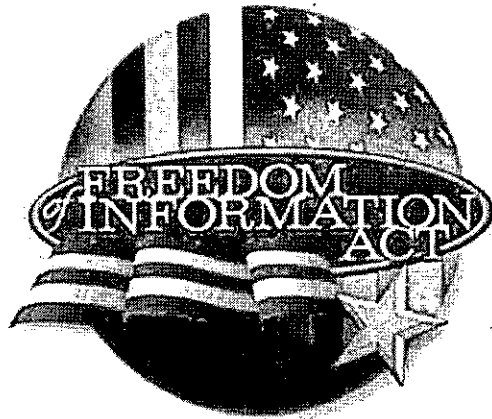


**FREEDOM OF INFORMATION
AND
PRIVACY ACTS**

**SUBJECT: MANUAL OF INVESTIGATIVE
OPERATIONS AND GUIDELINES (MIOG)**

VOLUME:1 PART 2



FEDERAL BUREAU OF INVESTIGATION

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PART II

*Manual of
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SECTION 61. TREASON

61-1 STATUTES

EFFECTIVE: 01/31/78

61-1.1 Title 18, USC, Section 2381 - Treason

"Whoever, owing allegiance to the United States, levies war against them or adheres to their enemies, giving them aid and comfort within the United States or elsewhere, is guilty of treason and shall suffer death, or shall be imprisoned not less than five years and fined not less than \$10,000, and shall be incapable of holding any office under the United States."

EFFECTIVE: 01/31/78

61-1.2 Title 18, USC, Section 2382 - Misprision of Treason

"Whoever, owing allegiance to the United States and having knowledge of the commission of any treason against them, conceals and does not, as soon as may be, disclose and make known the same to the President or to some judge of the United States, or to the governor or to some judge or justice of a particular State is guilty of misprision of treason and shall be fined not more than \$1,000, or imprisoned not more than seven years, or both."

EFFECTIVE: 01/31/78

61-2 RELATED STATUTES

EFFECTIVE: 01/31/78

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61-2.1 Title 18, USC, Section 2389 - Recruiting for Service
Against United States

"Whoever recruits soldiers or sailors within the United States, or in any place subject to the jurisdiction thereof, to engage in armed hostility against the same; or Whoever opens within the United States, or in any place subject to the jurisdiction thereof, a recruiting station for the enlistment of such soldiers or sailors to serve in any manner in armed hostility against the United States--Shall be fined not more than \$1,000 or imprisoned not more than five years, or both."

EFFECTIVE: 01/31/78

61-2.2 Title 18, USC, Section 2390 - Enlistment to Serve Against
United States

"Whoever enlists or is engaged within the United States or in any place subject to the jurisdiction thereof, with intent to serve in armed hostility against the United States, shall be fined \$100 or imprisoned not more than three years, or both."

EFFECTIVE: 01/31/78

61-2.3 Title 18, USC, Section 756 - Internee of Belligerent
Nation

"Whoever, within the jurisdiction of the United States, aids or entices any person belonging to the armed forces of a belligerent nation or faction who is interned in the United States in accordance with the law of nations, to escape or attempt to escape from the jurisdiction of the United States or from the limits of internment prescribed, shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

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61-2.4 Title 18, USC, Section 757 - Prisoners of War or Enemy
Aliens

"Whoever procures the escape of any prisoner of war held by the United States or any of its allies, or the escape of any person apprehended or interned as an enemy alien by the United States or any of its allies, or advises, connives at, aids, or assists in such escape, or aids, relieves, transports, harbors, conceals, shelters, protects, holds correspondence with, gives intelligence to, or otherwise assists any such prisoner of war or enemy alien, after his escape from custody, knowing him to be such prisoner of war or enemy alien, or attempts to commit or conspires to commit any of the above acts, shall be fined not more than \$10,000, or imprisoned not more than ten years, or both." "The provisions of this section shall be in addition to and not in substitution for any other provision of law."

EFFECTIVE: 01/31/78

61-3 CONSTITUTIONAL PROVISIONS

Section 3, Article 3, of the Constitution of the United States provides: "Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court. The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture, except during the Life of the Person attainted."

EFFECTIVE: 01/31/78

61-4 ELEMENTS

EFFECTIVE: 01/31/78

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61-4.1 Treason

(1) Person must owe allegiance to the United States. Statute applicable to all persons owing allegiance to U. S., whether citizens or aliens, domiciled or residing in U. S. Law is clear that every individual owes fidelity and allegiance to Government. Citizen owes absolute and permanent allegiance to his Government until he renounces his citizenship and becomes citizen of another country.

(2) Person must have performed overt act of levying war against the U. S. Act of levying war against U. S., according to court decisions, interpreted as where men meet openly in armed array or in such crowds that mere numbers supply element of force which might otherwise be given by arms, with purpose or intention of nullifying or preventing execution of general law of Congress.

Resistance to U. S. in its sovereign capacity is essential element. To establish violation must have proof of prior agreement, intent, and of an overt act. Waging of war against U. S. requires overt acts in furtherance of a plan to overthrow the authority of the Government either in whole or in some territory or political subdivision. Overt act must be in furtherance of treasonable intent, and words, oral, written, or printed, however reasonable, seditious or criminal, of themselves do not constitute overt act within meaning of statute, or

(3) Person must have performed overt act of adhering to enemies of U. S., giving them aid and comfort within U. S., or elsewhere. Applies only to acts done after commencement of war which would aid or assist enemy, selling or giving material or supplies to enemy, assisting enemy in physical conduct of war and furnishing information to enemy which would be of assistance to enemy or injury to U. S.

EFFECTIVE: 01/31/78

61-4.2 Misprision of Treason

(1) Person owes allegiance to U.S.

(2) Person had knowledge of commission of act of treason.

(3) Person concealed this knowledge and did not immediately disclose it to President, some judge of the U.S., governor of particular state or judge or justice of a particular state.

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EFFECTIVE: 01/31/78

61-5 INVESTIGATIVE PROCEDURE

(1) Treason involves breach of allegiance and is highest crime known to this country. It is only crime embodied in the Constitution.

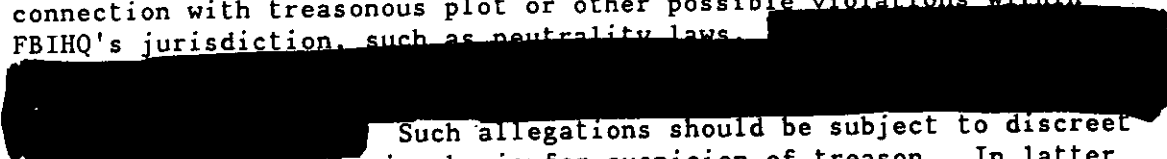
(2) Constitution expressly provides that conviction for treason can be had only "on the testimony of two witnesses to the same overt act, or on confession in open court."

(3) Treason differs from other crimes in that there are no accessories, all persons being regarded as principals.

(4) Any evidence indicating possible violation of treason statute should receive immediate, continuous and preferred investigation. FBIHQ must be advised immediately of basic facts.

(5) Informants or individuals who furnish information indicating possible violation of treason statute should be thoroughly and painstakingly interviewed to ascertain all available details as to words, acts, documents, letters, et cetera, upon which allegation of possible treason based.

(6) Information received from any source indicating that firearms and ammunition are being collected for possible treasonous undertakings should be subject of immediate and thorough investigation to ascertain details concerning type of firearms and ammunition, source thereof, place of storage, and identity of individuals involved. Investigation must be pursued for purpose of definitely determining whether arms or ammunition actually being collected and stored in connection with treasonous plot or other possible violations within FBIHQ's jurisdiction, such as neutrality laws.

 Such allegations should be subject to discreet investigation to determine basis for suspicion of treason. In latter connection necessary to ascertain following:

(a) Identity of individuals responsible or sponsoring organization, together with information discreetly obtained concerning their citizenship, reliability, and loyalty.

(b) All information indicating any connection between the

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organization and any foreign government, political party, individual, corporation, or other association. Also, any connection between group involved and groups, organizations, or individuals operating within U.S. and known to be disloyal to this Government.

(c) Correct nature of activities of organization being undertaken. This may be ascertained by ordinary investigative efforts or utilization of confidential informants, surveillances, and other investigative techniques.

(7) In the event specific evidence obtained indicating possible treasonable plot or undertaking, investigation must be pursued to determine entire ramifications of plot and identity of all individuals involved.

(8) Actual investigative steps and methods will parallel those mentioned in other sections of this manual in connection with national defense matters.

EFFECTIVE: 09/25/91

61-6 POLICY

The Department of Justice must specifically authorize prosecution in each case. Inquiry concerning Department's decision should be sent to FBIHQ.

EFFECTIVE: 09/25/91

61-7 VENUE

(1) Treason - where act committed and if committed outside U. S. in district where first brought or first found.

(2) Misprision of treason - where report of treason should have been made.

EFFECTIVE: 09/25/91

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SECTION 62. ADMINISTRATIVE INQUIRIES, ET AL

62-1 MISCONDUCT INVESTIGATIONS OF FBI EMPLOYEES, OFFICERS AND
EMPLOYEES OF THE DEPARTMENT OF JUSTICE AND FEDERAL
JUDICIARY

EFFECTIVE: 05/08/80

62-1.1 Policy

(1) Allegations concerning misconduct on the part of officers or employees of the Department of Justice or of the Federal judiciary which do not involve violations of any statute within the Bureau's investigative jurisdiction should be forwarded to FBIHQ immediately by letterhead memorandum (LHM) or by more expeditious means if the circumstances warrant. (If teletype or telephone is used, follow with LHM.)

(2) No investigation is to be conducted without FBIHQ authority.

(3) When authority is granted, the office to which the matter is referred by FBIHQ will be the office of origin and, upon completion of investigation, that office should submit a closing report.

(4) Reports are not to be furnished to USAs unless FBIHQ so directs.

(5) Investigations are to be handled in an expeditious manner.

(6) Allegations concerning misconduct on the part of an FBI employee will be handled as set forth in the MAOP, Part I, Section 13, entitled "Disciplinary Matters."

EFFECTIVE: 05/08/80

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62-1.2 Other Investigations of Government Employees

EFFECTIVE: 05/08/80

62-1.2.1 Policy

- (1) Administrative investigations involving Government officials or employees shall not be conducted without prior FBIHQ authority.
- (2) Prior FBIHQ authorization is not necessary in the investigation of alleged criminal violations by Government officials or employees when the alleged activities are unrelated to their official duties, except when such officials or employees are highly placed.
- (3) FBIHQ authorization is not necessary in investigations of criminal violations within our primary jurisdiction by any official or employee of the Department of Justice even though the activities are related to their official duties.
- (4) In any event FBIHQ should be immediately advised by LHM transmitted by airtel, or by teletype, as the exigencies of the case dictate, of the full facts of the complaint and the action being taken. (If teletype is used, also submit LHM by airtel immediately.)
- (5) Investigation of violations of statutes within the Bureau's investigative jurisdiction by Treasury Department employees and other persons in matters within the administrative control of the Treasury Department are conducted by the Bureau under a Justice Department agreement with that Department dated 2-5-55. This agreement supplements Public Law 725, 83rd Congress (approved 8-31-54), which confers upon the Attorney General and FBI the authority to investigate violations of Title 18, USC, on the part of Government employees unless such authority is otherwise assigned by another provision of law.
- (6) Because of certain provisions of the Internal Revenue Code relative to corruption violations involving employees of the Treasury Department, an agreement was necessary to bestow exclusive jurisdiction upon the FBI in these matters. Prior to this agreement, the Bureau was estopped from conducting investigations of allegations of bribery and fraudulent practices on the part of employees of the Treasury Department by the provisions of Public Law 79, 82nd Congress,

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approved by the President on 7-16-51. The Bureau is to be informed immediately of the receipt of complaints of violations within the Bureau's jurisdiction on the part of the Treasury Department personnel or in Treasury Department matters. A brief statement of the facts of the complaint and the action being taken is to be forwarded to FBIHQ by Air Mail Special Delivery letters, airtel, teletype, or telephone depending upon the urgency of the circumstances. (If teletype or telephone is used, follow with LHM.) In a complaint involving a Treasury Department employee, the initial communication to the Bureau should identify the employee, his/her position, and the Treasury branch where he/she is employed. Any instances of delay on the part of the Treasury Department in referring complaints, encroachment by the Treasury Department of the Bureau's investigative jurisdiction, or lack of cooperation by Treasury Department officials or employees should be immediately referred to FBIHQ. Submit four copies of an LHM in all cases in which investigation is instituted. Dissemination of the LHM will be made in Washington, D.C., and no copies of LHMs are to be furnished on a local level other than to USAs.

EFFECTIVE: 02/22/88

62-1.3 Misconduct Investigations of FBI Employees

EFFECTIVE: 02/22/88

62-1.3.1 Policy

(1) Allegations of criminality or serious misconduct on the part of FBI employees.

(2) Inquiries will be conducted and reported as described in MAOP, Part I, Section 13, entitled "Disciplinary Matters."

(3) Inquiries will be placed in a separate|263| classification file, both in the field division and FBIHQ, and stored in the SAC's safe in the field and in the secure personnel file section at FBIHQ.

EFFECTIVE: 02/22/88

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62-1.4 Privacy Act - Requirements

(1) When interviewing anyone in the above classification, in order to solicit information about himself/herself or his/her own activities, the interviewing Agent must follow the procedures described in Part I, 190-5, subparagraphs (2) and (3), of this manual.

(2) When interviewing an individual to solicit information concerning someone other than the interviewee (thereby classifying that individual as a source of information), the interviewing Agent must follow the procedure relating to promises of confidentiality as described in Part I, 190-7, of this manual.

EFFECTIVE: 02/22/88

62-1.5 Character - Administrative Inquiries

The character "Administrative Inquiry," which is applicable to investigations of personnel of the Department of Justice and the Federal judiciary only, should be used until such time as FBIHQ instructs that it be changed to some substantive violation. In the event the allegation is against an FBI employee, the character will be "Office of Professional Responsibility Matter (OPRM)" and should be dealt with in accordance with Part I, Section 263, of this manual.

EFFECTIVE: 02/22/88

62-2 STATUTES

Title 13, USC, Sections 211-214, 221-224, 304, 305

(1) Section 211 - Receiving or securing compensation for appointment of employees.

(2) Section 212 - Refusal or neglect of employees to perform duties.

(3) Section 213 - False statements, certificates, and information.

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- (4) Section 214 - Wrongful disclosure of information.
- (5) Section 221 - Refusal or neglect to answer questions; false answers.
- (6) Section 222 - Giving suggestions or information with intent to cause inaccurate enumeration of population.
- (7) Section 223 - Refusal, by owners, proprietors, etc., to assist census employees.
- (8) Section 224 - Failure to answer questions affecting companies, business, religious bodies, and other organizations; false answers.
- (9) Section 304 - Delayed filings.
- (10) Section 305 - Miscellaneous other violations of rules or regulations.

EFFECTIVE: 01/31/78

62-2.1 Jurisdiction

(1) Bureau of the Census, Department of Commerce, conducts censuses and surveys of population, agriculture, manufacturers, businesses, and other subjects at various intervals. Most common is decennial census conducted since 1790, which covers population, unemployment, and housing. Penal provisions of Census Act, codified in Title 13, USC, cover offenses committed by census employees and others. These penal provisions apply to various censuses and surveys handled by Bureau of the Census.

(2) Department of Justice has advised that violations of Section 212 covering refusal of census employees to perform their official duties should normally be handled by Bureau of the Census and disposed of administratively. Only in exceptional instances will a case of this nature be referred to FBI for investigation. Each such case will be judged on an individual basis before any referral is made for FBI investigation. Investigative jurisdiction of offenses directly involving Government employees outlined in Sections 211, 213, 214 lies with FBI.

- (3) Offenses committed by persons other than census

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employees are covered in Sections 221-224, 304, and 305 and are investigated by Bureau of the Census. Complaints received with regard to offenses not within FBI jurisdiction should be referred to nearest office of Department of Commerce without investigation.

EFFECTIVE: 01/31/78

62-2.2 Policy

(1) Immediately discuss complaints received within FBI jurisdiction with USA to determine whether he will consider prosecution should allegations be substantiated by investigation.

(2) If USA will consider prosecution, promptly advise FBIHQ of allegations and preliminary opinion of USA and initiate investigation immediately.

(3) If prosecution will not be considered or is declined by USA, submit closing prosecutive report promptly.

(4) Letterhead memorandum is to be submitted to FBIHQ with initial communication when allegations concern Government employee. Include preliminary opinion of USA in letterhead memorandum.

EFFECTIVE: 01/31/78

62-2.3 Investigative Procedures

(1) Interview all subjects and important witnesses under oath and take sworn signed statements where possible. If person refuses to be placed under oath or declines to furnish a signed statement, note such facts in details of report on interview report form. Statutory authority for administering oath is set out in Title 5, USC, Section 303.

