provisions of such regulations should be ascertained and every possible effort should be made toward general compliance. Such compliance should be consistent with the Bureau's best interests. If any conflict with state regulations appears imminent, FBIHQ should be contacted.

EFFECTIVE: 12/12/91

20-11 Deleted

EFFECTIVE: 12/12/91

20-12 COMPUTATION OF CLERK-AGENT RATIO

In computing the clerk-Agent ratio, personnel are separated into two categories. All Special Agents, including supervisors, ASACs and SACs, comprise one group, and all non-Agent personnel, including clerks, stenographers, Electronics Technicians, etc., the other. Divide the number of Special Agent personnel into the number of clerical personnel and the result is the clerk-Agent ratio. No personnel assigned to an office may be excluded from this computation. Personnel under transfer to an office must be counted in the computation of the office to which they have been transferred after the orders transfer have been received, even if they have not yet reported; and they should be excluded from computation of the office from which transferred, even though they may not have departed on transfer. Personnel resigning or entering on absence for maternity reasons must not be computed in the ratio once their letters

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indicating such action have been forwarded to FBIHQ and acknowledged.
Involuntary separations are not computed in the clerk-Agent ratio
after written notification has been approved by FBIHQ and forwarded.

EFFECTIVE: 12/12/91

20-13 PENDING WORD PROCESSING WORKLOAD

(1) Deleted

(2) The word processing workload is considered unaddressed (delinquent) when untranscribed for more than seven calendar days. The day that work is received will be counted as day one. If workload becomes excessive, contact should be made with the Word Processing Program Manager, Western Regional Computer Support Center, Pocatello, Idaho, Operations Unit (Rapid Start I), Field Information Support Section, Information Resources Division. (See Correspondence Guide-FBIHQ, 1-11.3.)

EFFECTIVE: 11/28/94

20-14 FIREARMS TRAINING OF NONINVESTIGATIVE EMPLOYEES

As a rule only Special Agents receive firearms training from the Bureau. Exceptions are: Electronics Technicians and Security Patrol Clerks on the night and midnight shifts at San Juan, Puerto Rico, and the Security Guard Force at the FBI Academy, Quantico, Virginia.

EFFECTIVE: 08/25/89

20-15 SERVICE RECORDS, CREDIT INQUIRIES AND INQUIRIES DIRECTED TO EMPLOYEES

EFFECTIVE: 08/25/89

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20-15.1 Service Record Inquiries

Inquiries for service records on present or former employees and inquiries concerning indebtedness of in-service employees are handled at FBIHQ. Employees must refrain from expressing either orally or in writing, except to official superiors, any opinion bearing upon the efficiency or standing of former or present employees. Individuals making oral inquiries should be referred to FBIHQ for such information and FBIHQ should be advised of the request. Written communications received by the field containing requests for such information should be transmitted to FBIHQ as an enclosure to FD-438a, which is a copy of FD-438 to be used by field to advise the inquirer his/her request has been forwarded to FBIHQ, Washington, D.C., for handling.

EFFECTIVE: 08/25/89

20-15.2 Credit Inquiries

The field may verify employment in routine credit inquiries ensuring inquiry is for legitimate reasons. Data supplied should be confined to entrance-on-duty date, salary, and whether support personnel or Agent. Notation that information was provided should be made in personnel file.

EFFECTIVE: 08/25/89

20-15.3 | Other | Inquiries Directed to Employees

| For Bureau policy concerning employees providing information or opinions based on personal association with present or former FBI employees and non-FBI acquaintances, see Part I, 1-15.3, and Part II, 10-17.11.2, of this manual. |

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20-16 REST PERIODS - VENDING MACHINES

(1) Vending machines are permissible if the SAC considers them desirable. Proceeds from vending machines may be retained by the division where they are located and utilized by the office recreation or welfare association. If reports from any office indicate abuses in the use of the machines, consideration will be given to removing them.

(2) A 10-minute rest period may be taken by noninvestigative employees during each 4-hour work period. This rest period is to be limited to employees working within the FBI office. Rest periods may not be taken at the beginning or the end of the workday but should be taken for example, at midmorning and at midafternoon. They should be so scheduled as to ensure an adequate staff is on duty in the office at all times.

EFFECTIVE: 10/27/86

20-17 DESIGNATION OF BENEFICIARY | (See MAOP, Part I, 18-2.17 & 18-3.17.) |

EFFECTIVE: 05/27/93

20-17.1 Purpose | (See MAOP, Part I, 18-2.17 & 18-3.17.) |

During Government employment employees will establish and build up valuable monetary benefits, the disposition of which in the event of death can be controlled by execution of certain beneficiary forms.

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20-17.2 Items Involved (See MAOP, Part I, 18-2.17 & 18-3.17.)

These items may involve considerable amounts of money and accordingly employees should clearly understand the effect of the execution of the various beneficiary forms. The things of value referred to relate to:

(1) Money owed to employee in the form of unpaid compensation, such as accrued annual leave, unpaid salary, and expense vouchers, etc.

(2) Money accrued in the Civil Service Retirement System and Federal Employees Retirement System (FERS).

(3) Money payable through coverage under the Federal Employees' Group Life Insurance Act.

EFFECTIVE: 05/27/93

20-17.3 Execution of Forms (See MAOP, Part I, 18-2.17 & 18-3.17.)

Each of the items listed in 20-17.2 above requires the execution of a separate beneficiary form (SF-1152, SF-2808 or SF-3102, and SF-2823 respectively), if it is desired that the money be paid in a way which is other than the order set forth by existing legislation. A designation, change, or cancellation of beneficiary in a will or other document will have no effect.

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20-17.4 Undesignated Beneficiary | (See MAOP, Part I, 18-2.17 & 18-3.17.) |

It is not necessary that these beneficiary forms be executed, if it is satisfactory for the payment to be made in the prescribed order set forth below:

(1) To the widow or widower

(2) If neither of the above, to the child or children in equal shares, with the share of any deceased child distributed among the descendants of that child

(3) If none of the above, to the parents in equal shares or the entire amount to the surviving parent

(4) If there be none of the above, to the duly appointed legal representative of the estate of the deceased, or if there be none, to the person or persons determined to be entitled thereto under the laws of the domicile of the insured

EFFECTIVE: 05/27/93

20-17.5 Annual Reminders | (See MAOP, Part I, 18-2.17 & 18-3.17.) |

This matter should be a topic discussed annually at Agent and clerical conferences.

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20-18 LOST GOVERNMENT CHECKS

(1) In reporting the loss of a Government check by an employee, the payee must set forth by letter the circumstances surrounding the loss of the check. This letter must show whether the check was endorsed, the payee's home address, and must be signed by the payee.

(2) Deleted

(3) If a check has been mailed by FBIHQ but the field office has no record of its receipt, a letter from the SAC or ASAC is all that is necessary.

(4) All letters should be forwarded to the Payroll Administration and Processing Unit, Accounting Section, FBIHQ, at the earliest possible date. No action can be taken by FBIHQ to place a stop on a lost check or to have a substitute check issued until receipt of the above-described letters.

EFFECTIVE: 08/12/94

20-19 INVENTIONS

Whenever any invention is developed by an employee arising out of the latter's official duties or connected in any way with Bureau operations, FBIHQ is to be advised, attention of the headquarters' division most closely concerned or associated with the invention in question.

EFFECTIVE: 11/25/87

20-20 PERSONAL APPEARANCE, DRESS AND GROOMING STANDARDS FOR
BUREAU EMPLOYEES

EFFECTIVE: 11/25/87

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20-20.1 Policy

The traditional policy of the FBI is that all employees should have the appearance of business people, both as to dress and grooming. FBI employees should dress in the typical mode of the business and professional communities while on official duty. All male employees, except those who are specifically exempt due to the nature of their duties, should be dressed in business shirts, ties, and trousers suitable for office wear. During certain climatic conditions, SACs of the various field offices and the division heads at FBIHQ may issue instructions that employees who have no exposure to the public are permitted to wear other attire as a substitute to the above mentioned attire. The SAC, as well as division heads, must insure that sufficient restraints are exercised so that employees will not become relaxed to the point where it will be necessary to make adjustments to bring about conformance to the business-professional appearance.

EFFECTIVE: 11/25/87

20-20.2 Appearance Standards

(1) The manner and style of one's clothing or the manner in which a person wears his or her hair is a matter of individual pride and self-respect. Employees of both sexes are expected to maintain a neat appearance, and to keep their hair clean and well groomed at all times.

(2) The American people trust and are confident that the FBI will continue to perform in their behalf in an exemplary manner. That degree of trust and confidence was achieved by our outstanding performance of our duties and by the neat, well-groomed appearance we have presented to the American people.

(3) Although performance can never be estimated or judged by appearance alone, the standards of neatness and grooming adhered to by the men and women of the FBI have created in the minds of the American people an image of faithful and professional performance of duty.

(4) Accordingly, our appearance has, and will, contribute to the efficiency of our service in behalf of the American people. Therefore, extremes in clothing and in hair length or style are to be avoided.

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EFFECTIVE: 03/28/89

20-20.3 Regulations

The "Handbook for FBI Employees, Support and Service Personnel," under grooming and demeanor, outlines the standards expected of support and service personnel of the FBI. Memoranda to all SACs, titled "Personal Appearance of Bureau Employees," 25-75(A) dated June 10, 1975; 38-74(A) dated August 6, 1974, and 47-73(A) dated November 6, 1973, set out the Bureau's traditional posture that all employees should present a businesslike appearance, both as to dress and grooming, while in duty status.

EFFECTIVE: 03/28/89

20-21 PERMANENT PART-TIME EMPLOYMENT | FOR SUPPORT PERSONNEL | | (See MIOG, Part I, 67-13.) |

Employees who are authorized to work on a part-time basis are subject to the following rules:

(1) The employee must have a prearranged regularly scheduled tour of duty consisting of an equal or varied number of hours per day.

(2) The employee's work schedule must be from 16 hours to 32 hours per week, with no more than 8 hours a day.

(3) Part-time employees will be covered under a Federal Retirement System. Retirement annuities are prorated for part-time service performed on or after 4/6/86.

(4) Employees will be eligible for both regular and optional coverage under Federal Employees' Group Life Insurance (FEGLI). Part-time employees with salary under \$8,000 will be covered for \$10,000 under FEGLI regular. Coverage is automatic if there is no waiver in effect from previous employment.

(5) Employees will be eligible for coverage under the Federal Employees Health Benefits Program (FEHBP). The part-time

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employee will not receive the full government contribution but a prorated share of the government contribution and the employee must pay the difference of the government contribution. Full-time employees changing to part-time will be eligible to change their enrollment from one health benefit plan to another and must also pay the prorated share of the government contribution. A part-time employee who is in receipt of compensation from the Office of Workers' Compensation Program will be entitled to the full government contribution for FEHBP.