(2) Agents should be alert for indicated impersonation of census enumerators, which will be handled under character of "Impersonation" and in accordance with existing instructions of that violation.

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EFFECTIVE: 01/31/78

62-2.4 Character - Census Matters

EFFECTIVE: 01/31/78

| 62-3 | STATUTE

EFFECTIVE: 05/08/79

62-3.1 Title 28, USC, Section 534 - Acquisition, Preservation,
and Exchange of Identification Records; Appointment of
Officials

"(a) The Attorney General shall -

"(1) acquire, collect, classify, and preserve
identification, criminal identification, crime, and other records;
and

"(2) exchange these records with, and for the
official use of, authorized officials of the Federal Government, the
States, cities, and penal and other institutions.

"(b) The exchange of records authorized by subsection (a)
(2) of this section is subject to cancellation if dissemination is
made outside the receiving departments or related agencies.

"(c) The Attorney General may appoint officials to perform
the functions authorized by this section."

EFFECTIVE: 05/08/79

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62-3.2 Jurisdiction

Department of Justice has advised that pursuant to the provisions of Section 534, noted above, the FBI is authorized to acquire, locate, or pass on various records to local agencies, effect cooperation between local law enforcement or verify the location of a person whose interview is desired for a local or state law enforcement agency.

EFFECTIVE: 05/08/79

62-3.3 Policy

(1) Upon receipt of requests for investigation from local or state law enforcement agencies involving matters in which there is no FBI jurisdictional interest, the FBI's cooperative role will be limited to the acquisition of records or information from the criminal files of local or state law enforcement agencies or records of nongovernmental organizations and concerns and other governmental agencies.

(a) Records or information are defined as material normally available to law enforcement agencies which can be obtained without a court order.

(b) When obtaining material outlined above, dissemination authority must be obtained from that agency providing the records/information, when appropriate.

(2) In addition to record gathering and dissemination noted above, the FBI can act in a liaison capacity between local and state law enforcement agencies to facilitate one agency handling the investigative requests of another.

(3) The FBI, on behalf of a local or state law enforcement agency, may verify the location of an individual. No interviews with subjects, suspects, or witnesses should be conducted by Bureau personnel. No extensive efforts are to be expended to locate individuals for interviews. FBI personnel are to merely verify their whereabouts, such as at a residence address or employment, etc.

(4) Domestic Police Cooperation matters received in the field should be opened on an individual case basis, the subject of the record indexed to the general indices, resulting disclosures recorded

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in accordance with Privacy Act requirements and maintained in accordance with existing instructions pertaining to the destruction of field office files and records, MAOP, Part II, 2-4.5.

(5) SACs may approve use of FBI resources on behalf of local and state agencies providing such action falls within the above guidelines. No communication need be forwarded to FBIHQ advising of the initiation of a Domestic Police Cooperation investigation.

(6) Name check requests for a review of pertinent information contained in our central records system received by FBIHQ from authorized state and local criminal justice agencies will be processed by the Executive Agencies Dissemination Unit, Information Management Division, in accordance with MAOP, Part II, 9-3. Completed responses will be returned to the respective field office which covers the territory of the submitting agency for appropriate dissemination.

(7) Domestic Police Cooperation cases are not to be opened in the field for the purpose of conducting foreign inquiries through Interpol. All state and local law enforcement agencies in the United States have direct access to the United States National Central Bureau (USNCB), Interpol, by mail or via the National Law Enforcement Telecommunications System (NLETS). The USNCB mailing address is: Interpol, U.S. Department of Justice, Washington, D.C. 20530. The NLETS ORI is "DCINTERO/0/."

EFFECTIVE: 10/16/90

62-3.4 Office of Origin

The office which first receives the Domestic Police Cooperation request will act as the office of origin.

EFFECTIVE: 10/16/90

62-3.5 Classification

All Domestic Police Cooperation cases should be classified as 62D matters.

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EFFECTIVE: 10/16/90

62-4 STATUTE
Title 40, USC, Sections 327-333.

EFFECTIVE: 06/09/80

62-4.1 Section 328
Outlines eight (8) hour day and forty (40) hour week/overtime statutory requirements for any contract with the United States or District of Columbia (as set forth in Title 40, USC, Section 329). This section has no criminal penalty.

EFFECTIVE: 06/09/80

62-4.2 Section 332
Prohibits contractors or subcontractors who employ laborers in contracts covered under Title 40, USC, Sections 327 and 332 from intentionally violating the requirements of such sections.

EFFECTIVE: 06/09/80

62-4.3 Penalty (Title 40, USC, Section 332)
Misdemeanor - \$1,000 fine, 6 months in prison or both.

EFFECTIVE: 06/09/80

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62-4.4 Jurisdiction

(1) The U.S. Department of Labor (DOL) has exclusive jurisdiction to investigate violations of Section 333, and primary jurisdiction to investigate violations of Section 328 and 332.

(2) The FBI has secondary jurisdiction to investigate violations of Section 328 and 332.

(3) The USA has the option of designating whether DOL or the FBI investigates violations of Sections 328 and 332.

EFFECTIVE: 06/09/80

62-4.5 Policy

(1) Upon receipt of complaint or information indicating possible violation, contact USA to determine if an investigation is warranted and whether FBI or DOL is to handle investigation.

(2) If USA designates DOL to handle investigation, submit closing LHM to USA and FBIHQ. USA, rather than FBI, should refer investigation to DOL.

EFFECTIVE: 06/09/80

62-4.6 Reporting Procedures If Investigation Conducted

(1) Advise FBIHQ promptly by airtel, or more expeditious means if the circumstances dictate, when information or complaint is received regarding an individual or organization that is prominent, extremely controversial, or of such stature to focus national attention on the investigation. The communication should include the results of the discussion with the USA and action contemplated by the field office.

(2) In the absence of exigent circumstances requiring more immediate notification, an LHM (original and three copies) should be submitted to FBIHQ within 30 days setting forth the facts of the complaint and a succinct summary of the preliminary investigation conducted. The LHM should also contain the preliminary opinion of the USA and sufficient identification data on

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the subject(s) for indexing purposes. Submission of additional periodic status LHMs is left to the discretion of the SAC unless advised to the contrary by FBIHQ on a case-by-case basis. Any interim LHM submitted should be predicated with a succinct summary of information included in prior communications.

(3) The results and/or summary of investigation should be reported by Prosecutive Summary Report when same is prepared or by LHM (original and three copies) if a Prosecutive Summary Report is not deemed necessary by the SAC. If Prosecutive Summary Report is to be disseminated, the original and two copies should be submitted with copies being designated for the U.S. Department of Justice.

EFFECTIVE: 06/09/80

62-4.7 CHARACTER - CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

EFFECTIVE: 06/09/80

62-5 STATUTES

Title 15, USC, Sections 1681q and 1681r.

EFFECTIVE: 01/31/78

62-5.1 Section 1681q

EFFECTIVE: 01/31/78

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62-5.1.1 Elements

- (1) Any person who knowingly and willfully
- (2) Obtains information on a consumer from a consumer reporting agency under false pretenses.

EFFECTIVE: 01/31/78

62-5.2 Section 1681r

EFFECTIVE: 01/31/78

62-5.2.1 Elements

- (1) Any officer or employee of a consumer reporting agency who knowingly and willfully
- (2) Provides information concerning an individual from the agency's files to a person not authorized to receive that information.

EFFECTIVE: 01/31/78

62-5.3 Departmental Instructions

The Department has advised the FTC is specifically designated as the agency responsible for the administrative enforcement and regulatory provisions of the Fair Credit Reporting Act (FCRA). Should the FTC develop what appears to be a criminal violation under the provisions of this Statute, that agency will refer the matter to the Antitrust Division, Consumer Affairs Section, Department of Justice, or the appropriate USA for consideration as to whether a criminal investigation is warranted. The FBI will be requested to conduct the investigation necessary to establish a violation of the criminal provisions of the FCRA.

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EFFECTIVE: 01/31/78

62-5.4 Policy

(1) Complaints involving alleged violations of the FCRA which do not come specifically within the purview of Sections 1681q or 1681r should be referred to the nearest FTC office.

(2) Valid complaints involving allegations of violations over which the FBI has investigative jurisdiction under Sections 1681q and 1681r should be thoroughly discussed with the USA for his opinion prior to instituting any investigation.

(3) Promptly advise FBIHQ as to details of allegations received, opinion of the USA, and what further action is contemplated.

EFFECTIVE: 01/31/78

62-5.5 Penalties

Sections 1681q and 1681r - \$5,000 fine and/or one year imprisonment.

EFFECTIVE: 01/31/78

62-5.6 Investigative Procedure

(1) Determine the identity of the person or consumer who obtained information from the consumer reporting agency.

(2) Ascertain details regarding the false identity or scheme utilized in obtaining such information from the consumer reporting agency officer or employee who furnished such information to any unauthorized person.

(3) Determine details regarding identity of the consumer reporting agency officer or employee who furnished such information to any unauthorized person.

(4) Obtain and secure any written or printed consumer

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reports or investigative consumer reports involved which could be used at a later date as evidentiary material.

EFFECTIVE: 01/31/78

62-5.7 Character - Fair Credit Reporting Act

EFFECTIVE: 01/31/78

62-6 STATUTE

Title 15, USC, Section 1333

EFFECTIVE: 01/31/78

62-6.1 Elements

Section 1333 of this act makes it unlawful for any person to manufacture, import, or package for sale or distribution within the U. S. any cigarettes the package of which fails to bear the following statement: "Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous To Your Health." Such statement shall be located in a conspicuous place on every cigarette package and shall appear in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package.

EFFECTIVE: 01/31/78

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62-6.1.1 Other Provisions

Section 1337 exempts from this act cigarettes manufactured, imported or packaged (1) for export from the U. S. or (2) for delivery to a vessel or aircraft, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the U. S., but such exemptions shall not apply to cigarettes manufactured, imported, or packaged for sale or distribution to members or units of the armed forces of the U. S. located outside of the U. S.

Venue lies in the district in which the manufacture, importation or packaging in violation of the statute occurred.

EFFECTIVE: 01/31/78

62-6.1.2 Policy

Complaints received of violations of this act should be submitted to FBIHQ in a form suitable for dissemination to the Department and no investigation conducted pending receipt of specific instructions to do so from FBIHQ. If subsequent investigation is ordered, furnish results to USA and FBIHQ concerning possible violations of this act. FBIHQ will furnish to the Criminal Division for prosecutive determination.

EFFECTIVE: 01/31/78

62-6.1.3 Penalty

A fine of not more than \$10,000 (misdemeanor).

EFFECTIVE: 01/31/78

62-6.1.4 Character - Federal Cigarette Labeling and Advertising Act

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EFFECTIVE: 01/31/78

62-7 INSTRUCTIONS

You are referred to Section 62, Administrative Inquiries, Et Al for additional information concerning Federal Judiciary Investigations.

EFFECTIVE: 01/31/78

62-8 STATUTE

Title 18, USC, Section 874. Kickbacks from public works employees.

"Whoever, by force, intimidation, or threat of procuring dismissal from employment, or by any other manner whatsoever induces any person employed in the construction, prosecution, completion or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under his contract of employment, shall be fined not more than \$5,000 or imprisoned not more than five years, or both."

EFFECTIVE: 01/31/78

62-8.1 Elements

(1) Person is employed in construction, or repair of any public building or work, or a building or work financed in whole or in part by loans or grants from U.S.

(2) Employee is induced by force, intimidation, threat of procuring dismissal from such employment, or by any other manner whatsoever to give up any part of the compensation to which he is entitled under his contract of employment.

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EFFECTIVE: 01/31/78

62-8.2 Legal Interpretations of Statute

(1) Persons liable -

(a) Statute is not limited to contractors, subcontractors, or employers of labor (U.S. v. McGraw, 47 F. Supp. 927).

(b) Foreman with authority to hire and discharge is included (U.S. v. Laudani, 320 U.S. 543).

(c) Union officials - Compelling workers to use some of their compensation as union membership initiation fees held not to be violation in case of U.S. v. Carbone, 327 U.S. 633, since "closed shop" involved in that case was within legitimate aims of unions and initiation fees are traditionally an incident to union membership. This decision did not exempt union officials from liability under statute, but merely held that legitimate union activities by them are not violations (U.S. v. Alsup, 219 F. (2d) 72, certiorari denied 4-4-55). Department opinion - Carbone decision applies only to initiation fees and does not approve as legitimate other fees collected from employees by union officials, such as work permit fees collected from nonunion employees for permission to work. Also, closed shop agreement in that case under which employer agrees to hire only those approved by union is not lawful since passage of Labor Management Relations Act and activities of union officials based on closed shop would not now be legitimate. Department points out distinction between "closed shop" and "union shop" contracts. Latter, which is legitimate under LMRA (Title 29, USC, Section 158 (a) (3)), gives employer free hand in hiring but requires that within specified time nonunion employee must join union.

(2) Type of work -

(a) "Construction.... or repair... work" covers shoring of bomb crates in boxcars for which payment or part payment is made from Federal funds even though boxcars are not owned by Federal Government (Department opinion).

(b) Also applies to construction of sheathing in vessel, but not to general stevedoring service (Department opinion).

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(3) Source of kickback payments -

(a) Must be made out of money received as wages from employment involved in case. Kickback paid from borrowed money probably not covered even though loan subsequently paid from wages in question (Department opinion).

(b) Kickbacks by independent contractors furnishing equipment and operators not covered (Department opinion).

(c) No kickback in violation of statute exists if employee was induced, by, whatever means, to accept, upon employment, lower rate of pay than that fixed by government contract with employer but to which contract employee was not party (U.S. v. Charlick, 26 F. Supp. 203). See 62-8.3 below.

(4) Inducement for payment -

(a) Payment need not be induced by "force, intimidation or threat of procuring dismissal from employment," but may be induced by "any other manner whatsoever." Subject himself need not have power to discharge employee not contributing (Department opinion).

(5) Involvement of Federal funds -

(a) Word "financed" in statute is broad enough to make it applicable to buildings or works made possible in whole or in part by reason of funds which are either being furnished or have been furnished by U.S., even though funds and control thereof have passed to a state (Department opinion).

(b) Statute is applicable to low-rent-housing and slum clearance projects financed in whole or in part with funds made available under Title 42, USC, Sections 1401-1433. (Title 42, USC, Section 1416, (5)).

(c) Also applicable to work financed in whole or in part with funds made available for development of projects under Title 42, USC, Sections 1450-1470 dealing with slum-clearance and urban renewal (Title 42, USC, Section 1459 (b)).

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62-8.3 Related Statutes

Secretary of Labor, pursuant to Title 40, USC, Section 276c, is required to make regulations for contractors and subcontractors engaged in type of work to which KRA applies, including provision that they must furnish weekly sworn affidavits as to wages paid each employee. In cases involving kickbacks to these employers or involving situation described above in 62-8.2 (3) (c), do not overlook probability that these employers made false affidavits or statements to Department of Labor in violation of Title 18, USC, Section 1621 (perjury) or one of false statement statutes (Title 18, USC, Section 1001 et seq.)

EFFECTIVE: 01/31/78

62-8.4 Policy

(1) Upon receipt of complaint or information indicating possible violation, obtain opinion of USA as to whether there is sufficient indication therein of a violation to justify investigation.

(2) Advise FBIHQ immediately of complaints or information received by such means as circumstances dictate. Furnish sufficient details to enable FBIHQ to intelligently appraise situation, including, if available, preliminary opinion of USA.

(3) If circumstances make it inadvisable to consult USA, or having consulted him, to pursue course of action suggested by his opinion, furnish details to FBIHQ by such means as circumstances dictate and hold further action in abeyance pending instructions.

EFFECTIVE: 01/31/78

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62-8.5 Investigative Procedure

- (1) Establish identity of project or work involved, and Government agency furnishing funds.
- (2) Identify labor officials, contractors, or others involved.
- (3) Obtain details of payments made by employees, including dates, places, to whom, manner of payment, witnesses, written evidence, and exact source of funds.
- (4) If payments were made to or solicited by union official, determine:
 - (a) Under what authority from union, if any, he acted.
 - (b) Provisions of collective bargaining agreement, if any, with employer under which union official acted, especially whether it provided for "closed shop" or "union shop." Obtain copy of this agreement.
 - (c) How collection was designated; i.e., was it for initiation fees, dues, permit fees, charity donation, etc.
 - (d) Whether funds collected went into union treasury.
- (5) Interview each employee alleged to have been induced or solicited to make payments. Obtain from each names of other employees in same category.
- (6) Obtain details concerning termination of employment of employees who made kickbacks or were solicited for same. If employee was discharged for inefficiency, due to a general reduction in personnel or for some other reason which might negate suggestion that violation of act is involved, such circumstances should be clearly shown.
- (7) Determine attitude of employees regarding having their identities revealed and testifying in event of prosecution.

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EFFECTIVE: 01/31/78

62-8.6 Character - Kickback Racket Act

EFFECTIVE: 01/31/78

62-9 LANDS DIVISION MATTER

EFFECTIVE: 01/31/78

62-9.1 Background

(1) May 18, 1945, Attorney General advised all USAs and Lands Division field attorneys (Circular #3534, Bulletin #33) FBI could be used in expediting and handling of Lands Division litigations by:

(a) Supplying technical information and assistance in accounting, auditing, documentary analysis, etc.

(b) Locating parents, witnesses, heirs, etc.

(c) General discovery of facts in condemnation or other Lands Division civil cases

EFFECTIVE: 01/31/78

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62-9.2 Policy

(1) USAs or Lands Division field attorneys submit requests for investigation to local field office which initiates investigation. Requests should be specific as to:

- (a) Nature of facts which attorneys desire developed
- (b) Background information indicating scope of investigation

(2) FBIHQ approval not necessary in condemnation actions for Agents to:

- (a) Execute affidavits
- (b) Serve summonses and complaints
- (c) Attempt to have defendants sign form of stipulation

(3) Such affidavits, summonses, complaints, and stipulations will be prepared by the Lands Division attorneys.

(4) Investigations should be limited in scope to request of Lands Division attorneys or USAs. If any unusual requests are received from such attorneys, submit same to FBIHQ for investigative authorization.

EFFECTIVE: 01/31/78

62-9.3 Privacy Act - Requirements

When interviewing anyone in the above classification, in order to solicit information about himself or his own activities, the interviewing Agent must follow the procedures described in MIOG: Part I, 190-5, subparagraphs (2) and (3).

When interviewing an individual to solicit information concerning someone other than the interviewee (thereby classifying that individual as a source of information) the interviewing Agent must follow the procedure relating to promises of confidentiality as described in MIOG: Part I, 190-7.

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EFFECTIVE: 01/31/78

62-9.4 Character - Lands Division Matter

EFFECTIVE: 01/31/78

62-10 OTHER VIOLATIONS AND/OR MATTERS

This is for information fitting no other character.

EFFECTIVE: 01/31/78

62-11 CIVIL SUITS - MISCELLANEOUS

EFFECTIVE: 01/31/78

62-11.1 Background

(1) The Department of Justice and USAs occasionally request that Bureau locate witnesses or conduct investigation in miscellaneous civil matters in which the U. S. Government is a party in interest.

(2) These cases involve litigation or contemplated litigation in various matters not specifically covered by other manual sections, including investigation request in war risk insurance and National Service Life Insurance matters.

(3) In one type of case a suit may be filed by a third party against a cost-plus contractor and the Department or USA undertakes the defense of the suit since the amount of any judgment may be passed on to the Government under the terms of the contract. In other situations the Government as plaintiff may file an action to recover damages.

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EFFECTIVE: 01/31/78

62-11.2 Policy

(1) Cases referred to FBIHQ by Department will be transmitted to the field for investigation.

(2) When request for investigation is received from a USA, the following information would be furnished FBIHQ by letter or airtel unless circumstances require more expedite communication.

(a) Brief resume of background of the case including amount involved.

(b) Statement as to whether a civil suit has actually been filed and, if so, current status of litigation.

(c) Scope of investigation requested by USA.

(d) Statement as to whether any other Government agency has conducted an investigation for trial purposes and, if so, scope of such investigation.

(e) Recommendation of SAC as to whether matter should be accepted for investigation.

(3) If no investigation for trial purposes conducted by any other agency, and if no reason exists for declining to accept case, FBIHQ may be advised investigation going forward UACB. In instances in which there is any doubt that investigation should be conducted, authorization should be requested.

(4) Upon completion of investigation, cases should be placed in a pending inactive status to be periodically followed in U. S. District Court until final action has been concluded. A statistics letter should be submitted to FBIHQ showing:

(a) Amount of suit

(b) Settlement or award

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EFFECTIVE: 01/31/78

62-11.3 Privacy Act - Requirements

When interviewing anyone in the above classification, in order to solicit information about himself or his own activities, the interviewing Agent must follow the procedures described in MIOG: Part I, 190-5, subparagraphs (2) and (3).

When interviewing an individual to solicit information concerning someone other than the interviewee (thereby classifying that individual as a source of information) the interviewing Agent must follow the procedure relating to promises of confidentiality as described in MIOG: Part I, 190-7.

EFFECTIVE: 01/31/78

62-11.4 Character - Civil Suits - Miscellaneous

EFFECTIVE: 01/31/78

62-12 STATUTES

Title 50, APP., USC, Sections 510-590

EFFECTIVE: 01/31/78

62-12.1 Purpose

Act is designed to provide for temporary suspension of legal proceedings and transactions which may prejudice civil rights of persons in military service of U. S. during period specified in act. Criminal provisions are within Bureau's investigative jurisdiction.

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EFFECTIVE: 01/31/78

62-12.1.1 Section 520. False Affidavits or Declarations

In any action or proceeding commenced in any court, if there be a default of any appearance by defendant, the plaintiff, before entering judgment, shall file in the court an affidavit or written unsworn declaration under penalty of perjury in lieu of an affidavit setting forth facts showing the defendant is not in military service. If unable to file such affidavit or declaration, plaintiff shall in lieu thereof file affidavit or declaration setting forth either defendant is in military service or plaintiff not able to determine whether or not defendant is in service.

EFFECTIVE: 01/31/78

62-12.1.2 Section 530. Eviction or Distress

No eviction or distress shall be made during period of military service of any premises for which agreed rent does not exceed \$150 per month, occupied chiefly for dwelling purposes by wife, children, or other dependents of a person in military service, except upon leave of court granted upon application therefor or granted in an action or proceeding affecting right of possession.

EFFECTIVE: 01/31/78

62-12.1.3 Section 531. Installment Contracts for Purchase of Property

No person (or his assignor) who has received under a contract for the purchase of real or personal property, or of lease or bailment with a view to purchase of such property, a deposit or installment of the purchase price, or a deposit or installment under the contract, lease, or bailment from a person or from assignor of a person who, after the date of payment of such deposit or installment, has entered military service, shall exercise any right or option under such contract to rescind or terminate the contract or resume possession of the property for nonpayment of any installment thereunder due or for any other breach of the terms thereof occurring

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prior to or during the period of such military service, except by action in a court of competent jurisdiction.

EFFECTIVE: 01/31/78

62-12.1.4 Section 532. Mortgages, Trust Deeds, etc.

No sale, foreclosure, or seizure of property for nonpayment of any sum due under any such obligation, or for any other breach of the terms thereof, whether under a power of sale, under a judgment entered upon warrant of attorney to confess judgment contained therein, or otherwise, shall be valid if made after the date of enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942 and during the period of military service or within three months thereafter, except pursuant to an agreement as provided in Title 50, App., Section 517, unless upon an order previously granted by the court and a return thereto made and approved by the court.

EFFECTIVE: 01/31/78

62-12.1.5 Section 534. Termination of Leases by Lessees

No person shall knowingly seize, hold, or detain the personal effects, clothing, furniture, or other property of any person who has lawfully terminated a lease covered by this section, or in any manner interfere with the removal of such property from premises covered by such lease, for purpose of subjecting or attempting to subject any of such property to a claim for rent accruing subsequent to date of termination of such lease.

EFFECTIVE: 01/31/78

62-12.1.6 Section 535. Protection of Assignor of Life Insurance Policy and Enforcement of Storage Liens

Section relates to assignment of life insurance policies by a person in military service as security for obligations contracted prior to entering service and to foreclosure of storage liens on personal property for similar purposes.

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EFFECTIVE: 01/31/78

62-12.2 Miscellaneous

Title 50 App., USC, Section 464, provides that all provisions of act applicable to all persons inducted into military service pursuant to Universal Military Training Act.

EFFECTIVE: 01/31/78

62-12.3 Penalties

(1) Any act or attempt in violation above sections is a misdemeanor.

(2) Punishable by imprisonment not to exceed one year or fine not to exceed \$1,000, or both.

EFFECTIVE: 01/31/78

62-12.4 Character - Soldiers' and Sailors' Civil Relief Act of
1940

EFFECTIVE: 01/31/78

62-13 STATUTE

Title 19, USC, Section 1304

Section 1304 requires every article imported into U. S., its immediate container, and package in which article imported, shall be marked, stamped, etc., in legible English words, in a conspicuous place, in such manner as to indicate country of origin of article, in accordance with regulations prescribed by Secretary of Treasury.

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EFFECTIVE: 01/31/78

62-13.1 Elements

- (1) Articles involved of foreign origin and have been imported into U. S.
- (2) Articles coming within provisions of Tariff Act of 1930 requiring country of origin be designated on imported articles.
- (3) Marks indicating country of origin have been defaced, destroyed, removed, altered, etc., with intent to conceal information given thereby or contained therein.
- (4) Defacement, destruction, removal, etc., of marks occurred after articles passed through U. S. Customs Service.

EFFECTIVE: 01/31/78

62-13.2 Investigative Jurisdiction

- (1) Vested in either FBI or U. S. Customs Service dependent upon time identifying marks removed from imported article.
- (2) If marks indicating country of origin removed from article after passed through U. S. Customs Service, FBI has primary jurisdiction.
- (3) If marks removed prior to time merchandise cleared Customs, violation investigated by that agency.

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62-13.3 Investigative Procedures

(1) Determine if allegation of violation indicates labels or marks indicating country of origin removed subsequent to importation into U. S.

(2) Determine if Secretary of Treasury has promulgated any particular regulations concerning marking of particular article in question.

(3) Interview appropriate officials of Customs at port of entry of goods to ascertain if articles were properly marked prior to release from Customs.

(4) Ascertain if records exist indicating articles were properly marked so it can later be shown labels or marks were actually removed subsequent to importation.

(5) Ascertain identity of each person, corporation, or organization having possession of articles subsequent to their receipt in this country to ascertain if marks were still on articles at time they possessed same.

(6) Locate any person believed to be in a position to have knowledge of removal or alteration of labels or marks.

EFFECTIVE: 01/31/78

62-13.4 Penalties

Imprisonment of not more than 1 year, or fine of not more than \$5,000, or both.

EFFECTIVE: 01/31/78

62-13.5 Character - Tariff Act of 1930

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EFFECTIVE: 01/31/78

62-14 STATUTES

Title 15, USC, Sections 375 and 376

EFFECTIVE: 01/31/78

62-14.1 Section 375 (Definitions)

(1) The term "person" includes corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.

(2) The term "cigarette" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.

(3) The term "distributor licensed by or located in such State" means:

(a) In the case of any state which by state statute or regulation authorizes the distribution of cigarettes at wholesale or retail, any person so authorized, or

(b) In the case of any other State, any person located in such State who distributes cigarettes at wholesale or retail, but such term in no case includes a person who acquires cigarettes for purposes other than resale.

(4) The term "use," in addition to its ordinary meaning, means the consumption, storage, handling, or disposal of cigarettes.

(5) The term "tobacco tax administrator" means the State official duly authorized to administer the cigarette tax law of a State.

(6) The term "State" includes the District of Columbia, Alaska, Hawaii, and the Commonwealth of Puerto Rico.

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(7) The term "transfers for profit" means any transfer for profit or other disposition for profit, including any transfer or disposition by an agent to his principal in connection with which the agent receives anything of value.

EFFECTIVE: 01/31/78

62-14.2 Section 376 (Reports to State Tobacco Tax Administrators;
Contents; Presumptive Evidence)

(1) Any person who sells or transfers for profit cigarettes in interstate commerce, whereby such cigarettes are shipped into a State taxing the sale or use of cigarettes, to other than distributor licensed by or located in such State, or who advertises or offers cigarettes for such a sale or transfer and shipment, shall:

(a) First file with the tobacco tax administrator of the State into which such shipment is made or in which such advertisement or offer is disseminated a statement setting forth his name and trade name (if any), and the address of his principal place of business and of any other place of business; and

(b) Not later than the 10th day of each calendar month, file with the tobacco tax administrator of the State into which such shipment is made, a memorandum or a copy of the invoice covering each and every shipment of cigarettes made during the previous calendar month into such State; the memorandum or invoice in each case to include the name and address of the person to whom the shipment was made, the brand, and the quantity thereof.

(2) The fact that any person ships or delivers for shipment any cigarettes shall, if such shipment is into a State in which such person has filed a statement with the tobacco tax administrator under subsection (1)(a) above, be presumptive evidence that such cigarettes were sold, or transferred for profit, by such person, and that such sale or transfer was to other than a distributor licensed by or located in such State.

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62-14.2.1 Elements

(1) Cigarettes were sold, offered for sale, or were shipped in interstate commerce.

(2) Purchasers were consumers and not distributors licensed by or located in state into which cigarettes were shipped.

(3) Vendor did not prior to sale or advertising first file with tobacco tax administrator of the state into which shipment was made or in which advertisement or offer is disseminated a statement setting forth his name, trade name (if any), and the address of his principal place of business, and

(4) Vendor did not, by 10th day of following month, file with tobacco tax administrator of the state into which each shipment is made a memorandum or copy of invoice covering each and every shipment of cigarettes during the previous calendar month into such state; the memorandum or invoices in each case to include the name and address of the person to whom the shipment was made, the brand, and the quantity thereof.

(5) Sale or shipment by vendor made "for profit."

EFFECTIVE: 01/31/78

62-14.3 Policy

(1) Obtain prosecutive opinion of USA before conducting any investigation where complaint alleges single illegal interstate shipment of cigarettes.

(2) Where subject ships cigarettes into numerous states, office covering origin of subject's operations should furnish by letter to FBIHQ lists reflecting identity and address of cigarette customers by states. FBIHQ will obtain opinion of Criminal Division to avoid unnecessary investigation which could result if matter presented to USAs in all states involved. Experience has shown prosecutions usually are limited to one or two states even though subjects have engaged in illegal operations in numerous states.

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EFFECTIVE: 01/31/78

62-14.4 Penalties

Violations are misdemeanors punishable by \$1,000 fine or imprisonment for not more than six months, or both.

EFFECTIVE: 01/31/78

62-14.5 Character - Unreported Interstate Shipment of Cigarettes

EFFECTIVE: 01/31/78

62-15 STATUTE

Title 29, USC, Sections 201-219

Fair Labor Standards Act of 1938, popularly known as Wage and Hour Law, fixes minimum wages (Section 206) and maximum hours (Section 207) for employees, with certain exceptions (Section 213), engaged in commerce or in production of goods for commerce. It also contains regulations concerning child labor (Section 212), and learners, apprentices, and handicapped workers (Section 214). It creates Wage and Hour Division in Department of Labor and provides for an Administrator with authority to vary the above regulations under certain conditions.

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62-15.1 Elements

The act declares it unlawful:

- (1) To transport, sell, etc., goods in production of which any employee was employed in violation of act.
- (2) To violate any provision of wage and hour sections of act, or any regulation or order of Administrator with respect to learners, apprentices, and handicapped workers.
- (3) To discharge or discriminate against an employee who has filed a complaint or acted pursuant to any provision of act.
- (4) To violate any of child labor provisions of act.
- (5) To knowingly keep record or file report that is false in some material respect.

EFFECTIVE: 01/31/78

62-15.2 Investigative Jurisdiction

Wage and Hour Division of the Department of Labor is charged with investigation of alleged violations of criminal provisions. Complaints alleging such violation should be immediately referred to nearest regional office of the Wage and Hour Division for whatever action it may deem advisable.

EFFECTIVE: 01/31/78

62-15.3 Policy

Bureau will conduct investigation relative to alleged violations of criminal provision upon request of USA. Generally, this request will entail accounting investigation by Bureau accountant. Bureau will also conduct investigations that may be requested by USA in connection with a suit filed under this act against Government cost-plus-a-fixed-fee contractor if the suit will be actively defended by USA. If private counsel has been engaged to defend suit for contractors, no investigation should be conducted by Bureau. It is not necessary to obtain FBIHQ authority to conduct these

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investigations; however, FBIHQ should be promptly advised of receipt of request for investigation from USA.

EFFECTIVE: 01/31/78

62-15.4 Investigative Procedure

Upon receipt of request from USA for investigation under this act, conference should be held with him to determine the scope and nature of investigation to be conducted. USA should be requested to furnish Bureau office with letter outlining in detail, investigation desired. Thereafter, investigation should be conducted in accordance with his written request.

EFFECTIVE: 01/31/78

62-15.5 Penalties

Act provides penalties consisting of a fine not exceeding \$10,000 or imprisonment for not more than six months, or both. No imprisonment on the first offense.