(6) The annual and sick leave of an employee will be prorated. For example, employees with less than 3 years of service earn 1 hour of annual leave for each 20 hours worked. With 3 to 14 years of service, employees earn 1 hour of annual leave for each 13 hours worked. Employees earn 1 hour of sick leave for each 20 hours worked.

(7) Part-time employees will be entitled to military leave. The rate at which such leave accrues is a percentage of the rate prescribed by Title 5, USC, Section 6323, as amended by P.L. 96-431. The amount of leave is determined by dividing 40 into the number of hours in the regularly scheduled workweek of that employee during the fiscal year. No more than 15 days of accrued, unused military leave may be carried over into any fiscal year.

(8) Part-time employees will be paid for a holiday if it falls on a day of employees' prearranged tour of duty.

(9) Part-time employees will receive the 10 percent night differential for any portion of their regularly scheduled tour of duty which occurs between 6 p.m. and 6 a.m.

(10) Part-time employees are not entitled to Sunday premium pay.

(11) Part-time employees should not work overtime without prior Bureau approval. Overtime is any work performed in excess of 8 hours a day or 40 hours a week.

(12) Requests from high-grade professionals (above GS 9) to work part time will be considered on an individual basis when special circumstances exist, or when permitting this would be in the best interest of the Bureau.

(13) In general, permanent part-time employees are entitled to the same overall appeal rights and protections in adverse

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actions and reduction-in-force proceedings as full-time employees.

(14) Part-time employees receive a full year of service credit for each calendar year worked for the purpose of computing retirement eligibility, date of career tenure, completion of probationary period, within-grade increases, and change in leave categories. Part-time work is, however, prorated to determine experience for qualification requirements.

EFFECTIVE: 04/10/96

20-22 LUNCH/DINNER PERIODS

(1) Employees are entitled to a lunch/dinner period which is to be scheduled during the middle portion of the employee's tour of duty. This period is not considered a work period for pay purposes but is added to the number of hours actually worked to become their scheduled tour of duty. The purpose of a lunch/dinner period is to provide the opportunity for nourishment and a deviation from work activities; therefore, lunch/dinner periods should not be scheduled at the end of the workshift.

(2) Part-time employees should also schedule a lunch/dinner break if they work in excess of four hours a day.

(3) It is not necessary that an employee be permitted to leave the premises during the meal period.

EFFECTIVE: 03/28/89

20-23 TEMPORARY LIMITED EMPLOYMENT FOR STUDENTS

The purpose of this program is to provide on-the-job experience for high school students in their particular vocational field. The FBI benefits from the students' services while they are employed under this program and hopefully gains full-time, fully trained personnel upon their graduation. Employees who are hired under this program are subject to the following:

(1) The student must be at least 16 years of age, pass necessary tests, and remain enrolled in high school. Prior to taking

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the oath of office, they must pass a physical examination and appropriate background investigation.

(2) The students will be released from their schools to work in this program per the regulations of the individual institution.

(3) Their appointment in this program will not exceed their graduation date.

(4) They must have a prearranged, regularly scheduled tour of duty. This tour of duty may be 40 hours per week during the summer between their junior/senior year and be converted to part time during the school term (minimum 16 hours/maximum 32 hours per week). (See MAOP, Part I, 20-9(2)).

(5) The students are eligible for a GS 3 (entry level clerical) or GS 4 (Office Automation Clerk) position.

(6) They must meet performance standards set for the position or be subject to removal under inadequate work performance procedures. If the student works full time during the summer, it is recommended a special performance appraisal be submitted prior to conversion to part-time employment.

(7) Appointees are eligible for coverage under the Federal Insurance Contributions Act (social security). Sick and annual leave is accrued at the rate of one hour for every 20 hours worked. They are paid for a holiday if it falls during their regularly scheduled tour of duty. They receive service credit.

It should be noted the appointees are not eligible for life insurance, health insurance, retirement benefits, or promotional opportunities until such time as they are converted to permanent appointments. They will be considered for the next higher grade level upon conversion, if recommended.

(8) Appointees hired under the Temporary Limited Employment for Students (TLES) Program are not subject to controlled personnel ceilings. Requests to hire are to be coordinated through the Personnel Policy Group, Personnel Division, to determine if funding is available.

(9) Restrictions on employment of relatives apply as stated in Manual of Investigative Operations and Guidelines, Part I, Section 67-4.

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(10) Employees may be converted to full-time career appointments upon graduation provided:

(a) the employee can be absorbed within existing Target Staffing Levels;

(b) the employee performed at acceptable levels without jeopardizing performance and conduct standards set by the educational institution;

(c) the employee provided proof of graduation; and

(d) the appropriate management recommendation for conversion.

(11) Request to hire other than full-time employees - FD-391 should be used to request to hire part-time employees and students hired under the TLES Program.

EFFECTIVE: 04/21/94

20-24 DELETED

EFFECTIVE: 02/14/92

20-25 ROOMMATE BACKGROUND DATA (See also Manual of Investigative Operations and Guidelines, Part I, 67-18, "Reinvestigation of FBI Personnel.")

Form FD-773, entitled "Roommate Background Data" form, must be submitted by all employees, when possible and circumstances permit, at least 60 days prior to taking up residence with individuals (non-Bureau/nonmembers of the immediate family) for 30 days or more, and will be updated by the employee at least every five years thereafter. An FD-773 must be submitted for each subsequent roommate. "Immediate family" includes the employee's spouse, parents, brothers, sisters, and children. Upon receipt of this form, office indices must be checked on the roommate. Check name of roommate through all files of local law enforcement agencies covering residence, place of employment, and/or schooling. FBIHQ's central indices and

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computerized indices; checks will be conducted. In addition, FBIHQ will conduct record checks of the Criminal Justice Information Services Division and National Crime Information Center.

(1) If the roommate is not a native citizen of the United States, verify naturalization through Immigration and Naturalization Service (INS) records or court records. When setting forth leads to have naturalization verified, it is imperative that sufficient information be furnished, such as date and place of entry into the United States, date and place of naturalization, and naturalization number.

(2) If the roommate is not a U.S. citizen, review files of INS and report any pertinent information. If record is not located in local INS office, determine where it is located and set forth lead to have record reviewed.

(3) If the roommate was born in a foreign country, presently resides or is known to have resided in a foreign country, the files of the Central Intelligence Agency (CIA) are to be checked, except when the roommate's foreign residence occurred while serving in the Armed Forces of the United States. CIA checks will be handled by FBIHQ. The office initiating the investigation should ensure sufficient identifying data establishing the roommate's identity is provided for conducting such checks.

(4) Any derogatory data should be immediately furnished to FBIHQ. The office where the employee is assigned should set forth any necessary leads to any other office in whose territory the roommate resided during the pertinent period. Such leads are to be set forth by Form FD-774, with an information copy to FBIHQ enclosing the original of Form FD-773. A ten-day deadline should be set in this type of case.

(5) Investigative results are not to be maintained in field office files; immediately after submitting information to FBIHQ, the field office communications containing the investigative results are to be destroyed. Such matters should be captioned with the employee's name, followed by "Roommate Background Data, Reinvestigation of FBI Personnel, Foreign Counterintelligence - Security Countermeasures."

(6) A copy of Form FD-773 will be retained in the employee's field office personnel file until an updated or revised form is submitted by the employee.

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20-26 FIVE-YEAR REINVESTIGATION PROGRAM (See MIOG, Introduction,
2-2.4.3.)

(1) In compliance with Executive Orders (EOs) and Federal Personnel Security policies, all FBI employees are subject to five-year reinvestigations as set forth in the Manual of Investigative Operations and Guidelines, Part I, Section 67-18 and 67-18.1.1.

(2) As cited in Department of Justice Order Number 2610.2A, entitled "Employment Security Regulations," all FBI positions are considered "Special-Sensitive" and, as such, all employees are granted "Top Secret" security clearances. All FBI employees must meet the minimum security requirements as mandated by Executive Order (EO) 10450, entitled "Security Requirements for Government Employment," and EO 12968, entitled "Access to Classified Information," in order to retain their "Top Secret" security clearances. Continued FBI employment mandates an individual maintain a "Top Secret" security clearance.

(3) The purpose of the Five-Year Reinvestigation Program is to determine the continued "trustworthiness" for access to National Security Information (NSI) of all FBI employees. Current policies require all employees to be subject to a full-field reinvestigation at least once every five years. This investigation includes the interviews of supervisors, co-workers, neighbors, references, associates, and roommates and verification of education, military service, and court actions. Also, criminal and indices searches are conducted on the employee and all individuals over the age of 16 residing with the employee.

(4) Within five years of the date of EOD and at least once every five years thereafter consistent with guidance furnished by the SPM, each employee will be required to execute Form FD-814, entitled "Five-Year Reinvestigation Questionnaire," so that a reinvestigation may be conducted. Failure to complete Form FD-814 or to cooperate in this reinvestigation could result in the termination of the employee's "Top Secret" security clearance.

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20-27 GARNISHMENT OF WAGES FOR COMMERCIAL DEBT

On October 6, 1993, Congress enacted Section 9 of Public Law 103-94 which waived the federal government's sovereign immunity to permit compliance with garnishment orders for commercial debts. This law permits the garnishment of federal employees' wages for any debt which is the subject of a legal process from any court of competent jurisdiction (state or federal). This provision was effective February 3, 1994.

EFFECTIVE: 06/06/94

20-27.1 Legal Process

(1) Legal process means any writ, order, summons, or other similar process in the nature of a garnishment.

(2) Creditors may send interrogatories to the agency and the employee concerning income subject to the act.

(3) The FBI will honor legal documents submitted for the collection of any legal debt of its employees and for recovery of attorney's fees, interest and court costs. The Act provides that an agency's administrative costs in executing the garnishment action may be added to the garnishment, and that the agency may retain costs recovered as offsetting collections.

EFFECTIVE: 06/06/94

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20-27.2 Service of Legal Process

(1) The legal process must be served on the proper agency official, who, upon receipt, will have 15 days to notify the employee.

(2) The legal process may be served through certified or registered mail or by personal service on the Chief of the Payroll Administration and Processing Unit (PAPU) or Designee, Room 1885, 935 Pennsylvania Avenue, Northwest, Washington, D. C. 20535-0001. The process service must be served on the Headquarters Unit Chief of PAPU or Designee due to the 15-day legal requirement of notifying the affected employee.