EFFECTIVE: 01/31/78

62-15.6 Character - Fair Labor Standards Act of 1938 (Wage and Hour Law)

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62-16 STATUTE

Title 18, USC, Section 371 (formerly Section 88, Title 18, USC), effective 9-1-48. Violations occurring prior to 9-1-48 should be considered under the provisions of the former code section.

Section 371. Conspiracy to commit offense or to defraud United States- "If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

"If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum punishment provided for such misdemeanor."

EFFECTIVE: 01/31/78

62-16.1 Elements

(1) Two or more persons agree together to:

(a) Commit any offense against the U.S.; or

(b) Defraud the U.S. in any manner or for any

purpose

(2) One or more of the conspirators commits an overt act to effect the object of the conspiracy.

(3) Note: Conspiracy to commit a crime is an offense separate and distinct from the crime which is the object of the conspiracy. The essence of conspiracy is in the agreement, not in the commission of the substantive crime. An agreement among two or more persons to accomplish a lawful objective by unlawful means meets the definition of conspiracy. A conspiracy is punishable even though it does not succeed in achieving its objective. It requires at least two persons. A corporation or unincorporated association may be a conspirator, and may conspire with their officers and employees. A conspirator need not join the conspiracy at its inception, but is bound by the prior acts and statements in furtherance of the common

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objective if he thereafter knowingly joins the conspiracy. Conspiracy under the general conspiracy statute cannot be proven in the absence of an overt act by one or more of the conspirators in furtherance of the objective of the conspiracy. The overt act itself need not be a criminal offense. It is sufficient if it demonstrates the conspiracy is at work.

EFFECTIVE: 01/31/78

62-16.2 Related Statutes

(1) In addition to Title 18, USC, Section 371, numerous statutes carry special conspiracy sections. In the investigation of a conspiracy to violate a particular Federal statute, determine whether the statute contains its own conspiracy section.

(2) Where violations of Federal criminal statutes are committed jointly or by more than one person, the related statutes hereinafter set forth should be considered. As a general rule evidence sufficient to prove a violation under Title 18, USC, Section 371, or a violation of any substantive statute, may be sufficient to prove a violation of any one of the following related statutes in cases where more than one person is involved.

(a) Title 18, USC, Section 372 (formerly Section 54, Title 18, USC) (Conspiracy to impede or injure officer)

(b) Title 18, USC, Section 2 (Principals)

(c) Title 18, USC, Section 3 (formerly Section 551, Title 18, USC) (Accessory after the fact)

(d) Title 18, USC, Section 4 (formerly Section 251, Title 18, USC) (Misprisions of felony)

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62-16.3 Statute of Limitations

Since the crime of conspiracy is not complete until an overt act has been completed in the furtherance of an original agreement between two or more persons, the statute of limitations does not begin to operate until an overt act by one of the conspirators has been committed. Likewise, if a series of overt acts is committed in the furtherance of the original agreement, the statute of limitations begins to operate anew upon the commission of each act, and the proper manner to determine when the statute of limitations operates on a conspiracy violation is to determine the date of the last overt act. Conspiracy is a continuing offense. If an agreement between two or more persons to violate a law of the U.S. were made in 1910 and successive overt acts in the furtherance of that agreement took place each year until 1955, the statute of limitations would not operate until 1960. Of course, the question of whether the original agreement continues through a lengthy period is a question of fact for the jury. *Brown v. Elliott*, 225 U.S. 392; *U.S. v. Brace*, 149 F. 874; *Ryan v. U.S.*, 216 F. 13; *Ware v. U.S.*, 154 F. 577; *U.S. v. Barber*, 157 F. 889; *U.S. v. Bradford*, 148 F. 413.

EFFECTIVE: 01/31/78

62-16.4 Policy

Although a conspiracy to violate any Federal statute is a violation of Title 18, USC, Section 371, jurisdiction is assumed only over conspiracy to violate substantive statutes within the primary investigative jurisdiction of the FBI. Complaints received alleging conspiracies to violate statutes not within the FBI's primary investigative jurisdiction should be promptly furnished the appropriate investigative agencies.

EFFECTIVE: 01/31/78

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62-16.5 Investigative Procedure

(1) A set plan for investigations of conspiracies cannot be accurately stated. While the same elements are necessary in each conspiracy case, the object of the conspiracy may be a violation of any one of the criminal statutes or simply to defraud the U.S. In this way each case presents different problems. Also, there is a wide latitude in the kind of proof, since circumstantial evidence of a general character indicating both the agreements and the overt acts is admissible. The following suggestions of essential information are offered as to each of the elements.

(2) In connection with establishing the agreement, ascertain the identities of all persons concerned with the possible agreement. This should include complete data as to names, aliases, addresses, descriptions, the extent of the previous associations of subjects in prior criminal operations similar to those under investigation, and the degree of business, social, or criminal intimacy in general.

(3) Evidence of all acts, meetings, and transactions between the subjects of a material nature with relation to the suspected agreement should be obtained and inquiries should be extended as far as necessary beyond the time the agreement is believed to have been consummated.

(4) Procure all evidence possible from which a jury would form the natural conclusion that the subjects mutually agreed, planned, acquiesced in, or intended to carry out the object of their agreement.

(5)



b2|b7E

(6) Bear in mind that while it is not necessary to prove the existence of a formal agreement in the nature of a contract it still is necessary to prove that two or more persons had a meeting of the minds in the perfection of a plan having as its object the violation of any law of the U.S. or committing any fraud against the U.S. in order to fulfill the requirements of element 1; that is, the existence of an agreement.

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(7) It will be helpful in the investigation of this type of case if the Agent considers the completed crime of conspiracy to consist of, first, the agreement, and then the commission of one or more actual overt acts in the furtherance of the original plan. With regard to proving overt acts, the Agent should obtain evidence as to each act or transaction engaged in by one or more of the subjects for the purpose of carrying out the original agreement. This necessitates not only establishing the dates and places but also circumstantial evidence that the act in question furthers the conspiracy.

(8) Any physical act on the part of one or more of the conspirators constitutes an overt act in the fulfillment of element 2. If two individuals conspired to rob a national bank and one of them purchased an automobile as a getaway car, the purchase of the automobile would be an overt act which, added to a previously proved agreement to rob the bank, would complete the crime of conspiracy.

(9) Bear in mind that where evidence of the agreement is vague intensive investigation of all overt acts frequently leads to evidence proving the agreement. Therefore, in the case of the automobile, if it was developed one of the subjects mentioned to the automobile salesman that he and a friend planned to use the automobile as a getaway car, then that evidence would tend to prove both the overt act of purchasing the automobile and the agreement.

EFFECTIVE: 01/31/78

62-16.6 Venue

Venue lies in any district in which such offense was begun, continued, or completed. (Title 18, USC, Section 3237.)

EFFECTIVE: 01/31/78

62-16.7 Classification

The classification is the same as the substantive violation which was the object of the conspiracy.

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EFFECTIVE: 01/31/78

62-16.8 Character

The character is the same as the substantive violation
with conspiracy added; e.g., Bank Robbery - Conspiracy.

EFFECTIVE: 01/31/78

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SECTION 63. MISCELLANEOUS - NONSUBVERSIVE

63-1 MISCELLANEOUS - NONSUBVERSIVE

NOTE: This classification for FBIHQ, Information Management
Division use only.

EFFECTIVE: 10/16/90

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SECTION 64. FOREIGN MISCELLANEOUS

64-1 FOREIGN MISCELLANEOUS

This is a control file utilized by FBIHQ and field offices as a repository for intelligence information of value on the above subject.

Information in this file is broken down by country.

The 64 classification is also used for the Development of Espionage, Counterintelligence and Counterterrorism Awareness (DECA) program and administrative and financial matters relating to other intelligence programs. See the NATIONAL FOREIGN INTELLIGENCE PROGRAM MANUAL (NFIPM).

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SECTION 65. ESPIONAGE

65-1. ESPIONAGE

Information concerning the 65 classification is set forth in a separate FBI manual, the NATIONAL FOREIGN INTELLIGENCE PROGRAM MANUAL (NFIPM).

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SECTION 66. ADMINISTRATIVE MATTERS

66-1 ADMINISTRATIVE MATTERS

You are referred to the Manual of Administrative Operations and Procedures, Part II, 2-4.2.1, for pertinent information concerning the use of the above classification.

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SECTION 67. BUREAU APPLICANT MATTERS - GENERAL

67-1 RECRUITING AIDS

A Bureau career offers many advantages when compared with private industry. A few of these are sick leave, annual leave and the retirement system. Available in all field offices are brochures entitled "FACE UNIQUE CHALLENGES: A Career as an FBI Special Agent," and "NON-AGENT POSITIONS WITH THE FBI: Technical...Specialty... Clerical." These brochures, along with a current salary chart and appropriate applications, and job description fact sheets should be furnished to all prospective employees and sources of applicants. Recruiters are encouraged to stress that Washington, D.C. offers historical, cultural and educational opportunities not found elsewhere. Recruiters are also encouraged to make use of media recruiting such as newspaper and television advertisements.

EFFECTIVE: 10/25/89

67-2 HOUSING, COUNSELING AND TRAINING - WASHINGTON, D.C.

A Housing Office is set up to secure suitable accommodations for our employees in the Washington, D.C., area. Housing lists are maintained and every effort is made to obtain the best accommodations possible within the price range persons can afford. When employees first enter on duty, they are counseled to insure that any problem which might be confronting them can be acted upon immediately. This counseling continues throughout a person's career. Prospective employees are to be made familiar with the excellent training available in the typing and shorthand classes conducted at FBIHQ.

EFFECTIVE: 10/25/89

67-3 INQUIRIES

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EFFECTIVE: 10/25/89

67-3.1 Employment Opportunities

All field offices and FBIHQ possess detailed information regarding qualifications for and the availability of positions in the Bureau. All inquiries are to be immediately acknowledged by furnishing requested information including an application (FD-140), if desired. No letter of transmittal is necessary to furnish employment information to an applicant. Any applicant (support or Special Agent) who submits an incomplete application is to be recontacted within 30 days and requested to furnish the necessary information.

EFFECTIVE: 10/25/89

67-3.2 Status of Application

EFFECTIVE: 10/25/89

67-3.2.1 Deleted

EFFECTIVE: 10/25/89

67-3.2.2 Support Positions

Support applicants actively seeking FBI employment will be apprised of the final resolution of their applications in the following manner:

(1) The field offices will be required to advise all support applicants as to whether they pass or fail the entrance tests. The pass/fail letters for the Clerical Selection Battery (CSB) written test are computer-generated through the support applicant tracking system located within the on-line Bureau Personnel Management System (BPMS).

(2) The field offices will be required to initiate the "no encouragement" letters for the support applicants that receive an

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unfavorable recommendation during the interview. If a field office determines that a "no encouragement" letter should be sent to a support applicant under these circumstances, then the field office should forward a "no encouragement" letter to the applicant.

For clerical support applicants, the pass/fail letters for the CSB interview are computer-generated by the field office through the support applicant tracking system within the BPMS.

(3) FBIHQ will send "no encouragement" letters to all support applicants when the background investigation has been properly discontinued.

(4) FBIHQ will send "no encouragement" letters to all support applicants that are determined to be unqualified for FBI employment during final review at FBIHQ.

(5) The field office responsible for the recruiting of the support applicant will receive a copy of the "no encouragement" letter.

(6) Drug Usage "No Action" Letters (See also 67-3.2.3 and 67-16.2.2.)

(a) Field offices will notify applicants determined to be ineligible for employment based on experimentation with marijuana which occurred during the last three years or more than 15 times and/or whose experimentation with other illegal drug(s) or combination of illegal drugs, other than marijuana, occurred during the last ten years or more than five times.

(b) As of February 27, 1991, anabolic steroids are defined as an illegal drug under the FBI's drug policy. If applicant used anabolic steroids after February 27, 1991, field offices will follow guidelines set forth in current preemployment drug usage policy.

(c) If applicant used anabolic steroids prior to February 27, 1991, full details concerning the usage, to include frequency of use and specific time, should be referred to the Bureau Support Applicant Unit (BSAU) to determine whether the usage would be disqualifying for employment. BSAU will evaluate these matters on a case-by-case basis following consultation with the Health Care Programs Unit and the Office of the General Counsel.

(d) Determination concerning any other drug-related situations/usage (which would include the purchase/selling of any

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illegal drug, illegal use of any drug while employed in any law enforcement or prosecutorial position, or while employed in a position which carries with it a high level of responsibility or public trust) or unusual circumstances are to be referred to BSAU for decision and notification.

BSAU will notify applicants whose processing is discontinued based on admitted drug usage during preemployment polygraph testing or subsequent processing. (See MIOG, Part I, 67-7.10.)

EFFECTIVE: 03/24/97

67-3.2.3 Special Agent Position

(1) Special Agent applicants being processed under the Special Agent Selection System automatically receive a letter generated by the computer informing them of their status based on performance in the Special Agent Entrance Examination. This letter advises an applicant that:

(a) the test score is competitive and he/she is eligible for interview,

(b) the test score is not competitive and applicant should request retesting in one year if he/she has not already tested the maximum number of times.

Applicants afforded a formal interview receive a computer-generated letter advising either that they have successfully passed the interview and will be eligible for further consideration after a thorough review of their application, or that the interview score does not make them eligible for further processing and that another interview can be requested in one year if they have not already had the maximum number of interviews. Any applicant who is disqualified from further consideration based on interview results will also be appropriately advised. (See 67-17.3 and 67-17.3.6.)

(2) Inasmuch as each field office receives data concerning current qualifying scores, projected hiring needs, and the approximate number and size of scheduled New Agent classes, all routine inquiries should be handled by the Applicant Coordinator.

(3) Under no circumstances should personnel in a field

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office give an applicant any indication that he/she has been appointed until such time as FBIHQ personnel advise that the appointment has been approved.

(4) Should an applicant be disqualified at the prebackground stage of processing, it is the field office's responsibility to advise the candidate in writing. Those individuals who have progressed to the background stage will be notified of their status by FBIHQ.

(5) Drug Usage "No Action" Letters (See also 67-3.2.2 and 67-16.2.2.)

(a) Field offices will notify applicants determined to be ineligible for employment based on experimentation with marijuana which occurred during the last three years or more than 15 times and/or whose experimentation with other illegal drug(s) or combination of illegal drugs, other than marijuana, occurred during the last ten years or more than five times.

(b) As of February 27, 1991, anabolic steroids are defined as an illegal drug under the FBI's drug policy. If applicant used anabolic steroids after February 27, 1991, field offices will follow guidelines set forth in current preemployment drug usage policy.

(c) If applicant used anabolic steroids prior to February 27, 1991, full details concerning the usage, to include frequency of use and specific time, should be referred to the Special Agent Applicant Unit (SAAU) to determine whether the usage would be disqualifying for employment. SAAU will evaluate these matters on a case-by-case basis following consultation with the Health Care Programs Unit and the Office of the General Counsel.

(d) Determination concerning any other drug-related situations/usage (which would include the purchase/selling of any illegal drug, illegal use of any drug while employed in any law enforcement or prosecutorial position, or while employed in a position which carries with it a high level of responsibility or public trust) or unusual circumstances are to be referred to SAAU for decision and notification.

SAAU will notify applicants whose processing is discontinued based on admitted drug usage during preemployment polygraph testing or subsequent processing. (See MIOG, Part I, 67-7.10.)

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EFFECTIVE: 04/29/97

67-4 EMPLOYMENT OF RELATIVES

EFFECTIVE: 10/22/84

67-4.1 Public Law 90-206

Approved 12/16/67, places restrictions on employment of relatives by individuals defined as a "public official." A "public official" is defined as an employee in whom is vested or to whom is delegated the authority to appoint, promote, or advance individuals or to recommend individuals for appointment, employment, promotion or advancement. The law applies to the executive, legislative and judicial branches of Government.

EFFECTIVE: 10/22/84

67-4.2 Relative

A relative is the father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

EFFECTIVE: 10/22/84

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67-4.3 Restrictions on Public Official

(1) A public official shall not advocate a relative for appointment, employment, promotion, or advancement to a position in the public official's agency. For Bureau employees, this means the entire Department of Justice. This also includes an agency over which the public official exercises jurisdiction or control.

(2) A public official shall not appoint, employ, promote, or advance a relative to a position in the agency or in an agency over which the public official exercises jurisdiction or control. This further means the relative of a public official of the agency or of a public official who exercises jurisdiction or control over the agency, if the public official has advocated the appointment, employment, promotion or advancement of that relative.

(3) A public official who recommends a relative or refers a relative for consideration by a public official lower in chain of command (the line of supervisory personnel that runs from a public official to the head of the agency) for appointment, employment, promotion, or advancement is deemed to have advocated the action involved concerning the relative.