(3) The legal process will only be accepted if it is accompanied by sufficient information to permit prompt identification of the employee, including the name and Social Security Number of the employee. Additional information such as the date of birth and home address of the employee is desirable.

(4) Each field division should assign responsibility to the Chief Division Counsel as a point of contact for inquiries from state courts or agencies. Service of the legal process should not be accepted by field divisions.

EFFECTIVE: 02/28/96

20-27.3 Compliance With Legal Process

(1) In most cases, orders of garnishment specify how much is to be taken from an employee's disposable earnings. The FBI is required to honor these orders up to the limits set by the Consumer Protection Credit Act. This law limits the amount of garnishment to up to 25 percent of an employee's disposable earnings. In some jurisdictions, state law establishes different limits; however, the amount of the garnishment will never exceed 25 percent of the employee's disposable earnings. In determining the amount of pay subject to garnishment, the following amounts are excluded from gross pay to determine the disposable earnings:

(a) Amounts owed by the employee to the United States.

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(b) Amounts required by law to be deducted from the employee's pay for the following reason:

1. Social Security taxes (Medicare and OASDI).
2. Amounts properly withheld for federal, state or local income tax purposes (the withholding of additional income tax amounts may be permitted only when the employee presents evidence of a tax obligation which supports the additional withholding).
3. Amounts deducted as health insurance premiums.
4. Normal retirement contributions (this includes amounts contributed to the Thrift Savings Fund).
5. Basic life insurance under the Federal Employees' Group Life Insurance (FELI) program (all optional life insurance premiums and any life insurance premiums paid for by allotment are not exempt from withholding).

(2) Any future pay authorization submitted by the employee subject to the garnishment for commercial debts will be evaluated to determine if subject to exemption from withholding.

(3) The maximum commercial garnishment may not reduce an employee's aggregate disposable income below \$127.50 per week.

(4) The amount of the biweekly withholding will be revised any time a change in the employee's gross pay occurs, such as a change in grade or salary or additional premium pay earned.

(5) Child support and alimony orders will take priority over orders for collecting any other debts. If more than one legal process has been effected with respect to an employee, such payments required to be made shall be available to satisfy processes in priority order based on the time of receipt of service, with the process being satisfied out of amounts remaining after satisfaction of all processes which have been previously served.

(6) An "automatic stay" will occur when any type of bankruptcy is filed that has the effect of ending all commercial garnishments currently in effect.

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EFFECTIVE: 06/06/94

20-27.4 Notification of Legal Process

Whenever the Unit Chief of PAPU, Finance Division, is effectively served with any process or interrogatories, PAPU shall respond within 30 days after the date of effective service is made, and shall, as soon as possible but not later than 15 days after the date of effective service, send written notice to the affected employee. A written notice that such process has been served, together with a copy thereof, will be forwarded to the personal attention of the affected employee at his or her duty station in a sealed envelope. This notice will stipulate the amount of the garnishment. A copy of this notice will also be forwarded to the personal attention of the employee's division head or Special Agent in Charge and the Unit Chief of the Personnel Security Unit, National Security Division in a sealed envelope. After the legal process has been found sufficient on the face for processing, the employee will receive written notice of the amount that will be withheld biweekly for the garnishment, the date of the salary payment which will include the garnishment deduction and any of the agency's administrative costs added to the garnishment amount.

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EFFECTIVE: 06/06/94

|| 20-28 PART-TIME SPECIAL AGENT EMPLOYMENT PROGRAM (PTAP)

(1) GENERAL POLICY STATEMENT: The purpose of the PTAP is to permit Special Agents (SAs) a period of time to alter the pace of their career. The men and women of the FBI are committed to the vigorous enforcement of the laws of this nation. As a result of their dedication to the organization, SAs make many sacrifices at the expense of personal and family commitments. FBI Agents are constantly reminded not to allow these everyday concerns to filter into the workplace or to impact upon their performance. However, the realities of everyday life are such that an individual's personal circumstances, commitments, and outside influences do impact upon one's life. Therefore, in keeping with our commitment to the men and women who serve the FBI and their country, the PTAP has been permanently established.

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(2) OBJECTIVE: The program's objective is to allow for some flexibility in the number of hours an SA is required to work while continuing to provide quality service to the FBI and to continue in their chosen career.

The success of this program necessitates flexibility and progressive leadership from our managers. Likewise, participants in this worthwhile program must continue to provide support, service and understanding to their managers.

EFFECTIVE: 04/10/96

20-28.1 Qualification

In order to qualify for the PTAP, an Agent must:

(1) Request by memorandum to the SAC/division Assistant Director to enter into a part-time status for a minimum of six months, but no longer than five years.

(2) Have served at least two years as an SA. If the applicant for the PTAP is a reinstatement, he/she must complete a one-year, full-time field assignment in addition to any required retraining at Quantico prior to making a request to enter this program.

(3) Have received "Fully Successful," or better in all critical elements in their last two annual performance appraisals.

(4) Have performed at least the minimum average of two hours of unscheduled work per regular workday for the current and previous certification year in conformance with the requirements for Availability Pay.

(5) Not be on probation as the result of an administrative action.

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20-28.2 Procedures For Application

(1) The Agent requesting participation in the PTAP must provide a detailed memorandum to the SAC/division head requesting permission to enter the PTAP. The application must state the reason(s) for entry into the program and that the SA meets all the qualifications. The SA applicant must indicate the number of hours per week he/she intends to work and a proposed bi-weekly schedule. The requesting SA should also indicate the manner in which current assignments will be accomplished and any impact entry into the program may have on the SA's squad and/or office.

(2) The SAC/division head will provide a recommendation to either accept/reject the SA into the program. This recommendation will include an assessment as to whether the division can accomplish its mission without the full-time services of the SA. The SAC/division head will submit the recommendation and the employee's request to: Section Chief, Personnel Management Section, Personnel Division, FBIHQ. If the SAC/division head does not favorably recommend an SA for the program, the SAC/division head must state the reason(s) for recommending denial in his/her submission to FBIHQ.

(3) If the SA is accepted into the program, FBIHQ will advise the office/division by appropriate communication. It will be the responsibility of the SA and office management to establish the specific details to accomplish the PTA's schedule and work assignments.

(4) If the SA is denied entry into the program, the SA may appeal the denial to the Deputy Assistant Director-Personnel Officer, Personnel Division. All appeals must be in writing. The appeal should state that the applicant meets all of the qualifications and set forth the rationale why the SAC's determination may be inappropriate.

(5) The final decision to approve SAC recommendations will be determined by the Section Chief, Personnel Management Section, Personnel Division. Appeals for entry into the PTAP will be determined by the Deputy Assistant Director-Personnel Officer, Personnel Division.

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20-28.3 Administration and Requirements of PTAP

(1) Upon final approval by FBIHQ, the field office/division must electronically enter a Standard Form 52 (SF-52) indicating the SA's schedule.

(2) PTAs must work NOT LESS THAN 16 HOURS OR MORE THAN 32 HOURS A WEEK or less than 32 hours or more than 64 hours in a pay period.

(a) These hours represent the federal government's official definition of "Part-Time Employee." It is the FBI's policy to adhere to this definition and to abide by this limitation. There should be NO EXCEPTIONS TO THIS HOURLY WINDOW.

(3) Changes to an individual's schedule are not permitted except by advance submission of an SF-52. Submission of an SF-52 before the close of business (5:30 p.m., Eastern Standard Time), on the first WORKDAY of the pay period before the pay period in which the effective day of the change is to occur constitutes prior notice. This requirement is necessary to ensure that the employee is afforded the proper pay, leave accruals, and other benefits.

(4) PTAs must request entrance into the program for a MINIMUM of six months and are permitted to remain in the program for a MAXIMUM of five years. If, after five years an SA's personal situation is such that continuation in this program is necessary, the employee must request an extension setting forth the reason(s) for this request.

(a) The SAC/division head will have authority to grant extensions beyond the five-year maximum UP TO three months without FBIHQ approval.

(b) The criterion for an extension beyond the five-year maximum will be extenuating circumstances which ABSOLUTELY require the PTA to continue in a part-time status. However, if an extension is requested beyond three months, it must be forwarded to FBIHQ by appropriate communication with the recommendation of the SAC. It will be an extraordinary circumstance(s) which would permit the PTA to be extended beyond the three-month extension period

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set forth above.

(c) If the employee is denied an extension by the SAC/division head, an appeal may be directed to the Deputy Assistant Director-Personnel Officer, Personnel Division, who will make the final determination.

(5) Except as provided below, PTAs are not permitted to participate in the Executive Development and Selection Program (EDSP) as GS/GM 14s or above. Should a Supervisory Special Agent (SSA) GS-14 or above desire to participate in the PTAP, he/she must agree to step down from his/her position. Managers who are approved to participate in the PTAP and who step out of the EDSP will be assigned as investigators. EDSP participants assigned to FBIHQ and Quantico can expect to be reassigned to either WMFO or Baltimore.

(a) An SSA GS-14 or above may apply for consideration for entry into the PTAP provided the applicant does not supervise any employee(s) and has approval of the SAC/division head.

(6) PTAs will be paid on an hourly basis computed at the current grade and step of the position they hold while in the PTAP.

(7) PTAs SHOULD NOT normally be scheduled to work overtime, (i.e., over 40 hours in a week), nor are they eligible for AVAILABILITY PAY while in a part-time status. On rare occasions, an emergency situation may require a PTA to work overtime. The reason for such overtime must be documented and forwarded for approval to the Policy, Pay and Leave Unit.

(8) PTAs will not be eligible for transfer while in the program, with the possible exception of a hardship transfer. The Agent will be eligible for transfer when he/she returns to full-time status.

(a) Personnel Resource List (PRL) transfers are a means by which the personnel resource needs of the Bureau may be effectively addressed while satisfying the preferences of employees. However, employees participating in the PTAP will not be eligible for PRL transfers while in a part-time status. Consideration for transfer from the PRL resumes upon return to full-time status.

(b) When an SA who was a PTA becomes eligible for a voluntary rotational transfer, he/she will not receive seniority credit for the period of time served in a part-time status. Example: A first office Agent with four years of experience requests and is

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granted entrance into the PTAP. This Agent stays in the program for the maximum period - five years. Ordinarily, this Agent would be vulnerable to a rotational transfer somewhere between his/her fourth and tenth year. However, because this SA entered the PTAP, he/she cannot be transferred and the years in the PTAP would not be credited for seniority purposes. Therefore, when the PTA returns to full-time status, he/she returns to the same seniority level (four years) held before entry into the program.