EFFECTIVE: 10/22/84

67-4.4 Restrictions on a Relative

An individual appointed, employed, promoted, or advanced in violation of the law is not entitled to pay. The law does not prohibit relatives of public officials from being appointed, employed, promoted or advanced in the same agency as the public official. However, in such cases, the record must show that the public official did not advocate or effect the appointment, employment, promotion, or advancement of a relative.

EFFECTIVE: 01/11/85

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67-4.5 Inquiry

Refer any questions in this matter to FBIHQ. Any complaint received of a violation by someone outside the Bureau should be referred to the Government entity involved. The law does not provide criminal provisions and the Bureau does not have investigative jurisdiction.

EFFECTIVE: 01/11/85

67-5 | MILITARY STATUS

Individuals in Ready Reserve are not eligible for transfer to Standby Reserve until they have completed a period of active duty (excluding active duty for training periods). FBIHQ will request transfer to Standby Reserve provided an individual does not have a military occupational specialty (MOS) that is of a critical nature. During initial interview, applicant should be requested to furnish his/her MOS number so that a determination can be made as to whether this position is considered critical. The only military status a Special Agent is permitted to have is "Standby Reserve."

EFFECTIVE: 01/11/85

67-6 PRIVACY ACT AND CONFIDENTIALITY

(1) When interviewing someone under this classification for information concerning themselves or their activities, the interviewing Agent must follow the procedures described in Part I, 190-5 (2) and (3) of this manual.

(2) When interviewing an individual to solicit information concerning someone other than the interviewee (thereby classifying that individual as a source of information), the interviewing Agent must follow the procedure relating to promises of confidentiality as described in Part I, 190-7 of this manual. Therefore, persons furnishing information in Bureau applicant matters who request confidentiality may be granted same under the provisions of the Privacy Act. If a person is granted confidentiality under the provisions of the Privacy Act, this must be clearly set out in the communication reporting the interview. T symbols are not to be used in Bureau applicant matters.

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EFFECTIVE: 01/11/85

67-7 BUREAU APPLICANT INVESTIGATION

EFFECTIVE: 12/10/91

67-7.1 Initiation of Investigation | (See MIOG, Part II, 35-9.2.) |

(1) Field offices, in initiating and completing Bureau support applicant background investigations, should use the applicant's employment availability as a principal guide. Additionally, before background investigations of Bureau support applicants are initiated, the applicants are to be recontacted to reaffirm their interest in Bureau employment if long time periods have passed since the initial interview of the applicant.

(2) All supplemental investigations are ordered by FBIHQ unless otherwise specifically instructed. In no case is any supplemental investigation of a former Bureau employee to be instituted before Bureau has had an opportunity to review former employee's personnel file and make a determination as to whether he/she is eligible for reinstatement.

(3) Field offices are furnished pertinent information derived from Bureau file search of applicant and relatives listed on application during processing of investigation. Results of field office indices search on applicant, however, should be updated and commented on when furnishing results of office indices search on the applicant's relatives during the investigation.

(4) Field offices should set leads to all Legats when setting out original leads. In cases where the State Department records should be checked, advise FBIHQ immediately and provide all information by facsimile for lead to be covered. | (See also MAOP, Part II, Section 10-4.3, and Correspondence Guide - Field, |2-5.5.11.) |

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EFFECTIVE: 04/07/97

67-7.1.1 Drug Testing of SA Applicants (See MIOG, Part II,
35-9.2.)

Applicants for the SA position must have urine specimens taken in connection with the FBI's Drug Deterrence Program at the time of background initiation. Unless this procedure is adhered to in a timely manner, there will be insufficient time for forwarding to FBIHQ and subsequent analysis. Should any applicant enter on duty for New Agents' training without having been previously drug tested within the past year, he/she will immediately be sent back to the field office for proper processing. (See MIOG, Part I, 67-16.2.2 for preemployment drug usage policy and guidelines.)

EFFECTIVE: 07/25/97

67-7.2 Deadlines

- (1) Thirty calendar days except where FBIHQ advises otherwise.
- (2) Deadline necessary to ensure early appointment of applicant if determined to be qualified.
- (3) Deadline date is date report to be received at FBIHQ.
- (4) In furnishing leads to additional offices, advise them of deadline. Such leads must be expeditiously furnished other offices as soon as developed to avoid delay in completion of investigation.
- (5) If unavoidable circumstances cause delay, field supervisor or Agent handling case should notify FBIHQ by Form FD-205 setting forth all information required on the form. The FD-205 may be filled out in legible longhand. Field office need not retain copy if notation made on serial in file regarding sending of FD-205. It should reach FBIHQ by deadline date.

(6) |Deleted|

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EFFECTIVE: 11/25/94

67-7.3 Character - Bureau Applicant (Position Sought)

EFFECTIVE: 04/24/90

67-7.4 Assignment of Cases (See MIOG, Part II, 35-9.2.)

Must be assigned immediately upon receipt in field office
when investigation originates from FBIHQ.

EFFECTIVE: 04/07/97

67-7.5 Indices Search

(1) Each field office must make a careful search, and advise FBIHQ of the results, of its general and any other specialized indices (except Confidential and ELSUR), concerning the below-listed individuals/entities. Confidential and ELSUR indices need not be searched.

(a) Applicant - Name, including variations and additional names developed during investigation, should be searched by offices covering places of residence, employment, or education. Advise FBIHQ and interested offices of additional names developed.

(b) Close relatives residing in field office territory - Include in search not only names of close relatives known when investigation was initiated, but also those identified during course of investigation. It is not necessary to search names of relatives under 18 years of age.

(c) References and others - Search names of references residing in a particular division. They need be searched only as name appears in reference material furnished. Searches of variations in name and initials are not required. File searches of names of additional references developed during investigation should

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be made by use of Form FD-160, which should be block-stamped and initialed for filing. Where common sense dictates, names of persons with whom applicant has been closely associated during his/her adult life, such as roommates, close social friends, and others, where relationship would warrant, must be searched against field office indices.

(d) Organizations - If applicant lists membership in any organization, the nature of which is not readily known, determine same during interview. No abbreviations are to be utilized. The name(s) of the organization(s) is to be searched and results furnished to FBIHQ.

(2) Field offices are not required to perform computerized indices checks (i.e., Criminal Law Enforcement Application (CLEA) and Intelligence Information System (IIS)) as these will be conducted by FBIHQ. However, in the event additional information is needed concerning data received as a result of these checks, the appropriate field office will be contacted for further clarification/investigation.

(3) Results of search on applicants are to be reported in the initial communication after receipt of the application and should be updated and commented on during investigation when reporting results of office indices search on relatives and roommates.

(4) Searches through ELSUR indices will be conducted exclusively by FBIHQ unless a field office is specifically requested by FBIHQ. ELSUR indices should be searched for the applicant, close relatives, current roommates, and any roommates who have resided with the applicant within the past five years. ELSUR indices are checked using a three-way search by FBIHQ.

EFFECTIVE: 11/25/94

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67-7.6 Objectives of Investigation

(1) To determine whether applicant is or is not qualified for Bureau employment and whether his/her employment would constitute security risk.

(2) Following specific points of inquiry are basic and fundamental and must be kept in mind throughout course of investigation. All contacts and interviews should be directed at developing these objectives:

(a) Character - |actions and statements which reveal an applicant's general attitude and possession of characteristics such as trustworthiness, reliability, and discretion or lack thereof. |

(b) |Associates - types of persons, businesses, groups, organizations or movements with which an applicant has been associated, with particular concern as to whether his/her associations have been of a disreputable or disloyal nature. |

(c) Reputation - |comments concerning the applicant's general standing in the community. |

(d) |Loyalty - actions and statements revealing the applicant's attitude and allegiance toward the United States and its constituted form of government or sympathies with any foreign government or ideology. |

(e) Ability - establishment of applicant's ability to perform Special Agent or support duties is essential. In this regard, the interviewee should be asked if he/she recommends the applicant for the specific position being applied for. |In this respect, the investigator|should elicit specific statements and concrete examples as to how the interviewee arrived at his/her conclusion. Each interviewee should be questioned concerning applicant's daily appearance, personality, aggressiveness, how he/she reacts under pressure and strain, and his/her amenability to working long hours. |With respect to SPECIAL AGENT APPLICANTS only, the investigator should also ensure that specific statements and examples are obtained regarding the APPLICANT's ability to meet the public, physical fitness, agility, and athletic endeavors. | If school, military, and employment records contain comments along these lines, they should be secured. All of the above-mentioned prerequisites have a direct bearing on final selection of Special Agent|and support applicants|and should be reported so that FBIHQ will be in a position to fully evaluate his/her overall qualifications before

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rendering final judgment.

(f) Bias or Prejudice - the existence of bias or prejudice against any class of citizens or any religious, racial or ethnic group, is of interest and concern to the FBI. Investigators should conduct appropriate investigation to obtain comments to resolve any issue and/or allegation of bias or prejudice that is received concerning an applicant.

(g) Financial Responsibility - each person interviewed who is knowledgeable of the applicant will be asked questions which will elicit information as to whether or not the applicant has a lifestyle or spending habits consistent with his or her means. The purpose of these questions is to determine if the applicant is financially responsible.

(h) Alcohol Abuse - each person interviewed who is knowledgeable of the applicant will be asked if the applicant is known to abuse alcohol. Obtain specific details regarding any such activity.

(i) Drug Abuse - each person interviewed who is knowledgeable of the applicant will be asked if the applicant is known to abuse prescription medications or to use illegal drugs or narcotics. Obtain specific details regarding any such activity.

EFFECTIVE: 01/31/94

67-7.7 Instructions for Investigative Personnel (See MIOG, Part II, 35-9.2.)

(1) Advise persons interviewed of exact position for which applicant is being considered.

(2) Do not convey impression that applicant being investigated is under suspicion or that investigation is of a criminal or subversive nature.

(3) Purpose of interviews is to get information, not to give information. Avoid possibility for accusation of character assassination or spreading of rumors.

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- (4) Investigation must be painstakingly exact, fair, unbiased.
- (5) Interviews must be thorough and exhaustive.
- (6) Request those interviewed to treat inquiries as confidential.
- (7) Investigating Agent should be persistent in his/her effort to pursue every lead to its logical conclusion.
- (8) Derogatory information should be fully developed and reported in detail. Ascertain facts on which derogatory conclusions predicated and follow through in questioning to obtain such facts. If derogatory information is developed, telephonically advise FBIHQ without delay. Advise all auxiliary offices by teletype (copy to FBIHQ) if so instructed by FBIHQ. Reports should show unbiased and complete inquiry. If some question exists regarding accuracy of derogatory information, identify original sources. Field offices discovering derogatory data must ensure that sufficient investigation is conducted to verify or disprove same. Promptly advise other offices which should be cognizant of derogatory information to facilitate their part of the investigation. All questions concerning information furnished under a promise of confidentiality will be resolved at FBIHQ in accordance with provisions of the Privacy Act of 1974 (Title 5, USC, Section 552a (e) (2)).
- (9) Do not protract investigation when derogatory information developed obviously disqualifies applicant for Bureau employment.
- (10) Bear in mind that copies of applicant reports may be disseminated upon request to any agency within executive branch of government, as well as under the provisions of FOIPA.
- (11) The results of derogatory information developed on support and Special Agent applicants should be reported to FBIHQ on an FD-302. The results of completed favorable background investigations on support and Special Agent applicants should be submitted to FBIHQ by summary airtel, teletype, or report.
- (12) Deleted
- (13) Deleted
- (14) Be aware of Privacy Act and confidentiality

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considerations as listed previously in 67-6 of this section.

(15) A knowing and willful false, fictitious, or fraudulent statement in an application for federal employment is a violation of Title 18, USC, Section 1001, False Statements. For additional instructions see Part I, Section 46, of this manual, entitled "Fraud Against the Government."

EFFECTIVE: 10/13/95

67-7.8 Scope of Investigation (See MIOG, Part II, 35-9.2.)

(1) Birth - Verify date and place of birth through appropriate records; i.e., Bureau of Vital Statistics or county records. The practice of verifying birth through school and employment records is not acceptable.

(2) Naturalization - If applicant or immediate relatives, including in-laws, are not native citizens of the United States, verify naturalization through Immigration and Naturalization Service (INS) records or court records. In this respect, when setting out leads to have such information 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. A naturalization certificate should only be obtained if the naturalization information cannot be verified through the INS. If an applicant is a native citizen of the United States but born outside the United States or its possessions, a copy of the applicant's State Department Certificate of Birth should be acquired from the applicant. If citizenship is derivative, specific information should be obtained as set forth above concerning individuals from which citizenship is derived. If an immediate relative is not a citizen, review files of INS and report any pertinent information. If record is not located in local office of INS, determine where located and set out lead to have record reviewed. If an applicant's relative is a native citizen of the United States but foreign born, a copy of their State Department Certificate of Birth should be acquired from the applicant.

(3) Marital status - Resolve any doubt as to marital status by review of records. Verify divorce or separation and ascertain cause of action. Ascertain if any adverse publicity, notoriety, or scandal attached to divorce proceedings. Interview

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divorced spouse unless circumstances dictate otherwise. If at any time during course of investigation information is developed that applicant is engaged or contemplates marriage, applicant should be recontacted to confirm information and, if positive, full identity of future spouse and immediate relatives should be obtained and appropriate investigation conducted.

(a) A spousal interview should be conducted on all Special Agent applicant cases. A spousal interview should not be conducted on a support or specialty case unless deemed necessary.

(4) Neighborhoods

(a) The neighborhood investigation is one of the most important steps of the investigation. It is here that you get an insight into the applicant. During this phase of investigation, specific inquiry should be made as to applicant's everyday appearance, dress, personality, and any other traits which might affect his/her suitability for Bureau employment.

(b) Interview neighbors, including current and former roommates, at applicant's places of residence during past five years.

(c) If derogatory information is developed, interview persons, including roommates, if appropriate, in logical neighborhoods without limitation as to time. Particularly, include all neighborhoods where it might be expected that derogatory information could be further developed. It is not necessary to conduct neighborhood investigations if applicant has resided less than a 30-day period unless special reason exists. Bear in mind applicants may have been forced to leave residence after brief period due to unfavorable activity. When derogatory information is developed which may be based only on gossip, rumor, or personality clash, every effort must be made to resolve such information.

(5) References

(a) Years and extent of association on part of applicant with reference should be clearly established during interview.

(b) Interview all references except a reference concerning whom information is known which would preclude interview or if an isolated reference is furnished by applicant and he/she cannot be contacted without expenditure of unreasonable time and travel which

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would result in delay of investigation. Request applicant to submit a substitute reference. Set forth unavailability of isolated reference when furnishing results of investigation to FBIHQ.

(c) If derogatory information exists concerning a reference, ascertain nature and extent of his/her association with applicant.

(d) If reference is personal physician of applicant, especially support applicants, specific comments should be secured concerning applicant's medical history and current physical condition. If any serious physical or mental defect is developed as a result of this interview and FBIHQ has not been previously advised, it should be brought to immediate attention of FBIHQ.

(e) If a reference is also listed on the application under a separate heading (employers, social acquaintances, relative, roommate, friends, or acquaintances employed by the FBI), request applicant to submit a substitute reference. If applicant provides references who are related to one another or who reside in the same household, request applicant to submit a substitute reference.

(6) Social acquaintances

(a) Years and extent of association on part of applicant with social acquaintances should be clearly established during interview.

(b) Interview all social acquaintances listed except acquaintances concerning whom information is known which would preclude interview, or if an isolated acquaintance is furnished by applicant and he/she cannot be contacted without expenditure of unreasonable time and travel which would result in delay of investigation. In such instance, request that applicant submit a substitute acquaintance. Set forth unavailability of isolated acquaintance when furnishing results of investigation to FBIHQ. Those acquaintances interviewed should be in the same general age group as applicant and should be familiar with his/her background through association in schools, churches, clubs, employments and the like. Searching and penetrative inquiries must be made of these individuals to ensure that all pertinent information in their possession is obtained.

(c) If a social acquaintance is also listed on the application under a separate heading (employers, references, relative, roommate, friends, or acquaintances employed by the FBI), request

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applicant to submit a substitute social acquaintance. If the applicant provides social acquaintances who are related to one another or who reside in the same household, request applicant to submit a substitute social acquaintance.

(7) Relatives and associates

(a) Obtain information concerning close relatives and associates during course of investigation on applicant. References and neighborhood of applicants are likely sources of such information. Close relatives under ordinary circumstances include spouse, parents, brothers, sisters, in-laws and adult offspring (includes all relatives requested on BUAP Form FD-140). Be alert to special instances of circumstances which may require broadening this definition. Set out lead for FBIHQ with adequate identifying data to check records of Central Intelligence Agency

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(b) Although independent investigation (except indices checks in all cases and arrest checks on close relatives) is not normally conducted on relatives or associates, derogatory allegations concerning such persons may necessitate discreet inquiries of informants and reliable sources to verify or refute allegations. If derogatory information exists concerning relative or associate, ascertain nature and extent of his/her association with applicant. (See (12)(b) of this section.)