(c) PTAs assigned to offices/divisions which offer special enhancements with respect to transfer on the PRL (i.e., New York, Los Angeles, San Juan, Honolulu, and Anchorage) will receive credit for 50 percent of the number of month(s) served while in a part-time status. Example: An Agent is assigned to the New York Office for seven years. For two of the seven years the Agent was in the PTAP; therefore, this Agent is credited with one year of service for the two years of service in the PTA program and five years for the full-time status. Any Agent in an office eligible for an enhancement as of 4/9/96 and who is now, or was previously, in the PTAP in that office will be "grandfathered" (i.e., will receive credit for time assigned to that office) whether full time or part time.

(9) PTAs' work schedules and assignments will be set by their SAC/division head and supervisors/managers dependent upon the needs of the division and the PTA's personal circumstances.

(a) SAs accepted into this program must be advised that, despite their unique circumstance, the SAC/division head may require the PTA to return to work on a full-time basis. The SAC must advise the PTA in writing of the reason(s) for the change in employment status. The SAC/division head's request for a change in status must be the result of a change of office resources and circumstances that necessitates the PTA's services on a full-time basis. The PTA may appeal this determination to the Deputy Assistant Director-Personnel Officer.

(b) The use of PTAP resources will be at the discretion of the SAC/division head.

(10) PTAs will be issued a performance plan consistent with their assigned duties and will be rated on that plan in accordance with the performance appraisal process.

(11) PTAs will only be permitted OUTSIDE EMPLOYMENT provided the Agent has received authorization from FBIHQ. This stipulation is no different than the provisions which apply to full-

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time SAs. It should be noted that procurement of outside employment in most instances will create or appear to create a conflict of interest, and accordingly is prohibited by law and the Code of Federal Regulations. (See MAOP, Part I, 1-16 through 1-16.2, 1-24, and 20-6 through 20-6.3.2.)

(12) In general, PTAs are entitled to the same overall appeal rights and protections in adverse actions and reduction-in-force proceedings as full-time SAs.

(13) PTAs will be counted on a field office/division's funded staffing level (FSL) in the same manner as part-time support employees (One PTA = .5 or 1/2 Direct Agent Work Year (DAWY). Any fractions are rounded DOWN; therefore, one PTA = 0 DAWY. Two PTAs = 1 DAWY and three PTAs = 1.5 DAWYs; rounding this down = 1 DAWY.

(14) PTAs are required to continue to fulfill the Firearms Qualifications Policy, as set forth in the Manual of Investigative Operations and Guidelines, Part II, Section 12-10.2.1.

(15) PTAs whose most current annual physical examination is certified as "fit for duty" are required to participate in semiannual FIT tests scheduled by the respective field or FBIHQ divisions.

EFFECTIVE: 04/10/96

20-28.4 Employee Entitlement and Benefits

(1) PTAs are eligible for 10 percent night differential for any portion of their REGULAR scheduled tour of duty which occurs between 6:00 p.m. and 6:00 a.m. They will be paid for a holiday if it falls on a day of the employee's prearranged tour of duty. Federal law precludes the FBI from compensating part-time employees with Sunday premium pay.

(2) PTAs will continue to accrue retirement credit on a prorated basis under the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS). Part-time employment will not affect an SA's retirement eligibility, only the computation of his/her annuity. Therefore, the mandatory retirement date for an Agent would not be changed by the PTAP.

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(3) PTAs under both CSRS and FERS may contribute to the Thrift Savings Plan (TSP) under the same rules as full-time employees.

(a) CSRS PTAs may contribute 5 percent of pay and FERS PTAs may contribute 10 percent of pay to the TSP. Contributions are based on actual earnings.

(4) The contribution to Social Security is unaffected by the PTAP.

(a) Part-time CSRS SAs will pay 1.45 percent of their actual earnings for Medicare tax. Part-time FERS SAs will pay 1.45 percent for Medicare and 6.20 percent of their actual earnings for Old Age, Survivor, and Disability Insurance Tax.

(5) PTAs will be eligible to continue participation in the Federal Employees Health Benefits Program (FEHBP) on a prorated basis.

(a) The government normally pays approximately 60 percent of the health insurance premium for full-time employees. The remainder of the premium is paid by the employee. Because the cost of the many health plans in the FEHBP vary, there is a set maximum for the government contribution.

(b) PTAs are eligible to participate in the FEHBP; however, the government's contribution to the insurance premium is prorated based on the number of hours scheduled to work each pay period. The part-time SA pays the combined total of the regular full-time employee premium PLUS that part of the government's share remaining after the prorated deduction. If the PTA works additional hours during a pay period, the government's contribution would NOT be increased in proportion to the additional hours worked unless the SA's scheduled workhours had been increased.

(6) PTAs will be eligible to continue their enrollment in Federal Employee Group Life Insurance (FEGLI) at a reduced rate.

(a) The amount of life insurance in force is reduced in proportion to the reduction in full-time salary. The cost per thousand dollars of Basic life insurance, per pay period (16.5 cents per thousand), remains the same.

(7) PTAs will accrue annual and sick leave on a prorated basis in accordance with the amount of time the employee worked for

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the federal government as described below.

(a) Annual Leave (AL) is earned as follows: Up to, but less than 3 years of service - 1 hour AL for each 20 hours in a pay status; 3 years but less than 15 years of service - 1 hour AL for each 13 hours in pay status; and, 15 years or more service - 1 hour AL for each 10 hours in a pay status.

(b) Sick Leave (SL) is earned at the rate of 1 hour for each 20 hours in a pay status.

(8) The waiting period for within-grade increases (WIGIs) and promotions for PTAP Agents will be the same as for full-time Agents. (See also MIOG, Part I, 67-13.)

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SECTION 21. PROBATIONARY EMPLOYEE POLICY AND PROCEDURES

21-1 INTRODUCTION (See MAOP, Part I, 5-4.3, 13-10, 13-13 & 13-14.)

(1) Appointments to positions in the FBI are contingent upon satisfactory completion of a one-year probationary period which begins when employees enter on duty. In addition, appointments of new Special Agent (SA) trainees, on or after December, 1994, and newly hired Forensic Examiners in the Laboratory Division, are contingent upon satisfactory completion of a two-year probationary period which begins when employees enter on duty as new SAs or Forensic Examiners. However, the two-year probationary period must be expressly stated as a condition of employment at the time the appointment is made. During this period, supervisors and management officials are responsible for ensuring, through vigilant oversight and direction, that new employees possess the qualities and abilities necessary for successful service. Within their first year on duty (two years on duty for new SAs and Forensic Examiners), probationary employees deemed deficient in performance and/or conduct may be reduced in grade or removed without the formality, privileges and protection afforded nonprobationary personnel. The policy and the procedures to be utilized to effect such actions follow. It must be noted that this policy supplements, but does not supersede or replace, existing performance appraisal and personal conduct policy. (See MAOP, Part II, 8-1.2.1.)

(2) Notwithstanding the above, preference eligible employees have certain procedural rights. In this regard, preference eligible employees who have completed one year of current continuous service in the same or similar positions within an agency are entitled to certain statutory due process rights set forth at Title 5, United States Code (USC), Section 7513. As a general matter, a preference eligible employee includes an honorably discharged veteran who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized; during the period beginning on 4/28/52 and ending on 7/1/55; or for at least 180 days during a period occurring after 1/31/55 and before 10/15/76 (with exceptions applying to the National Guard and the Reserves). The term also includes certain disabled veterans. In addition, under certain limited circumstances "preference eligible" can include an unmarried widow/widower of a veteran, the spouse of a disabled veteran, or the mother of a deceased or disabled veteran. It does not include members

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of the FBI-DEA Senior Executive Service. (See Title 5, USC, Section 2108.) Preference eligible employees may only be removed or reduced in grade or pay for such reasons that will promote the efficiency of the service. (See MAOP, Part I, 21-8.)

(3) Preference eligible employees who have completed one year of current continuous service are entitled to the following procedural rights: (a) at least 30 days' advance written notice stating the specific reasons for the proposed action, unless there is a reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed; (b) a reasonable time of not less than seven days to answer orally and in writing and to furnish affidavits and other documentary evidence; (c) the right to be represented by an attorney or other representative; (d) a written decision which includes the specific reasons for the agency action; (e) the right to appeal the adverse action to the Merit Systems Protection Board (MSPB); and, (f) the right to inspect documents which the agency relied upon in arriving at its decision.

(4) Nonpreference eligible employees are not legally entitled to the same procedural rights as preference eligible employees. Nonetheless, probationary employees who are being reduced in grade or removed from the rolls will be advised in writing of such action and the reasons for same. Nonpreference eligible employees in a probationary status have no appeal rights either inside or outside the FBI. (See MAOP, Part I, 13-1(5) & 14-4.2(4).)

EFFECTIVE: 07/11/95

21-2 CITATIONS GOVERNING PROBATIONARY PERIODS

(1) As an excepted service, the FBI is NOT subject to Title 5, United States Code (USC), Section 3321, or to Title 5, Code of Federal Regulations (CFR), Part 315, Subparts H and I, all of which pertain to probationary periods in the competitive service.

(2) The FBI is subject to Title 5, USC, Sections 4301 - 4302a and to Title 5, CFR, Part 430, Subparts B and D, which pertain to performance appraisal. Title 5, USC, Section 4303 and Title 5, CFR, Part 432, which pertain to the reduction in grade or removal of employees covered by the Performance Management System (PMS) based on unacceptable performance, apply ONLY to those FBI employees who have completed one year of current continuous employment in the same or

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similar positions.

(3) Under Title 5, USC, Sections 7511-7513, and the related regulations in Title 5, CFR, Part 752, Subpart D, adverse actions may be taken only for such cause as will promote the efficiency of the service. In the FBI, referenced provisions apply ONLY to preference-eligible employees who have completed one year of current continuous employment in the same or similar positions. The advance notice and response privileges conferred by referenced statutory and regulatory provisions have traditionally been afforded to all FBI employees without regard to their preference-eligible status.

(4) FBI policy and procedures relative to performance appraisal and adverse actions are set forth in the Manual of Administrative Operations and Procedures (MAOP), Part I, Sections 5 and 13, respectively; similar information regarding the Probationary Agent Program is included in the MAOP, Part II, Section 8. FBI executives, management officials and supervisors are also responsible for knowledge of supplemental information regarding these areas as set forth in related policy communications, booklets and the like.

EFFECTIVE: 01/23/97

21-3 INDIVIDUALS/ACTIONS TO WHICH POLICY APPLIES

(1) With the exception of those in the FBI Senior Executive Service, this policy applies to all individuals newly appointed to positions in the FBI. It also covers those individuals whose reinstatement to a position in the FBI is contingent upon satisfactory completion of a probationary period.