(c) It is necessary to interview, conduct arrest checks, and indices checks on CURRENT roommates. FORMER roommates who have resided with the applicant for the past five years should also be interviewed and indices checks conducted on them. Arrest checks should be conducted on former roommates ONLY if a date of birth is provided by the applicant. If the roommate resided with the applicant OVER five years ago, no investigation will be necessary.

(8) Education

(a) High school education must be verified. Verification should include receipt of high school diploma if applicant has advised that such has been received. If diploma is to be awarded at a future date, obtain and report approximate graduation date. Any education subsequent to high school, including attendance at college, other institutions of higher learning, business schools, etc., should be verified and receipt of degrees confirmed. If applicant has received baccalaureate degree, it is not necessary to

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verify high school attendance. Applicants who are recipients of an associate degree in an academic discipline from accredited colleges whose academic credits are transferable to a degree granting four-year college or university will not require verification of high school attendance unless adverse information is developed reflecting on the suitability of the applicant. In these cases, appropriate investigation should be conducted at the high school level to completely resolve the issue(s).

(b) In verifying education at any level, the following points should be fully covered: final grade point average; class standing; subjects failed; any disciplinary action taken; extracurricular activities; honors and awards; attendance record with specific comments as to reason for absenteeism and tardiness, if available. In the case of Special Agent applicants, it is necessary to verify that any baccalaureate degree awarded to the applicant was considered a resident degree. In those instances when any baccalaureate degree is from a nonresident school, it is necessary to verify that the postgraduate degree is from a resident school. This procedure is also required in any case involving a Special Agent applicant applying under the Law Program who has only two years of undergraduate work inasmuch as this work too must be resident work to be qualifying. If a release is required by educational institution before this information can be furnished, applicant should be requested to authorize same (Form FD-406 is to be used for this purpose). If he/she refuses, no further action should be taken on application for employment and his/her case should be immediately discontinued.

(c) A representative number of school officials and teachers should be interviewed and comments secured as to applicant's demeanor, dress, associates, ability, personality, amenability to instruction and correction, leadership ability, athletic endeavors, character, and loyalty. If any information is developed which raises a question as to applicant's suitability for Bureau employment, this must be completely resolved and, if warranted, additional interviews should be conducted.

(d) When information appears in school record indicating necessity to contact a particular teacher, every effort should be made to locate and interview that teacher. It is recognized that due to lapse of time or size of class, school officials and teachers may be unable to recall applicant. Therefore, it is not necessary to interview professors if it has been over three years since the applicant's last date of attendance. Bear in mind that there may be information in record specifically commenting on very

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items required to be covered during actual interview of school officials and teachers.

(9) Employment

(a) All employments, regardless of duration and including part-time employments, must be verified. Periods of unemployment should be accounted for in investigation.

(b) Review of employment record should be made and following information secured: dates of employment; position held and nature of duties; salary; reason for termination if applicable; attendance and tardiness record; disciplinary action; and awards. In any instance wherein the applicant has held employment, past or present, with a law enforcement agency, the records of the internal affairs unit of this agency are to be checked during the investigation. This is in addition to the check of appropriate personnel records. Any additional employments developed during course of review of employment records should be verified.

(c) Supervisors and a representative number of co-workers should be interviewed and specific comments secured concerning amenability to supervision, ability to work under pressure, leadership ability, emotional stability, maturity, character, reputation, associates, and loyalty. In any instance wherein applicant's previous or current employers cannot provide the identity of applicant's immediate supervisor or co-workers because of the employer's policy, applicant should be contacted and requested to provide the identity of the immediate supervisor and a representative number of co-workers. Interviews of military personnel's supervisors, co-workers, etc., are limited to two years prior to date of their last military service, if their military service was within five years prior to the date of their application. (See (19)(b) and MIOG, Part II, 17-6.5 & 17-6.6.) When application is for the position of computer programmer or computer systems analyst, the supervisor should also be requested to comment specifically on the applicant's technical abilities in the programming and/or analyst field. These comments should be recorded essentially verbatim and made available to FBIHQ when reporting results of investigation. If the applicant is not currently employed in a programmer or analyst position, the most recent previous employment wherein he/she held this type of position should be used for this interview. Any adverse information developed concerning suitability for employment with FBI must be completely resolved and, where warranted, additional interviews must be conducted. (See 67-10.11.)

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(d) If applicant has been in business for himself/herself, interview competitors and conduct appropriate neighborhood investigation in the area of applicant's place of business.

(e) It will be necessary to verify any departments and/or agencies to which the applicant has previously applied for a position. Applicant should be requested to provide a vacancy number and complete address of each agency. If currently under consideration by the agency, ascertain whether all investigation to date has been favorable; if not, request details about an unfavorable information developed. If applicant is no longer being considered, determine the reason, i.e., voluntary withdrawal, lack of vacancies, development of derogatory information, etc.

(f) It is not necessary to verify an applicant's lack of employment while he/she is a full-time student since their activities are accounted for. However, verification should be made of any unemployment if applicant was not attending school and the application does not reflect any employment(s) during the time period(s) in question.

(10) Organizations

(a) During course of investigations, make inquiries to determine whether applicant has been affiliated with subversive groups or organizations and extent of his/her participation therein. Make careful investigation to verify or disprove such alleged affiliations.

(b) Verification of CPA Status or Admittance to State Bar - In Special Agent applicant investigations, if applicant claims to be a Certified Public Accountant (CPA) or to have been admitted to an official state bar, such information should be verified during course of investigation, with appropriate grievance committee records also being checked. It is not necessary to verify membership in any voluntary bar association, such as the American Bar Association, state and local associations, etc.

(11) Security informants - If allegations are received indicating disloyal or subversive affiliations, contact appropriate security informants.

(12) Law Enforcement Agencies

(a) In all localities of residence, education and

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employment, check applicant's name against files of local law enforcement agencies. This should include a check of Military Police records in instances where applicant has resided on base at a military installation. Include spouse in law enforcement checks in areas of residence, education and/or employment since marriage, but have traffic violations and Motor Vehicle Department license checks made for the applicant only.

(b) Check names of close relatives and roommates and, in any case deemed advisable, associates, against files of local law enforcement agencies at present place of residence and at present place of employment and/or school attendance. This should include a check of Military Police records in a situation where the relative is residing on base at a military installation. Do not initiate inquiries concerning relatives' traffic violations and Motor Vehicle license checks. (See (7)(b) of this section.)

(c) If a record is located, report all data developed which indicates applicant or applicant's relative is identical with the subject of the record.

(d) In reviewing records of law enforcement agencies, it is noted that frequently arrests are made on charges which are generic and indefinite in nature. Examples of such vague charges are disorderly conduct, loitering, suspicious person, investigation, general principles, etc. In such an instance, it is NOT sufficient merely to report that applicant was arrested on such a charge, but exact nature of his/her activities resulting in arrest must be ascertained. Charge of disorderly conduct might encompass activities ranging from sexual deviation to making loud noises. EXACT nature of such charge must be ascertained. If necessary, pursue matter even to extent of locating and interviewing arresting officers to determine exact offense.

(e) Some law enforcement agencies departmentalize their operations making it necessary to check records of various squads and bureaus within agency. Checks of records of each such individual squad or bureau MUST be made. Check should include traffic violations for applicant only.

(f) Checks should not be limited to police departments, but MUST INCLUDE records of sheriffs' offices and other duly constituted law enforcement agencies.

(g) If an arrest check discloses any outstanding warrants on an applicant's relative, the current location of that

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relative along with any other pertinent information should be forwarded to the agency which issued the warrant.

(h) In states having centralized criminal histories on computer, such records must be checked on applicants and relatives to cover their states of listed residency and employment and, in the case of the applicant, states of listed education and military service.

(13) Financial Responsibility

(a) Credit checks will be processed by contractor personnel at FBIHQ on applicant's name in all localities covering his/her residence, employment, or education for the most recent seven-year period. It is not necessary to individually verify an account an applicant lists on the FD-140, Application for Employment, that is not shown on the credit bureau report if the credit report is favorable. However, individual creditors must be contacted wherein the credit bureau report reflects any history of late payments. Additionally, if the account is significant enough that the applicant would not be offered Bureau employment if the account is not current, i.e., tax and mortgage payments and large loans and student loans, verification of such is necessary. The same policy applies to accounts held jointly with a relative and/or other individual(s).

It is not necessary to verify a student loan that is listed in applicant's credit report as currently being in a deferred status as the applicant is not required to begin payment on the loan until they have graduated from college. All student loans must be individually checked at the respective institution handling the loan if the applicant is no longer attending college. Any account revealed by credit bureau records to be in default or have a history of late payment(s) should be further verified by directly accessing the records of this account at the issuer of the credit. In checking status of credit accounts, utilize FD-406, DOJ-461, DOJ-462, and DOJ Letterhead Memorandum entitled "Customer Rights Under the Right to Financial Privacy Act of 1978." A separate set of executed DOJ documents will be necessary to access the records of each separate financial institution or credit card issuer in the event individual credit checks are needed. The following information should be included when verifying delinquent accounts: outstanding balance, any penalties or interest added to the amount owed, the date the account was classified as uncollectible, classified as a "charge off" account, or placed for collection or repossession if applicable, whether any applicable repayment plan has been agreed upon and, if so, whether the creditor holder is adhering to the agreement.

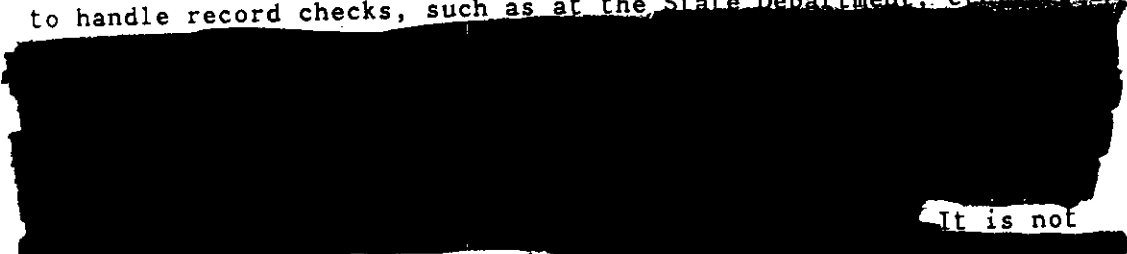
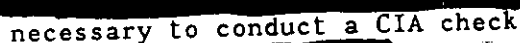
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(b) If an account is found to be either currently in collection or currently over 120 days or more past due, the applicant must be interviewed concerning this account. The interview should obtain the applicant's comments as to whether he/she is aware that the debt(s) exists and if there have been any attempts made by the applicant to satisfy this obligation. This interview additionally affords the applicant the opportunity to clarify any underlying circumstances which are not apparent during a review of credit records regarding these delinquent accounts.

(14) File searches - Information obtained from file searches previously referred to should be utilized in connection with investigation and as lead material.

(15) Agency checks - FBIHQ personnel will conduct Office of Personnel Management (OPM) checks for all applicants and the National Crime Information Center record check for any applicant who is scheduled to enter on duty. A Defense Clearance and Investigations Index check will only be conducted on those applicants who are serving or have served in the military or employed by the military in a civilian capacity. WFO, in appropriate instances, must receive a lead to handle record checks, such as at the State Department, etc. If an

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 It is not necessary to conduct a CIA check  A CIA check should also be conducted if the applicant has applied for a position with the CIA. (See (7)(a) of this section.)

If an applicant has been or is currently employed with a federal government agency, a lead should be sent to the Washington Field Office to conduct an Inspector General check to determine if any records exist concerning internal complaints and/or grievances filed against the applicant.

(16) Reinterview of applicant

(a) Applicant may be reinterviewed for purpose of procuring additional information not previously furnished by him/her or to clarify information received during investigation. Under no circumstances should applicant be advised directly or by implication

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of any derogatory information learned about him/her. All sources of any information must be maintained in complete confidence.

(b) Applicant may be reinterviewed when question is raised regarding his/her interest in Bureau employment to determine if still interested.

(c) To further ensure support applicant investigations are complete, thorough, and up to date, prior to issuing an appointment letter, it will be necessary for field personnel to contact the applicant at the current residence address immediately prior to submission of the final communication, to determine if the applicant has had any employment, education, or arrests, subsequent to initial interview.

1. If positive response is received, it will be necessary to verify same and include the following paragraph in the final communication: "Applicant contacted on (date) and advised that (he or she) has had no additional education, employment or arrests with the exceptions indicated above."

2. If the response is negative and no additional investigation is warranted, the last paragraph in the final communication to the Bureau shall read: "Applicant contacted on (date) and advised that (he or she) has had no additional education, employment, or arrests since last interviewed."

(17) Bureau acquaintances - Bureau acquaintances of applicant must be interviewed or must submit recommendations as to whether they believe applicant is suitable for Bureau employment.

(18) Selective Service status - If applicant is a male born after 12/31/59, FBIHQ will determine whether applicant is in compliance with the Military Selective Service Act, which requires that all males born after 12/31/59 register with the Selective Service System (SSS). FBIHQ will make this determination by telephonically (toll free) accessing a computerized system maintained by the SSS at its Selective Service Data Management Center, Great Lakes, Illinois. If discrepancies are disclosed concerning the applicant's registration with SSS, a lead may be set by FBIHQ to the Chicago Office to follow up directly at SSS.

If an applicant who is favorably recommended registered with the SSS prior to 4/1/75, and had a special classification such as a 1-A-0, 4-F, or 1-Y, details regarding reason for same must be ascertained from applicant. It may also be necessary to secure physicians' statements

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and/or information from hospital records prior to arranging a physical examination, as complete details regarding a history of illnesses or injuries must be furnished to appropriate examiner at time of physical examination.

(19) Military service - (See also 67-5 of this section.)

(a) If in Reserve, ascertain whether Ready or Standby. If applicant is currently in military reserve, determine whether active or inactive (Standby normally inactive but may be active on volunteer basis) and have applicant furnish complete address for reserve unit to which he/she is currently assigned. Whether in active or inactive reserve, records must be reviewed in all Bureau applicant cases. If applicant is affiliated with an active reserve unit, also interview superiors and fellow reservists regarding current

performance. During supplemental investigation, reserve status must be rechecked when more than 60 days have elapsed since previous check. If affiliated with active reserve unit, supplemental investigation must include reinterview of superiors and fellow reservists to ensure that applicant remains in good standing with unit.

(b) Instruct office covering repository of records to review service record. Veterans' Readjustment Benefits Act of 1966 granted preference rights to individuals who had over 180 consecutive days of active military duty after 1/31/55, except that such benefits were withheld from those serving on active duty for training under Title 10, USC, Section 511 (d), in the National Guard or Reserve (the so-called six-monthers). Public Law 94-502, enacted 10/15/76, however, abolished peacetime veterans' preference points for those individuals entering on active duty after 10/14/76, except for those who were disabled, or those who served in a campaign or war. In reviewing records of those applicants whose dates of service might make them eligible for preference rights, ascertain, where possible, whether or not active duty was for training. A copy of applicant's DD-214 should be obtained for those who have prior military service. The field office should attempt to locate and interview superiors for any military service within the last two years. (See (9)(c) above, and MIOG, Part I, 67-11.1.2 (3)(a); Part II, 17-6.5 and 17-6.6 and MAOP, Part I, 10-3.)

(c) A reservist, other than a member of Army National Guard or Air National Guard, ordered to active duty, active duty for training, or annual active duty for training receives credit for such service in determination of his/her leave category and computation of service under Civil Service Retirement Act. No credit

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is given for inactive duty training; that is, scheduled weekly or monthly assemblies or drills. National Guard service is creditable only during periods when organization or a unit thereof is actually mustered into or activated in U.S. Army or Air Force. Report information obtained (including exact dates on active duty) concerning military duty in sufficient detail to permit Bureau to determine leave-earning or retirement.

(d) Report information concerning any physical disability disclosed in record, together with any facts indicating it was caused or aggravated by military service.

(e) It is required that the field office, designated by FBIHQ at the time background investigation is initiated, provide the following information from applicant's military file: original date of enlistment; date of entry into active duty and date of honorable release from same; highest rank attained; dates of reserve service; date of honorable discharge, if appropriate; status of remaining service obligation, if any; information about any foreign service; statement about any disciplinary action, including court martials and periods of AWOL; military occupation; list of awards received; ratings from most recent performance appraisals; any medical information indicating a possible disability, mental or physical, which could affect applicant's job performance; a list of all duty stations; and copies of conduct and efficiency reports.

(20) Alcohol or drug abuse - Every interviewee should be specifically questioned as to whether the applicant is a known alcohol abuser or is known to have made unauthorized use of drugs of abuse such as cocaine, heroin, LSD or marijuana. An affirmative response will require the development of specific details, including a determination as to whether the knowledge is direct or hearsay. Any positive information should, of course, be fully explored during the course of the investigation in order to completely resolve any allegations of alcohol or drug abuse on the part of the applicant.