(2) This policy does NOT cover actions involving employees dismissed for preemployment conditions. Concerns of this nature must be immediately brought to the attention of the Special Agent Applicant Unit (SAAU) or Bureau Support Applicant Unit (BSAU), Personnel Division (PD), and addressed in accordance with guidance received. The SAAU or BSAU will coordinate these matters with the appropriate units at FBI Headquarters, such as the Pay Administration and Support Staffing Unit, PD. This policy is also NOT pertinent to probationary periods established in connection with disciplinary actions.

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EFFECTIVE: 04/29/97

21-4 DEFINITIONS

(1) "Acceptable performance" - Performance that meets an employee's performance requirement(s) or standard(s) at the Minimally Acceptable level for employees subject to the PMS.

(2) "Appraisal" - The act or process of reviewing and evaluating the performance of an employee against the described performance standard(s).

(3) "Current continuous employment" - A period of employment in the same or similar positions without a break in service of a workday.

(4) "Minimum appraisal period" - The 90-calendar day period an employee must serve on notice of critical elements and performance standards before a Performance Appraisal Report (PAR) can be issued.

(5) "Probationary Period"

(a) A one-year period would begin the date an employee enters on duty and would end at the close of business on the last working day of that period (regardless of whether a leap year is involved). Thus, if an employee was appointed on Sunday, March 11, with a regular tour of duty from 8 a.m. to 4:30 p.m., he/she would complete probation at the close of business on Friday, March 8, the following year.

(b) For new Special Agent (SA) trainees and newly hired employees for Forensic Examiner positions in the Laboratory Division, a two-year period would begin the date the new SA or Forensic Examiner enters on duty and would end on the last working day of that period. As an example, if the new SA or Forensic Examiner was appointed on Sunday, December 11, 1994, with a regular tour of duty from 8 a.m. to 4:30 p.m., they would complete probation at the close of business on Wednesday, December 11, 1996.

(c) A termination made effective at the close of business on the last working day of the probationary period, with no time specified, would become effective at midnight - after the

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probationary period has been completed. This means that the employee must be removed BEFORE the close of business of the last day of the probationary period; otherwise, the employee automatically completes probation, and the agency must then take action under policy governed by Title 5, Code of Federal Regulations, Part 432 or 752, as appropriate.

(6) "Reassignment" - The movement of an employee from one position to another with no change in grade or salary.

(7) "Reduction in grade" - The involuntary assignment of an employee to a position at a lower classification or job grading level.

(8) "Removal" - The involuntary separation of an employee from employment with an agency.

(9) "Same or similar positions" - Positions in which the duties performed are similar in nature and character and require substantially the same or similar qualifications, so that the incumbents could be interchanged without significant training or undue interruption to the work.

EFFECTIVE: 07/11/95

21-5 RESPONSIBILITIES

(1) The Assistant Director (AD) of the PD is responsible, personally or through designated staff members, for administering all personnel activities, including the formulation of personnel policies and overall administration and management of the FBI's centralized personnel program. This responsibility includes, but is not limited to, authorizing the reduction in grade or removal of any employee covered by this policy.

(2) The Personnel Officer is responsible, personally or through designated staff members, for managing and directing the FBI's performance appraisal systems, and for managing and directing the administrative processes required to address misconduct and performance-based disciplinary matters. These responsibilities include, but are not limited to, reviewing, analyzing and evaluating specific PMS applications and the results of administrative inquiries to ensure compliance, and concurring with or disapproving

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recommendations to reduce in grade or remove probationary employees.

(3) The AD of the Training Division (TD) is responsible, personally or through designated staff members, for managing and directing the training afforded at the FBI Academy to newly appointed Special Agents. This responsibility includes, but is not limited to, establishing and monitoring the levels of performance which must be met for a new Agent to continue in/graduate from the FBI Academy and reviewing recommendations to remove an Agent trainee who has failed to meet the established criteria. He/She is personally responsible for authorizing the removal of new Agent trainees who have failed to meet the criteria established for the academic, firearms, or physical fitness/defensive tactics programs, and for notifying new Agents of this decision.

(4) Each head of office is responsible for the appraisal process under his/her jurisdiction as well as for the oversight of conduct and disciplinary matters. In this regard, he/she must impose controls to ensure that probationary employees' performance and conduct are monitored and evaluated in an effective, timely and consistent manner, and that supervisors afford assistance designed to help employees achieve the requisite minimum level of performance.

(5) Rating and reviewing officials are responsible for: consistently monitoring and evaluating subordinates' performance and conduct; assisting employees to meet an acceptable level of performance; counselling employees regarding performance and personal conduct; and initiating any necessary performance appraisal, disciplinary, or other personnel actions in a timely manner.

EFFECTIVE: 04/21/94

21-6 NEW AGENTS AT THE ACADEMY

Reference is made to the policy document captioned "Requirements at the FBI Academy," which defines the levels of performance which must be met by every Agent trainee to continue in the training program and graduate. The document also explains the New Agent Review Board (NARB) process and defines the performance dimensions of the Agent position considered critical to effective job performance. New Agents receive a copy of this document for review and are required to indicate, in writing, their understanding of the contents of the document.

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(1) PROGRAM FAILURE. When a new Agent fails to meet the criteria established for the academic, firearms, or physical fitness/defensive tactics programs, he/she may be subject to dismissal from the Academy. In these instances, the employee is to be notified, in writing by the approving official, the AD, TD, that his/her employment is being terminated for failure to meet the specified training requirements.

(2) NARB RECOMMENDATION. In those instances when the AD, TD concurs with an NARB recommendation to dismiss a new Agent, the document reflecting the bases for and the approval of that action is to be immediately forwarded to the Administrative Summary Unit (ASU). Personnel assigned thereto will promptly review the matter for compliance with governing policies and will coordinate with other offices, e.g., Office of Equal Employment Opportunity Affairs, as required. The AD, PD is responsible for approving/disapproving the recommendation and will notify the employee, in writing, of the decision and the reason(s) for the action.

EFFECTIVE: 04/21/94

21-7 MONITORING, DOCUMENTING AND REVIEWING

(1) Once new Agent or support employees report to their offices, their supervisors must be particularly alert to, and consistent in, monitoring and documenting their performance and personal conduct. With respect to appraisal matters, both positive and negative examples of probationary employees' performance are to be documented with sufficient frequency and detail to permit the assignment of performance levels when collectively reviewed in terms of the requirements of the employees' critical elements and the measurement criteria in their performance standards.

(2) Rating officials are to record training and instructions afforded probationary employees in order to assess their ability to perform required assignments in an acceptable manner. Similarly, all instances in which assistance is provided to probationary employees to improve performance which is less than Fully Successful is to be recorded for appropriate consideration as the appraisal process continues. Maintenance of such documentation will facilitate rating and reviewing officials' determinations regarding

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the nature of the supervision and guidance required to ensure employees complete their assignments in an acceptable manner.

(3) Supervisors and management officials must also be alert to, consistent in documenting, and careful in balancing the needs of probationary employees. In so doing, supervisors should consider the health of employees, as well as their family members, in relation to the office's need for reliable employees who report to work regularly. Accordingly, probationary employees must be advised during their indoctrination and reminded as necessary during their probationary period that the use of leave is an earned privilege subject to supervisory approval.

(4) Any incident reflecting a failure to meet/observe a condition of employment or a violation of personal conduct policy must be carefully documented. Examples of such incidents would include, but are not limited to, those in the schedule of disciplinary offenses in the MAOP, Part I, 13-13. The record is to include not only details of the incident itself, but also the employee's response when questioned regarding the failure or violation and any mitigating circumstances known or claimed. In addition, details regarding the instructions, advice and/or guidance provided to the employee with respect to the immediate and potential consequences of the incident and the effect of any repetition are to be documented.

(5) Creation of records in a timely manner is necessary in order to permit the consideration of all appropriate factors regarding employees' performance and conduct when deciding whether to retain, reduce in grade or release employees prior to the close of their probationary period. The absence of records or records which lack adequate detail may preclude the formulation of an informed judgment to take such an action on an employee prior to the expiration of his/her probationary period. Additionally, uniform, consistent treatment and documentation of incidents occurring during employees' probationary periods will serve to reinforce the FBI's clear policy regarding personal conduct and minimize the potential for misunderstandings between the employees and their supervisors and managers.

(6) Heads of offices are responsible for establishing and implementing appropriate controls to ensure that all subordinate management officials and supervisors not only collect and maintain appropriate documentation but also review it periodically with particular attention to its effect, if any, on an employee's ability to successfully complete his/her probationary period. For new Agents, it is suggested that reviews be keyed to their file reviews which must

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be conducted at least every 60 days. (See MAOP, Part II, 1-1.4, 1-3.13.3, and 8-1.2.3.) A similar schedule is recommended for new support personnel.

EFFECTIVE: 07/11/95

21-8 PERSONNEL ACTIONS

(1) Reassignment, reduction-in-grade, and removal are the principal personnel actions utilized in connection with probationary employees. Unlike reduction-in-grade and removal, reassignments are not adverse actions and may be justified simply in terms of the needs of an office. Executives, management officials and supervisors are encouraged to consider the likely benefits of the reassignment of a probationary employee in terms of his/her qualifications for other positions, the needs of the current work area, and the total staffing needs of the office. Employees who were serving in an FBI support position prior to appointment to the Special Agent position and are subsequently removed from the Special Agent position during the probationary period may be returned/reassigned to their former support position or a similar position, regardless of their preference status. As well, those FBI employees serving in a support position prior to their selection for the Forensic Examiner position may be returned/reassigned to their former support position or a similar position should they fail to successfully perform in the position of Forensic Examiner, regardless of their preference status.

(2) Recommendations to remove or reduce a probationary employee in grade will normally be justified either in terms of performance or conduct deficiencies. Such recommendation must be reviewed and approved by the Assistant Director, Personnel Division or a designee. While not required by law or regulation, in the interest of uniformity and consistency, probationary employees who are being reduced in grade or removed from the rolls are to be advised in writing of the action being taken and the reasons for same. This communication should include the statement that the probationary employee has no right to appeal the action within the FBI. However, preference eligible employees are entitled to certain procedural rights. See MAOP, Part I, 21-1. (See also MAOP, Part I, 14-4.2(3).)

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EFFECTIVE: 07/11/95

21-9 PERFORMANCE APPRAISAL

Rating and reviewing officials are required to apply uniform, consistent evaluation procedures in assessing the performance of each of their subordinates. The careful exercise of this responsibility is critical in evaluating the performance of probationary employees to determine their fitness for continued employment. The information generated through the systematic application of the performance appraisal process provides an excellent basis to determine progress during the first year on duty and will assist supervisors and management officials in making retention decisions.

(1) MANAGEMENT EXPECTATIONS. Administrative controls must be imposed to ensure that new employees are promptly placed on notice of their Performance Plan, i.e., critical elements and performance standards. Delays in presenting Performance Plans to new Agents may severely limit rating and reviewing officials' ability to make informed judgments regarding their performance especially in light of the fact that the first four (4) months of their probationary period is spent at the FBI Academy.

New support employees and Agents who are subject to the PMS and who achieve at least the Minimally Acceptable level on each of their critical elements, have met the minimum level required for retention in their positions. Rating and reviewing officials may NOT require probationary employees to demonstrate a higher level of performance than is otherwise required for retention in FBI positions.

(2) APPRAISAL PROCESS. Sound application of the appraisal process is one of the most effective ways to safeguard the human and material resource investment made in the recruitment, investigation and hiring of new employees. While supervisors are encouraged to utilize the full process to address performance deficiencies, they may elect the use of summary procedures to address significant performance problems or in instances in which the appraisal process cannot be completed in sufficient time to allow final action within a probationary period. In considering their recommendations, heads of offices must carefully weigh the following factors: the recruiting/hiring/training investment to date; the magnitude of the problem(s) observed; the nature and extent of the assistance previously provided; the amount of time remaining in the

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employee's probationary period; and the projected cost in human and material resources and program/assignment integrity, if an opportunity period (minimum of 90 days for personnel subject to the PMS) is afforded. Refer to Section 21-10 for information regarding the treatment of significant performance deficiencies in connection with the efficiency of the service.

(3) PERFORMANCE BELOW THE MINIMUM. When it is determined that a probationary employee is not achieving the minimum level for retention and is not responding to assistance, the supervisor should promptly initiate contact with personnel assigned to the Performance, Recognition and Awards Unit (PRAU). Information regarding any conduct issues should also be presented for referral to the Office of Professional Responsibility or ASU as appropriate.

(a) While supervisors need to allow their probationary employees sufficient time to establish performance patterns, they are not required to wait until the end of the minimum appraisal period to discuss poor performance, initiate action to assist the employee to improve, or recommend a personnel action, e.g., reassignment, which may increase the employee's potential for performing acceptably. Similarly, despite a normal tendency to allow the benefit of the doubt with respect to formally judging new employees' performance, experience reflects that delays in officially recognizing deficiencies rarely benefit either the employee or the agency.

(b) When opportunity periods are initiated, employees are effectively promised assistance and a specified period of time to demonstrate improved performance. Recommendations for reduction in grade or removal are based on employees' failure to improve to the minimum level required for retention during their opportunity periods. Once notified of an opportunity period and absent unusual circumstances, e.g., a significant conduct incident or repetition of inappropriate conduct after counseling, a probationary employee will be considered to be ENTITLED to the assistance and time promised regardless of the date his/her probationary year ends. In effect this means that, if the opportunity period ends at approximately the same time or shortly after the probationary period ends and the employee has failed to improve, there will not be time to take action prior to the expiration of the probationary period. Action to reduce in grade or dismiss can still be taken, but he/she will be granted the same rights, e.g., advance written notice, afforded nonprobationary employees under the governing law and regulations.

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(4) IMPROVEMENT OPPORTUNITIES. Providing assistance, as specified in an Unacceptable - Warning PAR, and careful monitoring of the employee's performance throughout his/her opportunity period is crucial to the decision required at the close of the opportunity period. Contact with PRAU personnel should be maintained during this period to facilitate the prompt preparation, review and acceptance of the documents required to close the period.

This is particularly important in addressing performance problems experienced by new Agents who are exposed to several investigative areas. For example, a new Agent may conduct applicant investigations in an acceptable manner but not be able to properly manage criminal investigations. Accordingly, it is imperative that such an Agent continue to be assigned criminal cases during his/her opportunity period and given assistance to improve in the handling of same. Only through this process can executives, management officials, and supervisors ensure that an appropriate basis exists to determine the individual's potential as an FBI employee.

(5) FAILURE TO IMPROVE. When a PMS probationary employee does not achieve the Minimally Acceptable level during an opportunity period, the required resolution PAR or communication must be prepared and issued as quickly as possible to permit action before the expiration of the employee's probationary period. As indicated in the PMS policy and procedural material, the appraisal document used to resolve an employee's warning status must contain specific examples of performance during the opportunity period. The examples should parallel those included in the warning PAR in order to show that the employee in fact had the opportunity to improve in the same areas in which performance deficiencies were previously noted.

If an employee fails to improve to an acceptable level, the head of his/her office is responsible for recommending reassignment, reduction-in-grade or removal. The resolution document along with the appropriate cover communication setting forth the issuing office's recommendation should be forwarded directly to the PRAU. This should allow the PRAU sufficient time to review and address the recommendation made prior to the expiration of the probationary period.

(6) RECONSIDERATION REQUESTS/APPEALS. Under existing PMS policy, employees may request the Personnel Officer to reconsider any PAR received. Such a request, particularly at the close of an opportunity period, will not stay the action recommended by the issuing office, given the Personnel Officer's initial acceptance of the PARs involved. Probationary employees do not have the right to

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appeal actions based on performance appraisals outside the FBI.

EFFECTIVE: 01/23/97

21-10 REPORTING CONDUCT DEFICIENCIES (See MAOP, Part I,
21-9(2).)

(1) Executives, management officials and supervisors must carefully consider any misconduct of a new employee and the impact it may have on his/her career in the FBI. Supervisors who are concerned about the conduct of a probationary employee are encouraged to promptly initiate contact with the ASU. Misconduct coupled with performance deficiencies should be brought to the attention of the PRAU and ASU to ensure coordination of efforts.

(2) When the head of the office concurs that the nature of a probationary employee's performance or conduct deficiencies warrants reduction-in-grade or removal, a communication setting forth the specific facts supporting a recommendation will be prepared and forwarded directly to the ASU. Personnel assigned to the ASU will review the communication for compliance with policy as well as any other relevant policies and will ensure coordination with other offices as appropriate.

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SECTION 22. FOREIGN LANGUAGE PROGRAM

22-1 LANGUAGE TESTING MATTERS (See MIOG, Part I, 67-10.7,
67-17.2.4(3), 67-17.2.7(2).)

EFFECTIVE: 09/08/93

22-1.1 | General Information - Policies and Procedures | (See
MAOP, Part I, 22-1.2, 22-1.4.)

Language testing of applicants is performed using one of two existing test batteries. They are the Foreign Language Test Battery (FLT B) and the Spanish Language Test Battery (SLTB). The FLT B is administered to Special Agent (SA) applicants in any language, or to Language Specialist (LS) and Contract Linguist (CL) applicants in all languages except Spanish. The SLTB is administered to LS and CL applicants in the Spanish language. Test instruments and test batteries for FBI employees may vary, depending upon Bureau and specific program needs. The processing office must administer tests in accordance with test administration procedures provided with the test materials described below. Testing should take place in a quiet environment, free from distractions. Examinees should be properly advised of the testing procedures prior to the actual test(s), including when and when not to use dictionaries, and must be monitored during the entire test administration. Test materials are for official use only and must be afforded appropriate test security measures at all times to avoid compromise. Loss or compromise of test materials damages the integrity of the FBI's language testing effort, and represents a financial loss to the Bureau. Examinees should be advised that all speaking tests are audio-recorded. At the conclusion of testing LSU sends an official report of results. Should the applicant fail any portion of the test battery, the Report of Results will include a statement of the retesting policy.

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22-1.2 Testing SA Bureau Applicants (BUAPs)

(1) Language Program Processing: The processing office must request the test materials from FBIHQ, LSU (Testing). SA applicants are administered Phase I of the FLT B which consists of a listening and reading comprehension test. After the test is administered, the processing office returns all test materials to LSU for grading. Should the applicant pass Phase I, the processing office schedules Phase II of the FLT B, which consists of a speaking test in the foreign language.

(2) Non-Language Program (Non-LP) Processing: Those competitive SA applicants who qualify under other programs, but are not most competitive for Phase II of the SA Selection System (SASS) testing may be considered most competitive if they pass the FLT B in one of the Bureau's critical languages. The processing office must request and return the test materials as described in MAOP, Part I, 22-1.1; however, only a passing score in the listening portion of Phase I of the FLT B is needed in order to proceed to Phase II of the FLT B-Non-LP. In that case, LSU will advise the processing office to obtain a completed Self-Assessment Form (SAF) from the applicant. LSU will contact the processing office if a speaking test is warranted based on the results of the SAF. The processing office should then schedule Phase II of the FLT B-Non-LP which consists of a speaking test in the foreign language.

(3) Other SA (Speaking Only) Processing: SA applicants who have successfully completed Phase II of the SASS testing and qualify under other programs but who have indicated that they have foreign language ability should be afforded a speaking proficiency test in the final stages of the applicant processing. The processing office should contact FBIHQ, LSU (Testing) to schedule a speaking ability test in the foreign language, identifying the examinee as an SA (Speaking Only) applicant. The results will be sent to the processing office in the form of an electronic communication (EC) as would the Report of Results for an on-board employee.

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EFFECTIVE: 09/29/97

22-1.3 | Testing Language Specialist Bureau Applicants and
Potential Contract Linguists

Testing procedures and policies are identical for
processing LS and CL applicants.

(1) Processing under all languages (except Spanish): The processing office must request the testing materials from FBIHQ, LSU (Testing). LS/CL applicants are administered Phase I of the FLT B, which consists of a listening and reading comprehension test and a foreign language into English translation test. (In languages where no translation test exists, an English writing test is administered.) After administering Phase I, the processing office should return all test materials to LSU for grading. Should the applicant pass Phase I, the processing office schedules Phase II of the FLT B, which consists of speaking ability tests in the foreign language and in English.

(2) Processing under the Spanish Language: The processing office must request the test materials from FBIHQ, LSU (Testing). Field offices with high-volume Spanish testing may request multiple quantities of Phase I tests to have on hand so that the testing process can begin immediately. LS/CL (Spanish) applicants are administered Phase I of the SLTB which consists of a listening summary translation exam. Should the applicant pass Phase I, LSU will send materials for Phase II of the SLTB which consists of two (2) translations: one from Spanish into English and the other from English into Spanish. LSU will not accept requests for multiple quantities of these tests. Should the applicant pass Phase II, the processing office schedules Phase III of the SLTB, which consists of speaking ability tests in Spanish and English.