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67-7.9 Bureau Applicant Program Personnel Security Interview
(PSI), Security Officer Matters, Foreign
Counterintelligence | (See MIOG, Part I, 261-2(2)(c) 8.) |

A PSI is required during the course of a Bureau applicant investigation when the applicant's "Application for Employment," Form FD-140, indicates certain factors (set out below) are present. The following information describes factors under which a PSI should be conducted, who should conduct the PSI, areas to cover during the PSI, proper submission of results to FBIHQ, and how to capture time spent on the PSI for Time Utilization and Recordkeeping (TURK) purposes.

EFFECTIVE: 10/14/93

67-7.9.1 Role of Executive Order (EO) 10450 in Bureau Applicant
PSIs | (See MIOG, Part I, 261-2(2)(c) 8.) |

(1) EO 10450, entitled "Security Requirements for Government Employment," requires the Government employment of any individual to be clearly consistent with the interests of national security. It requires all Federal employees to be reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States. It enumerates the following security factors which, depending on the relation of the Government employment to the national security, must be considered as criteria in evaluating cases. The security criteria are:

(a) Any behavior, activities, or association which tend to show that the individual is not reliable or trustworthy.

(b) Any deliberate misrepresentations, falsifications, or omission of material facts.

(c) Any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess, drug addiction, or sexual perversion.

(d) Any illness, including any mental condition, of a nature which in the opinion of competent medical authority may cause significant defect in the judgment or reliability of the employee, with due regard to the transient or continuing effect of the illness and the medical findings in such case.

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(e) Any facts which furnish reason to believe that the individual may be subjected to coercion, influence, or pressure which may cause the person to act contrary to the best interests of the national security.

(f) Commission of any act of sabotage, espionage, treason, terrorism or sedition, or attempts thereat or preparation therefor, or conspiring with, aiding or abetting another to commit or attempt to commit any act of sabotage, espionage, treason, terrorism or sedition.

(g) Establishing or continuing a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, or revolutionist, or with an espionage or other secret agent or representative of a foreign nation whose interests may be inimical to the interests of the United States, or with any person who advocates the use of force or violence to overthrow the Government of the United States or the alteration of the form of Government of the United States by unconstitutional means.

(h) Advocacy of the use of force or violence to overthrow the Government of the United States, or of the alteration of the form of Government of the United States by unconstitutional means.

(i) Knowing membership, with specific intent of furthering the aims of, or adherence to and active participation in, any foreign or domestic organization, association, movement, group, or combination of persons (hereinafter referred to as organizations) which unlawfully advocates or practices the commission of acts of force or violence to prevent others from exercising their rights under the Constitution or laws of the United States or any state or subdivision thereof by unlawful means.

(j) Intentional, unauthorized disclosure to any person of security information, or of other information, disclosure of which is prohibited by law or willful violation or disregard of security regulations.

(k) Performing or attempting to perform duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States.

(l) Refusal by the individual, upon the ground of constitutional privilege against self-incrimination, to testify before a congressional committee regarding charges of his/her alleged "disloyalty or other misconduct."

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(2) The Personnel Security Unit (PSU), Intelligence Division, utilizing the minimum standards set forth in EO 10450, after reviewing the results of the investigation, adjudicates whether the applicant is reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States. The PSU recommends to the Assistant Director, Criminal Investigative Division, whether or not the hiring of the applicant is clearly consistent with the interests of national security.

EFFECTIVE: 07/22/93

67-7.9.2 Instructions for the Initiation of the PSI (See MIOG, Part I, 261-2(2)(c) 8; Part II, 35-9.2; National Foreign Intelligence Program Manual, Part 1, 8-1.1.)

(1) The processing field office, utilizing guidelines set forth, will review the FD-140 and initiate appropriate action for the PSI to be conducted.

(2) A review of the application for employment (FD-140) should be conducted for all applicants who are favorably recommended at the time of their employment interviews to determine if a PSI is warranted. It becomes incumbent upon the processing office to conduct the PSI. The results of the PSI are to be forwarded along with the FD-140, FD-190a, fingerprint card, release forms, etc., to the Special Agent Applicant Unit or Bureau Support Applicant Unit, Personnel Division, for appropriate action. If, after review of the PSI by the Personnel Security Unit (PSU), National Security Division, determines that a polygraph is needed the processing office will be contacted by PSU and advised of such.

(3) A PSI will be instituted whenever any of the following factors are present after a review of the FD-140:

(a) Foreign birth of applicant, listed relatives, or individuals with whom the applicant resided over a period of thirty days or more (i.e., roommates, cohabitant).

(b) Foreign travel or foreign residences of applicant.

(c) Relatives of applicant or applicant's immediate

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family (including in-laws) who reside outside the United States (except U.S. citizens serving in the Armed Forces of the United States or employed by the U.S. government).

(d) Employment by (or representatives or agent of) any foreign government by the applicant or members of immediate family (including in-laws).

(e) Contacts by applicant or members of immediate family (including in-laws) with friends, associates, or others residing outside the United States.

(f) Whenever an applicant lists federal or military employment to determine if the applicant's previous employment required access to United States classified/restricted information. When appropriate, this includes former FBI employees applying for reinstatement.

(4) A PSI of the applicant is to be conducted by an experienced FCI Agent, preferably with expertise in the areas of concern in the applicant's background. The interviewing Agent must review the application and any investigation conducted to identify those security concerns associated with the applicant, as delineated in EO 10450.

(a) When the applicant's background indicates he/she has had any connection (travel, relatives, contacts, etc.) with a specified foreign country (see National Foreign Intelligence Program (NFIP) Manual, Introduction, 1-1), an experienced FCI Agent should conduct an in depth PSI and make a recommendation as to whether the applicant should be afforded a polygraph examination.

(b) In those offices where an FCI Agent is not available to conduct the PSI, the National Security Division, FBIHQ, should be contacted for a determination as to whether a non-FCI Agent can be utilized or whether assistance could be provided by another field office.

(c) In those applicant cases where the applicant has traveled to or has a connection with a foreign country NOT listed in the NFIP Manual, Introduction, 1-1, it will be left to the discretion of the SAC as to whether an FCI or non-FCI Agent will be utilized to conduct the PSI.

(5) All PSIs must be done personally; no telephonic PSIs are permitted.

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(6) Although the main thrust of the PSI should be developed through the expertise of the assigned FCI-trained Special Agent, the following points, at a minimum and, where applicable, must be addressed.

(a) Details regarding all travel outside the United States including any unsupervised travel or side trips while in the military; specific locations and purpose of all trips; length of stay; organizations and/or individuals with whom there was contact; follow up contacts; any traveling companions; and interviewing Agent should review the applicant's passport for possible additional foreign travel data.

(b) Contacts with foreign officials or police agencies while traveling outside the United States.

(c) Any contacts by applicant or family members, as listed in the application, with the individuals living or working outside the United States; any contacts with applicant or family by foreign nationals or representatives visiting or residing in the United States.

(d) Associations and the degree of same developed with foreign nationals, citizens, and/or organizations; background data regarding such persons, to include past roommates.

(e) Any personal associates, business or otherwise, developed with foreign nationals, as a result of current employment, clubs, or organizations, etc.

(f) Details of any approach to exchange United States currency for local foreign currency, purchase of clothing, or other illegal market items, etc.

(g) Noting applicant's current overextended credit situation and past delinquency, applicant's ability to manage finances; reason for past delinquency.

(7) The following additional points should be covered when the applicant and/or applicant's parents are foreign born:

(a) Details regarding motivation for applicant and/or applicant's family to immigrate to the United States; naturalization status of family, if not previously provided; provide exact dates of naturalization for all relatives; family background in

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native country to include employment, any affiliation with a foreign government, Communist Party, or other political entity; if Communist Bloc country, how and why family allowed to leave; any return trips to native country by applicant or family; any plans to return in future; reason why remainder of family remain in native country; any visits to United States by these family members; background, etc., of relatives remaining in foreign country; how applicant and spouse met if either foreign born; and when applicant and his family emigrated into the United States, provide exact dates.

(b) Loyalty of applicant to the United States and its citizens versus those of native country; should he/she become Bureau employee, reaction to official information he/she might obtain regarding native country, relatives, or acquaintances of personal or family interest from that country; reaction to "hostage-type" situation involving terrorist organization or government of foreign country. Motivation for becoming FBI employee.

(c) Any member of applicant's family who may have been affiliated with, participated in, or supported any activities of any radical, militant, or terrorist groups.

(d) Applicant's prior possible contacts with non-U.S. intelligence agencies; any further such contacts; details regarding same.

(e) Details regarding possible dual citizenship held by applicant and applicant's family. To what rights or privileges are they entitled and have they exercised any of these rights or privileges from the other country? What are their intentions regarding the other citizenship?

(f) Reasons for any delay by the applicant or immediate family in not applying for U.S. citizenship.

(g) Details of all foreign travel prior to applicant's and immediate family's immigration to the United States. Review should be made of foreign passport to verify this travel.

(8) If applicable, determine if the applicant was granted a security clearance whenever a review of the FD-140 indicates the applicant was employed by the federal government, United States military, or worked on a government contract; determine dates of clearance granted and ended and level of clearance granted, and if polygraph(s) was given.

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(9) In all cases, would applicant submit to a polygraph examination focusing on foreign counterintelligence-type questions to dispel security concerns of any unresolved issues developed during the investigation.

(10) The results of the PSI are to be transmitted by the field applicant program supervisor or Security Countermeasures Program Manager in a separate communication or teletype, immediately upon completion and marked to the attention of the Security Programs Manager (SPM), National Security Division (NSD), FBIHQ, with a copy designated for Special Agent Applicant Unit or Bureau Support Applicant Unit, Personnel Division, FBIHQ. Simultaneously, copies should also be disseminated to interested offices with leads to resolve any security concerns resulting from the interview. Receiving offices should promptly handle such leads and report results to the SPM, NSD, FBIHQ. These documents may contain classified information and should be marked and handled accordingly.

(11) The time expended on this interview is to be captured for TURK purposes under the FBI Security Program, entitled "Security Officer Matters," by utilization of 261B. (See the MIOG, Part I, Section 261-2(2)(c) 8.) Additionally, for TURK purposes a record of the interview is to be maintained in the field office in a control file under the 261B classification. (See MIOG, Part I, Section 261-2(2)(d); NFIP Manual, Part 1, 8-1.1.)

EFFECTIVE: 04/29/97

67-7.10 Polygraph Examinations of FBI Applicants (See also MIOG, Part I, 67-17.3.8 (4); Part II, 13-22.12, 35-9.2.)

(1) All FBI applicants for support and Special Agent (SA) positions, including on-board support employees who apply for the SA position, must undergo a polygraph examination focusing on national security issues, use or sale of illegal drugs and completeness of the FD-140 (Application for Employment - FBI). Standardized testing formats have been provided to each field polygraph examiner for their use. These examinations are to receive priority attention and should be handled in a manner that will expedite the applicant process.

(a) Deleted

(b) Deleted

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(c) Deleted

(d) Deleted

(2) The Special Agent|Applicant Unit (SAAU) and the Bureau|Support Applicant|Unit (BSAU),|Personnel Division will ensure all FBI applicants are advised that they will be required to submit to a polygraph examination during the processing of their application and prior to their employment to assist in the resolution of issues directly related to national security, the FBI guidelines regarding the sale and use of illegal drugs and the accuracy/completeness of the FD-140 (Application for Employment - FBI).

(3) Any pertinent information developed during the polygraph examination should be provided in writing by the applicant on a supplemental information form.

(4) A preemployment polygraph examination is one element of the overall applicant screening process. It is not to be considered as a substitute for a thorough and complete background investigation. The preemployment polygraph test is NOT designed to assess trustworthiness and suitability in areas NOT covered by the examination.

(5) Failure to submit to a polygraph examination, or failure to satisfactorily cooperate during the examination will be considered in determining whether the applicant shall be hired. Prior to the examination, the examiner will obtain the applicant's agreement in writing to take the polygraph examination (FD-328b).

(6) |SAAU and BSAU|will notify applicants determined not to be eligible for employment based on admission of illegal drug usage during preemployment polygraph testing. (See MIOG, Part I, 67-3.2.2 & 67-3.2.3.)

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67-7.10.1 Polygraph Examinations of FBI Applicants - Drug Issues
(See MIOG, Part II, 13-22.12.1.)

(1) All applicants for permanent employment with the FBI are required to submit to a polygraph examination on specific issues, i.e., those which relate to their trustworthiness and eligibility for a "Top Secret" security clearance (security issues) and those which relate to their use of illegal drugs (drug use) as well as veracity of information furnished on their application. To address questions and concerns regarding use of the polygraph for drug issues, an applicant will be placed in one of three specific categories:

- (a) Passed - No Indication of Deception
- (b) Failed - Deception Indicated
- (c) Inconclusive - Unable to Determine Results

(2) Concerns raised regarding use of the polygraph to address drug use and/or results of drug use examinations predominantly are associated only with the second category--those cases in which an applicant failed the examination. Cases involving a failed polygraph examination on drug use will be readily categorized as follows:

(a) Failed - Subsequently Admitted Deception - Drug Use EXCEEDS FBI Suitability Standards

(b) Failed - Subsequently Admitted Deception - Drug Use DOES NOT EXCEED FBI Suitability Standards

(c) Failed - Denies Deception

(3) Applicants whose polygraph results fall into the first category above merit NO further consideration for employment. These applicants do not meet FBI suitability standards regarding drug use.

(4) Applicants who fall into the second category above are NOT eligible for further applicant processing. A lack of candor displayed by an applicant during the polygraph phase warrants their disqualification. Each applicant should be advised of the significance of candor during the applicant process and advised to tell the truth prior to their polygraph examination.

(5) Applicants whose drug use polygraph examination results fall into the last category, "Failed - Denies Deception,"

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warrant particular review. In those instances in which an applicant fails the polygraph on drug use issues and maintains that he/she has told the truth and can offer no explanation for the deceptive outcome of his/her polygraph, the FBI will take the following action:

(a) On-Board Support Personnel Applying for the Special Agent (SA) Position: When an on-board support employee fails a polygraph examination regarding drug use issues, that fact must be reported to the Office of Professional Responsibility (OPR) so that an appropriate inquiry may be conducted. In such cases, the employee will be required to submit to an interview conducted under the auspices of an OPR investigation regarding his/her use of, or other association with illegal drugs, and a signed sworn statement will be taken from the employee regarding his/her involvement in the illegal use of drugs. In addition, OPR will conduct appropriate investigation to determine if the employee has used illegal drugs post-employment with the FBI and/or used illegal drugs preemployment and failed to disclose the exact nature or extent of that use to the FBI. During the course of the OPR inquiry, the employee will be required to again submit to a polygraph examination regarding drug use. The second polygraph examination will be conducted by a polygrapher other than the individual who administered the first examination. If the employee fails the second examination, the administrative inquiry will continue, as may be appropriate, in accordance with current FBI policy in such matters and no further processing for the SA appointment will be conducted. If the employee passes the second polygraph examination regarding drug use and has not admitted deception on the prior examination or involvement with or use of illegal drugs previously unknown to the FBI, OPR will complete its inquiries and forward its findings to the Adjudication Unit. Upon adjudication, SAAU will once again consider the employee for the SA position.

(b) Outside Applicants Who Fail the Polygraph Examination regarding Drug Use and Deny Deception: Individuals who seek FBI employment and fail their polygraph examination regarding drug use will be disqualified from further consideration except in limited circumstances. Each applicant will be advised by the Personnel Division of the results of his/her examination and whether he/she has been determined eligible for further processing.

(6) If an applicant from outside the FBI fails the polygraph, and maintains that he/she has not been deceptive, he/she may request to be considered for further applicant processing. This request should be sent by the applicant directly to the FBIHQ division head or SAC that previously has been sponsoring the applicant's employment application. If deemed appropriate by the FBIHQ division

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head or SAC, the applicant should be thoroughly interviewed regarding his/her use/involvement with illegal drugs. This interview should be conducted by an experienced Special Agent other than the polygrapher or SA previously involved in processing the applicant for employment. The result of that interview must be documented in detail in an FD-302. It will be the responsibility of an FBIHQ division head or SAC to personally review the applicant's file to determine if further consideration is warranted on the merits of the case. An FBIHQ division head or SAC may submit a written recommendation to the Personnel Division to request that an applicant be given a second polygraph on the basis of the information developed subsequent to the polygraph examination. Such information should, of course, provide a basis justifying the applicant's reexamination. To ensure consistency and equity in decisions to afford such applicants further consideration, the Deputy Assistant Director - Personnel Officer, Personnel Division, will be responsible for approval of the decision to afford an outside applicant a second polygraph examination.