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22-1.4 Testing On-Board Personnel

(1) On-board personnel interested in applying for SA positions under the Language Program should contact the field office Applicant Coordinator (AC) (at FBIHQ, the WFO AC) to follow the processing procedures as stated in MAOP, Part I, 22-1.1.

(2) On-board personnel interested in applying for LS positions should contact the AC in their division (FBIHQ personnel must contact WFO) and follow the processing procedures as stated in MAOP, Part I, 22-1.1. The processing office will coordinate all language testing with FBIHQ, LSU (Testing) and all results will be sent directly to the processing office AC. LSU will test in accordance with FBI language requirements and priorities.

(3) On-board SA and support personnel interested in establishing a base-level rating in order to make their foreign language skills a matter of record should contact the field office Foreign Language Coordinator (FLC) for guidance or contact FBIHQ, LSU (Testing) directly to schedule a speaking ability test in the foreign language. All test results will be forwarded to the field office FLC for appropriate distribution.

EFFECTIVE: 09/29/97

22-1.5 Other Testing (See MAOP, Part I, 22-4.)

(1) Foreign Language Incentive Program (FLIP): On-board employees in the San Juan field office may qualify for FLIP payment if they meet the minimum qualifying proficiency level set for FLIP. The employee must contact LSU (Testing) to schedule a speaking test in Spanish. The test will be administered telephonically, and the results will be reported to the field office via EC.

(2) Foreign Language Pre/Post-Training Tests: An employee who is participating in Bureau-paid language training may be required to take an aptitude test and/or other pretraining tests. An end-of-training, FBI-administered speaking test and any other testing deemed necessary to evaluate and measure the success of language training will be required. LSU may also require language testing of employees who received FBI-paid language training for the purpose of

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longitudinal studies regarding the long-term effectiveness of such training. Employees will be advised of the testing procedures at the appropriate time.

(3) Defense Language Aptitude Battery (DLAB): The DLAB is a multiple-choice test with audio and written stimuli delivered in an artificial language designed to test a person's aptitude for learning a foreign language. The DLAB is administered to a person one time only; therefore, if a person has taken the DLAB before (including while in the military), he or she need not retake it. SA personnel may take the DLAB at any time. The DLAB should be available through the Applicant Coordinator's office. The AC may request the DLAB from LSU (Testing). On the day of the test, the test administrator must monitor the examinee for the entire duration of the exam. Upon completion of the exam, the test administrator must collect all test materials including the answer sheet(s) and return them to LSU (Testing) for processing. The results of the test will be sent to the field office via EC.

EFFECTIVE: 09/29/97

22-1.6 Foreign Language Test Security

All test booklets and cassettes are serially numbered. Most test materials are maintained at LSU (Testing) and charged out as requested, but some are charged out permanently to specific field offices. All test materials, whether permanently or temporarily issued to a field office, are to be maintained in the SAC's safe or other designated safe with controlled access and should be provided appropriate security at all times. Only authorized personnel should have access to test materials. Test materials should not be duplicated or faxed. All notes and drafts of translation and writing tests should be collected from the examinee and properly disposed of to prevent test compromise. The field should always adopt measures to ensure that examinees are closely monitored while taking the test.

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22-1.7 Retesting Policy

(1) Only one retest of each failed portion of the FLTB and SLTB is permitted. Retests are a different version of the same test and are permitted after a waiting period of at least one (1) year, but not more than two (2) years from the initial test date. If the failed portion is not retaken within two years of the original test date, the entire test battery must be retaken. Passing test battery scores are good for three (3) years from the date that the last phase of the test was administered. After three years, if the applicant has not filled a position within the FBI where he or she utilizes the language skills successfully, the entire test battery must be retaken.

(2) Test scores for on-board personnel are valid for one to five years, depending on the skill level. Scores of 0, 0+, 1, 1+, 2 and 2+ are valid for one (1) year. Scores of 3 and 3+ are valid for three (3) years. Scores of 4, 4+ and 5 are valid for five (5) years. Pretraining test scores cannot be older than one year, regardless of the level of proficiency of the last test score. To update scores, on-board personnel should contact the FLC in their field office or LSU (Testing) to schedule a speaking test.

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22-2 FOREIGN LANGUAGE TRAINING PROGRAM (See MAOP, Part II, 1-1.9.)

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22-2.1 Background (See MAOP, Part II, 1-1.9.)

(1) Objectives and Prioritization - A primary objective of the FBI Foreign Language Program is to recruit sufficient qualified linguists to address FBI foreign language responsibilities. Where recruitment does not yield sufficient, qualified linguists, language training of on-board personnel should be considered. LSU's targeted proficiency goal for hiring as well as for most language training is Level 3 on the Interagency Language Roundtable scale. However, the minimum oral proficiency goal for language training may be higher or lower, depending on Bureau needs.

(2) Bureau Requirements - Two years of Bureau service are required before an employee may be considered for full-time language training; one year of Bureau service is required prior to being considered for part-time training. Other requirements are set forth below under the individual categories of training.

(3) Training Agreement

(a) Government Employees' Training Act (GETA) policy stipulates that training at government or nongovernment facilities must have a direct bearing on overall organizational job requirements for which there are not enough qualified personnel. Such training cannot be for the purpose of qualifying individuals for positions or promotions for which they otherwise would not be qualified while suitably qualified personnel are available for such positions. Employees receiving training incur a service agreement under GETA provisions which is described in MAOP, Part II, Section 8-1.4.

(b) All personnel who receive foreign language training paid for by the FBI must sign the Training Agreement (FD-375) and agree to use these acquired language skills as needed by the FBI. The terms and the length of the service agreement are described in MAOP, Part II, 1-1.9(2).

(4) Types of Training

In order to match the training to the needs of individual field offices and employees, different types of training are provided. Training offered includes basic language development, follow-up skill building, and refresher instruction delivered through full-time, part-time, total immersion, and/or self-study approaches. The information described in the Language Training Application submitted to LSU will determine the best course of language learning for each applicant. Training selection will depend on:

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(a) The Final Learning Objectives (FLOs), which are the specific foreign language requirements the applicant requests to prepare him/her to carry out assigned duties;

(b) The criticality of the language need, with the highest priority given to the greatest need and potential benefit to the FBI; and

(c) Availability of funds.

(5) Training/Evaluation | (See MAOP, Part I, 22-2.5.1.) |

(a) In accordance with GETA and LSU policy, all training (including self-study) shall be evaluated in terms of cost effectiveness. This will include evaluation of the training institutions, post-training testing of students, and long-term tracking of student language-related performance.

(b) LSU will monitor FBI student language training (including self-study). It will be necessary for the student(s) to demonstrate satisfactory progress in achieving the stated proficiency goal in order to continue training. Decisions regarding termination of training contracts or self-study programs are based upon unsatisfactory progress or attendance will be made by the LSU.

(c) To measure the success of all FBI-paid language training, students must submit to both pretraining, end-of-training testing, as well as a post-training course evaluation and/or other assessments designed to measure the quality and short-/long-term effectiveness of language training provided.

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22-2.2 | Open Season - Special Agents GS-10 through GS-13 | (See
MAOP, Part II, 1-1.9.)

| Requests for language training for SAs GS-10 through GS-13 must be made through the open season procedure at the beginning of each fiscal year. This procedure will allow for cost-effective grouping of SAs according to similar needs and ability levels, timely processing, and priority selection of SAs with the greatest operational need for language training. Per an annual electronic communication (EC), LSU will advise each field division of the duration of open season and the appropriate procedures to follow when applying for language training. Special language training requests based on unanticipated needs submitted at other times during the year will be reviewed on a case-by-case basis. |

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22-2.3 | Supervisory Special Agents (SSAs) GS-14 and Above
(See MAOP, Part II, 1-1.9.)

| SSAs with documented language training requirements may submit a language training application at any time. LSU will review and prioritize such applications and design a suitable training approach to meet the SSA's needs. |

EFFECTIVE: 09/29/97

22-2.4 | Foreign Language Training for Support Personnel

| In rare instances, language training may be provided to support personnel for the position of Language Specialist, if such positions cannot be filled through transfers, temporary duty assignments of on-board personnel, or regular hiring procedures. In such cases, LSU will conduct fieldwide surveys to which eligible support employees may apply. In addition, support employees in certain field offices may receive language training to enable them to

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carry out their duties. LSU will review such requests and determine the criticality of the language requirement and the appropriate course of action to address the language skill(s) needed to benefit the division/employee.

EFFECTIVE: 09/29/97

| 22-2.5 | Foreign Language Training for Legal Attache | (LEGAT)
Personnel/Selectees and Spouses

EFFECTIVE: 09/29/97

| 22-2.5.1 | Legal Attache Personnel/Selectees

LEGAT personnel/selectees may request language training at any time as needed. If sufficient funding is available, all training requests will receive consideration and will be prioritized according to the needs of the Bureau. Refer to MAOP, Part I, 22-2.1(5) for evaluation and testing requirements associated with language training since these also apply to language training for LEGAT personnel/selectees.

(1) International Relations Section (IRS), Criminal Investigative Division, will ensure that potential students are provided with the proper application forms and policy/procedural information.

(2) LEGAT personnel whose tour of duty will end within one year will not be approved for additional language training.

(3) The training request must be reviewed and approved by IRS. IRS will forward the approved training request to LSU for processing.

(4) The proficiency goals set for the personnel/selectee indicated below are based on the job requirements and FLOs established by IRS and LSU and are as follows:

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(a) LEGAT/ALAT personnel/selectees -- Speaking 4; Listening 4; and Reading 2. These are very high goals and may not always be attained by beginners and intermediate learners of the language, particularly if there is a short time allotment for language training.

(b) LEGAT Office Assistants -- Speaking 2, Listening 2, and Reading 1.

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22-2.5.2 Spouses of LEGAT Personnel/Selectees

Since spouses are not Bureau employees, GETA funding cannot be used to train spouses. If IRS can provide the funding, LSU will evaluate each request to determine what type of training should be offered to meet the needs of the spouse. LSU will monitor and evaluate the progress of each spouse to ensure that the training meets FBI requirements. The training will be limited to \$2,500 maximum per year per spouse.

(1) The oral proficiency of level 2 is the targeted proficiency goal for the spouses of LEGAT personnel.

(2) Spouses should complete the application used by IRS employees.

(3) The spouses of LEGAT personnel whose tour of duty will end within one year will not be approved for additional language training.

(4) Upon completion of the approved training, the spouses must submit to end-of-training testing to be administered by LSU.

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22-2.6 Language Services Resource Center

(1) Foreign Language Self-Study Training

LSU's Resource Center provides self-study foreign language training materials for Special Agents, Legal Attache personnel, and support personnel who need basic language development, follow-up skill building, and/or refresher training. Self-study foreign language training materials are available in different formats (such as workbooks, audio tapes, video tapes, and CD-ROM computer-delivered courseware), in different skill levels, and in several different languages. Priority will be given to those employees demonstrating the most pressing needs (i.e., TDY or short-term assignments); otherwise, the materials will be available on a first-come, first-served basis for a period of three months. Individuals utilizing self-study foreign language training materials will need to fulfill certain pre- and/or post-training test/evaluation requirements as determined by LSU.

(2) Other Resources

LSU's Resource Center provides a link between the FBI and other language community resources, such as on-line glossaries and other multimedia resources. The Resource Center provides advice and other ancillary language-related services including referrals to appropriate agencies and organizations.

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22-4 FOREIGN LANGUAGE INCENTIVE PROGRAM (FLIP) (See MAOP, Part I, 22-1.5.)

(1) The purpose of FLIP is to reward FBI employees in the San Juan Division for substantial use of their Spanish language expertise in service to the FBI. Each FLIP recipient must have a valid oral proficiency score of 2 or higher in Spanish. Scores of 2+ and below are valid for a period not to exceed one year; scores of Level 3 or 3+ are valid for a period not to exceed three years; scores of Level 4 and higher are valid for a period not to exceed five years. It is the responsibility of the FLIP participant to ensure that test scores are current. Test appointments must be made by March 30th of the FLIP Award year.

(2) Each FLIP recipient must have a rating of Fully Successful or above on all critical elements on their most recent annual performance appraisal report.

(3) SAC, San Juan, or his/her designee, must certify that employees are required to use their Spanish language ability in the performance of their duties.

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22-5 LANGUAGE SPECIALIST (LS)/TRANSLATOR ENTRY-LEVEL GRADE DETERMINATION AND LANGUAGE SPECIALIST PROMOTIONS

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22-5.1 Entry-Level Grade Determination

(1) All applicants, including on-board employees, must pass the Bureau foreign language test battery with requisite scores for the LS or Translator position. Minimum specialized experience requirements apply for on-board personnel.

(2) Applicants or on-board employees who possess qualifying experience and/or college level education totaling four years qualify for a GS 7.

(a) The college degree may be in any subject. Qualifying experience consists of any work with a foreign language (i.e., translating, teaching, interpreting, editing foreign-language manuscripts, or experience in positions requiring a bilingual capability). Also considered are life experiences from residing in the nonnative language culture. Where English is the nonnative language, residence in the United States qualifies. Life experience, however, may only be applied toward the GS 7.

(b) For on-board employees who pass the foreign language test battery, qualifying experience may also include experience gained through normal FBI duties. This type of experience may only be applied toward the GS 7. While previous Bureau experience may not be language related, familiarity with the FBI's mission, policy and procedures gives these candidates a greater amount of institutional knowledge. This knowledge is essential in order to perform at an acceptable level in the LS/Translator position.

(3) Applicants or on-board employees who possess qualifying work experience and/or college-level education totaling five years qualify for a GS 9.

(a) Completion of a Master's degree qualifies for a GS 9. The Master's degree must be in the foreign language or a related subject (for example: English, foreign affairs, area studies, etc.)

(4) Applicants or on-board employees with qualifying work experience and/or college-level education totaling six years qualify for a GS 10.

(a) Advanced level of education must be related to the foreign language or country area studies.

(5) Applicants or on-board personnel with qualifying work

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experience and/or college-level education totaling seven years qualify for a GS 11.

(a) Completion of appropriate Ph.D. qualifies for the GS 11. Ph.D. must be related to foreign language or country area studies.

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22-5.2 Promotional Criteria LS GS 12 Position

(1) Certification by the field office that the employee meets the standards established for promotion to the GS 12, including specific examples of work tasks the LS has undertaken that are at the GS 12 level. The field office must also certify that there is sufficient work in the office at the required level of complexity to warrant the position.

(2) A minimum of two years of time in the LS position. This will require that an LS hired as a GS 11 spend two years at that grade before being eligible for the GS 12 position.

(3) Approximately two hours of recorded material with accompanying translations (either summaries or verbatim) must accompany the field office certification. Translation of written documents may also be submitted. The work examples must include work of demonstrated difficulty and institutional knowledge at the level required for the GS 12. Difficulty may be shown based on the subject matter (technical, legal, political, etc.), specialized vocabulary or quality of the material (for example, semilegible documents or poor quality tape recordings). Institutional knowledge must be demonstrated at the highest levels, i.e., the LS must provide data which give the end user information that would not appear in the original text, that is the nature, importance, function and interrelationship of the personalities and/or organizations involved. This should be in the form of parenthetical remarks and/or translator's notes. None of the work examples submitted should bear the name of the LS nor his/her field office in order to provide anonymity.

(4) The LS will be required to summarize the conversations on a tape provided by the Language Services Unit (LSU).

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The LS's supervisor must ensure that the LS performs the required summaries without any assistance other than reference material, in keeping with time limitations. LSU should be notified 30 days prior to the submission of any promotion request so that a tape can be sent to the office. The completed summary should be forwarded to LSU where it will be reviewed for accuracy, relevancy and conciseness along with the other work examples.

(5) Field office certification and the LS's work exemplars and tape summary may be submitted any time during the six-month period prior to the date the LS is eligible for promotion.

(6) A summary rating of Superior or higher on the last Performance Appraisal Report, with no individual Critical Element below Fully Successful.

(7) Upon completion of the review, LSU will notify the field office of the results. If promotion is recommended, the field office may initiate an SF-52.

EFFECTIVE: 09/08/93

22-5.3 LS GS-13 | Promotion Policy |

(1) The LS GS-13 position is not part of the LS career path. It is unique, and each recommendation for promotion to that level will be considered on an individual basis. Each GS-13 position will be limited to the incumbent.

(2) Referencing the Position Classification Standard for the Language Specialist Series GS-1040 published by the U.S. Office of Personnel Management (OPM), an LS must possess knowledge of two or more languages representing two or more language groups to a degree sufficient to translate difficult subject matter in order to qualify for the GS-13. In addition, the LS must have a knowledge of English sufficient to render translations with correct grammar, syntax, spelling, and use of a wide range of both technical and nontechnical vocabulary, and advanced skill in translating that has been gained through extended experience to render material in precise, accurate, idiomatic English of a level and in a style appropriate to the subject matter.

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(a) | A GS-13 candidate must pass the appropriate LS language test battery to qualify in any language used to justify the GS-13.

(b) | The LS must work on a regular and recurring basis in two or more languages in two or more language groups as defined by OPM, not to include English. The material translated or reviewed includes a wide variety of technical, legal, fiscal, scientific, or other material requiring specialized terminology and written for use by subject matter experts.

(c) | Work samples for the second language/group must be submitted to LSU for review regarding accuracy, relevancy, conciseness, and institutional knowledge. Work samples for the first language (which was the basis for promotion to the GS-12) need not be resubmitted. Approximately two hours of recorded material with accompanying summaries and full translations will be required for review. In addition, translations of written documents must also be submitted. The examples must include work of demonstrated difficulty. Difficulty may be shown based on the subject matter, specialized vocabulary, or quality of the material. LSU will also evaluate the level of English in the summaries and full translations to determine if correct grammar, syntax, spelling, and semantics have been employed.

(d) | Certification by the field office that the employee meets the standards established for promotion to the GS-13. Specific examples of work tasks the LS has undertaken at the GS-12 level must be documented. The supervisor must also certify that there is sufficient complex work in the field in both languages to warrant the position.

(e) | A summary rating of Superior or higher on the last performance appraisal report, with no individual critical element below Fully Successful.

(f) | The field office submits a GS-13 job description written specifically for the incumbent LS.

(3) Procedures for submitting GS-13 promotion requests

The following procedures are necessary when field offices submit requests for promotions:

(a) The GS-13 promotion is based on incumbency. Unlike some positions, this position is documented with the name of

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the employee being promoted. The requesting field office must send a communication to LSU requesting the promotion.

(b) The request should detail the following: 1) why the request is being submitted, 2) certified confirmation by the field office that the employee meets all aspects of GS-13 qualifications (as outlined in the LS promotion guidelines), and 3) a GS-13 level position description for the incumbent.

(4) Notification of promotions to GS-13 LS position

(a) LSU confirms that all aspects have been met and that the promotion package is at the acceptable level. LSU sends a communication to the Position Classification Unit (PCU) to record the information into the Bureau Personnel Management System (BPMS) and puts the position on record. PCU then notifies the LS's field office that the promotion has been recorded.

(b) It is the responsibility of the field office to ensure that the employee's promotion is entered into the BPMS to become effective.

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22-6 TRANSLATION POLICY (See MIOG, Part II, 13-23.)

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22-6.1 Request for Translation

(1) Designate request for translation "Attention: Language Services Unit, FBI Laboratory."

(2) Handle material as evidence when applicable, and clearly indicate request that the material should be handled as evidence.

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(3) Request summary translation unless a full translation is absolutely essential.

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22-6.2 Translation in Reports

(1) If translations are set forth in a report, the translator's identity should not be set forth in any portion of the report.

(2) Parenthetical comments made by translators are for information and guidance and should not be incorporated in a report or in any communication to be used in a report.

EFFECTIVE: 09/08/93

22-6.3 Responsibilities of the Field and Legal Attaches with Respect to Translation

The office initiating the request for a translation has the responsibility of taking whatever investigative action is necessary and of disseminating pertinent details contained therein to other interested offices and to FBIHQ.

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22-6.4 Translations in the Field and Legal Attaches

(1) All translations handled in the field and Legal Attaches must be performed within office space, unless otherwise approved by FBIHQ, and must be performed by fully qualified personnel who have passed appropriate translation tests.

(2) All translations of forms or other material for official distribution from English into a foreign language done by personnel other than FBIHQ Translators must be submitted to the Language Services Unit for review and retyping, if necessary, before printing and/or distribution.

(3) The translating office will generally furnish two copies of the translation to the contributor.

(4) Unless otherwise instructed by FBIHQ, when material is sent directly from one field office to another for translation, furnish a copy of the cover communication to FBIHQ, Attention: Language Services Unit, FBI Laboratory, and follow the same procedures on the return of the translation to the contributor.

(5) In connection with translation disseminated, whether the dissemination is restricted to other interested offices or includes outside agencies, the translator's name must appear only on the translating office's file copy.

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22-6.5 Translations at FBIHQ

All translations handled at FBIHQ must be performed within FBIHQ office space, unless otherwise approved, and must be performed by fully qualified personnel who have passed appropriate translation tests.

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