EFFECTIVE: 04/29/97

67-7.11 Updating Investigations (See also MIOG,
Part I, |67-12, |& 67-17.3.8; Part II, 35-9.2.)

When initiating background investigation on an applicant, either support or Special Agent who has previously been investigated or whose application has been on file for some time, the following should be borne in mind:

(1) A new application must be obtained if the previous application is more than one year old or if there have been any substantial changes since its submission. If a new application is not required, the prior application should be thoroughly updated.

(2) A new fingerprint card must be furnished if the prior one is more than one year old. Applicants for reinstatement must be refingerprinted regardless of length of separation.

(3) In all instances, it will be necessary to conduct appropriate credit and criminal checks on applicants if six months or more have elapsed since previous checks. Credit checks will be conducted by contractor personnel at FBIHQ. An update should not be conducted unless an appointment is imminent.

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(4) If an applicant has changed his/her residence or employment since previous investigation was conducted, in addition to conducting appropriate checks of new neighborhoods and jobs, it will be necessary to recheck the employment applicant held and/or the neighborhood in which he/she resided at time of prior investigation to determine whether anything of an unfavorable nature occurred subsequent to completion of the previous check. The same applies to credit and criminal checks. Credit checks will be processed by contractor personnel at FBIHQ on applicant's name in all localities covering his/her residence, employment, or education for the most recent seven-year period.

(5) If background investigation was conducted more than one year ago, the following investigation will need to be completed again: reference and social acquaintance interviews; indices and arrest checks concerning applicant's relatives and current roommate if applicable; Bureau acquaintance interviews if applicable; and current roommate if applicable. Also, a new Personnel Security Interview (PSI) should be afforded the applicant if new foreign travel was taken or if applicant held a security clearance after the previous PSI. A new drug test should be obtained from applicant if the previous one is over a year old. Headquarters' agency checks to include name search, ELSUR check, identification check, CLEA, IIS, and OPM check will not be repeated unless it has been one year since the last checks were conducted.

b3
b7c CIA

(6) The following applies to the updating of a Special Agent applicant investigation. The physical examination and laboratory tests must be repeated if they are more than one year old.

(7) The following applies to the updating of a support applicant investigation. If applicant's current employment has previously been checked, it will not be necessary to recontact this employer unless six months have elapsed since the original investigation was conducted.

(8) A polygraph examination will be necessary on all former Bureau employees, both Agent and support.

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67-8 MAINTENANCE OF AVAILABILITY LISTS ON SUPPORT APPLICANTS

EFFECTIVE: 02/16/89

67-8.1 Potential Availability List

A potential availability list is to be maintained for applicants to be considered for positions in field offices only.

(1) This list should contain the names of applicants whose applications indicate they possess the minimum qualifications for Bureau employment, who have passed the appropriate tests, and whose interview results were favorable.

(2) When an opening occurs or is anticipated, the field office is required to obtain approval to fill position from FBIHQ. If approval is granted, then applicant on the potential availability list who has been on the list the longest or has the best qualifications, will be immediately contacted to see if he/she is interested in FBI employment. If interested, investigation should be instituted with a 21-day deadline, and application and related papers immediately forwarded to FBIHQ.

(3) It will be incumbent upon each SAC to ensure that the potential availability list contains individuals of both sexes and minority groups and that the policy of equal opportunity is strictly complied with in all cases. This will be followed closely by FBIHQ and the Inspection Staff during their field office inspections.

(4) If it is determined that an applicant is no longer interested in FBI employment after being placed on the potential availability list, his/her name should be deleted. An applicant's name can also be deleted if he/she has been on the list for two years and has not been hired.

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67-9 QUALIFICATIONS FOR GENERAL SUPPORT POSITIONS (See MIOG,
Part I, 67-10, 67-11.1.2, 67-11.2.)

Individuals must be U.S. citizens, at least 16 years of age, and a high school graduate or possess a General Education Development (GED) equivalency certificate. Applicants must also successfully complete the Clerical Selection Battery (CSB) written test/structured interview, polygraph examination, drug test, and a background investigation, and agree to remain with the Bureau for at least one year provided they receive an appointment and their work is satisfactory. Field offices may initiate processing (written test) if the applicant is within six months of receiving his/her high school diploma or GED certificate. (Also, see MIOG, Part I, 67-16.2.2 for preemployment drug usage policy and guidelines, and 67-12 for reinstatement policy for former support employees.)

Applicants for Wage-Grade positions are not required to be high school graduates (or equivalent), and do not have to take the CSB written test/structured interview. However, they must successfully complete a drug test, polygraph examination, and a background investigation.

EFFECTIVE: 03/24/97

67-9.1 Physical Ability (See MIOG, Part I, 67-16.2.1 (2).)

(1) Applicants for the positions of auto mechanic, police officer, investigative specialist, and electronics technician must undergo a physical examination and be found qualified for the position sought. Applicants for these positions should have satisfactory vision. If an applicant's uncorrected vision is worse than 20/200 (Snellen) in either eye and/or is not correctable to 20/20 in one eye and at least 20/40 in the other eye, applicant may be considered for a support position, but must be advised that visual deficiency will preclude consideration for the Special Agent position. Applicants who have defective color vision must be advised this deficiency may preclude them from consideration for the Special Agent position.

(2) In determining the physical qualification, certain requirements may be waived for veterans and the disabled if they can efficiently perform the duties of the position. The Bureau seeks to recruit and place these persons if at all possible.

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(3) If an applicant is pregnant, she is to be processed under current suitability guidelines. The Pregnancy Discrimination Act makes it clear that Title VII of the Civil Rights Act of 1964, as amended, forbids discrimination on the basis of pregnancy, childbirth, or related medical conditions. An employer cannot refuse to hire a woman because of her pregnancy-related condition as long as she is able to perform the major functions necessary for the job.

EFFECTIVE: 05/21/97

67-9.2 Placement and Processing of Disabled Individuals for Support Positions (See MIOG, Part I, 67-11.2.)

(1) There have been instances where an individual with a disability has been processed in one field office for placement in another field office or at FBIHQ. In such instances it is of paramount importance that the office of interview present a true and complete picture of the applicant. In this connection, good placement analysis is based on the "whole person" concept. The applicant must be evaluated in terms of total capacity--aptitudes, skills, training and experience. All these factors must be considered to place the individual in a particular job. In addition, the severity of the disability and the limitations imposed on the individual should be described in detail so that an appropriate placement can be made. Determine whether the individual's disability is isolated to one area or whether the person is multidisabled. For example, it should be indicated the applicant has a speech impediment and a mild case of cerebral palsy with all limitations from the cerebral palsy identified, i.e., unable to file, stand for long periods of time, etc.

(2) Basic criteria in processing disabled individuals before application is forwarded to FBIHQ should be as follows:

(a) Qualifications and Limitations - A full evaluation should be made of the applicant's physical limitations and whether the applicant can meet the requirements of the position for which he/she is being considered.

(b) Testing - In processing applicants who are blind or deaf, special instructions are needed from FBIHQ and results of tests, as well as the Braille tests and tapes themselves, must be returned to FBIHQ before any processing is begun.

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Each case will be considered on its merits and FBIHQ will order background investigation in these matters.

EFFECTIVE: 04/29/96

67-9.3 Availability

All support applicants must be available for assignment to either day or night shifts. They are to be informed that they may also be called upon to work weekends. Any restriction on the applicant's availability is to be set forth clearly on the interview sheet.

EFFECTIVE: 02/16/89

67-9.4 Appointment

Appointments for support positions are temporary indefinite appointments in accordance with Public Law 843, approved 9/27/50, and are probationary for one year. Positions in the Bureau are excepted by law from competitive Civil Service, and in view of this fact, employee's acceptance of a Bureau appointment automatically constitutes relinquishment during the employee's tenure of any competitive status the employee may have acquired. When appointed support applicants for FBIHQ cannot enter on duty as scheduled, they may be given a revised reporting date. In such cases, the facts are to be immediately furnished to FBIHQ which then will advise of the new reporting date.

EFFECTIVE: 02/16/89

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67-10 SPECIFIC QUALIFICATIONS FOR SUPPORT POSITIONS

Listed below are several support positions and their specific qualifications in addition to those general qualifications listed above in 67-9. In addition to the positions set forth below, various specialized positions in technical fields such as engineering and communications, are available. Applicants inquiring about such positions should furnish a detailed resume to FBIHQ for evaluation.

EFFECTIVE: 02/16/89

| 67-10.1 Clerical Positions | (See MIOG, Part I, 67-11.2.) |

Grade levels for new employees are being determined by evaluating each applicant's education and work experience. Clerk GS-3 - Must be a high school graduate or possess a GED. Clerk GS-4 - Must be a high school graduate (or equivalent) with at least three months of general experience or one year of education above the high school level (with at least a C average). Clerk GS-5 - Must be a college graduate (with at least a C average) or a high school graduate (or equivalent) with at least six months' general experience equivalent to the GS-4 level (this can be determined through description of duties being performed and salary).

EFFECTIVE: 04/29/96

| 67-10.2 | Office Automation Clerk/Assistant |

| (1) Office Automation Clerk/Assistant | GS-3 - Must be a high school graduate (or equivalent) able to type 30-39 words per minute (wpm). | Office Automation Clerk/Assistant | GS-4 - Must be a high school graduate (or equivalent) able to type 40 wpm. | Office Automation Clerk/Assistant | GS-5 - Must be a high school graduate (or equivalent) able to type 40 wpm with at least six months' specialized experience. | No exceptions or adjustments to these requirements (wpm) may be made. |

| (2) All applicants for an Office Automation Clerk/Assistant position must pass the Clerical Selection Battery

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(CSB) Typing OR Word Processing Test at the appropriate words per minute for each grade level. NOTE: CERTIFICATE OF PROFICIENCY FROM NON-FBI SOURCES, INCLUDING SELF-CERTIFICATION, CONCERNING AN APPLICANT'S OR EMPLOYEE'S TYPING SKILL WILL NOT BE ACCEPTED AS QUALIFYING IN LIEU OF THE TYPING OR WORD PROCESSING TEST.

EFFECTIVE: 04/29/96

67-10.3 Clerk-Stenographers

Clerk-Stenographer GS-5 - Must be a high school graduate (or equivalent) and pass the Clerical Selection Battery (CSB) Typing or Word Processing Test at 40 wpm and take shorthand at 80 wpm.

EFFECTIVE: 04/29/96

67-10.3.1 Deleted

EFFECTIVE: 04/29/96

67-10.4 Photographers

Photographic applicants must have at least three years' experience including processing, contact printing, enlarging, and/or color printing. It is also required that a photographer have a general knowledge of the chemicals used in photographic processing. The entrance grade for this position is determined by the applicant's experience and proficiency.

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67-10.5 Nurses

Nurses (GS-7) must be registered. Applicants with a Bachelor's Degree may be considered if they possess six months' experience, other than that received during school training, preferably in dispensary work (clinical or occupational health). Applicants with a three-year resident college degree may be considered with one year of experience, six months of which must be in the above category. Those with an Associate's Degree or a two-year diploma must have two years' experience, six months of which must be in the above category.

EFFECTIVE: 02/16/89

67-10.6 Fingerprint Examiners

Vacancies in the position of Fingerprint Examiner are filled from within the Bureau by employees who show potential for training and advancement as Fingerprint Examiners. Fingerprint positions are available only at FBIHQ.

EFFECTIVE: 02/16/89

67-10.7 Language Specialist (See MAOP, Part I, Section 22.)

All applicants for the Language Specialist and Translator positions must be given an audiometric examination. The standard required for passing the audiometer examination will be the same as set forth for Special Agent applicants in 67-16.2.1(3).

EFFECTIVE: 05/21/97

| 67-10.8 | Deleted |

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EFFECTIVE: 04/07/97

67-10.9 Laboratory Physical Science and Biological Laboratory
Technicians

Laboratory Physical Science (GS-5 to GS-11) and Biological
Laboratory Technicians (GS-5 to GS-12) must have degrees from colleges
or universities with a major in one of the sciences. Strong
consideration will be afforded those applicants possessing graduate
degrees and experience in the area of their academic work.

EFFECTIVE: 04/07/97

67-10.10 Electronics Technicians

Electronics Technicians (ETs) usually enter in grade GS-5
or GS-7. Higher grades are available in the communications field
depending upon an applicant's education and experience.

(1) At the GS-5 level, an applicant must have formal
training in basic electronics and be capable of assisting in ordinary
repair and maintenance of electronic and FM radio equipment.

(2) At the GS-7 level, an applicant must possess formal
training and experience in electronics. The applicant needs to have a
thorough knowledge of the fundamental principles of electronics and FM
radio equipment. Also required is the ability to perform corrective
and preventive maintenance on electronic and FM radio equipment. This
applicant must be proficient in the use of a wide range of tools and
complex electronic test equipment.

(3) Applicants for the ET position must be willing to
travel and accept assignments in any part of the United States or
Puerto Rico, work on day, evening or midnight shifts, and accept
special assignments. These applicants, in addition to their regular
interview, must complete and sign the FD-318 entitled "Electronics
Questionnaire." This form is to be reviewed in the applicant's
presence by a senior ET. The ET is to interview the applicant to
evaluate the applicant's answers on the FD-318 and his/her technical
knowledge. The FD-318, along with the applicant's papers and

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application, is to be sent to FBIHQ for evaluation. If an ET applicant wears glasses, he/she is to be advised that if offered an appointment as an ET he/she must provide himself/herself with one pair of nonmetallic safety eyeglasses prior to entering on duty.

EFFECTIVE: 06/10/88

67-10.11 Computer Programmer and Computer Systems Analyst

(1) Education - Applicant must have at least a four-year college degree in computer science, mathematics, or one of the physical sciences. The formal educational requirement will be waived only when applicant can satisfactorily demonstrate his/her level of experience and/or training in the field of Automatic Data Processing (ADP) is of such a degree as to warrant an exception.

(2) Entrance Test - The applicant must also pass a computer programming aptitude test to qualify for one of these positions. Applicants for these positions should be processed as usual. (Investigation may be instituted by the field on applicants applying for Computer Programmer and Computer Systems Analyst positions who are favorably recommended for Bureau employment, and who indicate at the time of their interview that they will accept a lower support position if they do not qualify in the positions for which they are applying. Investigation should not be instituted by the field on those applicants who are not interested in accepting a lower position. In either case, the application and results of the interview should be furnished to FBIHQ for review to determine if the applicant is educationally qualified or has the necessary work experience to qualify for the programmer or analyst position. If appropriate, a computer programming aptitude test will be sent to the field from FBIHQ and should immediately be administered to the applicant and the results returned to FBIHQ. After the test score has been evaluated, the field will be advised of the position for which applicant is qualified.)

(3) Resume - A resume and college transcripts should be submitted to FBIHQ along with the application in order to provide the Information Resources Division with information necessary for further interview considerations.

(4) Salary - Basic entrance salary and position will be commensurate with education, training, and experience, and will be determined following review of application by the Information

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| Resources | Division.

(5) Employment Agreement - Applicants applying for these positions should be willing to remain with the FBI for a period of one year after completion of a formal training program of approximately six months.

EFFECTIVE: 04/29/96

67-11 GENERAL INSTRUCTIONS FOR PROCESSING SUPPORT APPLICANTS

No work is more important than properly testing, interviewing, evaluating, and investigating applicants for positions with the Bureau. Interviews and investigations must be exhaustive and designed to uncover any information bearing on an applicant's suitability for employment with this Bureau.

EFFECTIVE: 03/23/92

| 67-11.1 Application (FD-140) | (See MIOG, Part I, 67-17.1.1(2).) |

| The Form FD-140 must be completely executed and signed by the applicant. The interviewing official is to ensure that the application is accurate with any omission or discrepancies being resolved | after completion of the Clerical Selection Battery | formal interview. Abbreviations are not to be used on this form. Regarding applicants and their references and/or relatives who are of Hispanic origin, it is essential that the patronymic and matronymic names of all such individuals be obtained as well as the full married name of all married females. The patronymic name is to be followed by the matronymic name. In the case of a married female, the full married name is necessary to include given name, patronymic last name followed by the matronymic last name and husband's surname.

EFFECTIVE: 04/29/96

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67-11.1.1 Preliminary Application for Technical Support Positions
(FD-646b)

(1) The FD-646b must be utilized as the first step in initiating the processing for technical support applicants. This form, filled out completely and accurately, examined by the Applicant Coordinator and/or appropriate FBIHQ division, should be forwarded to FBIHQ, Attention: Bureau Support Applicant Unit, for initial processing. Other FBIHQ divisions, principally Information Resources Division, also utilize this form heavily. The FD-646b contains all necessary data to rapidly and promptly process all technical support applicants. This allows a quick and immediate review of the application similar to that conducted on the FD-646 (Preliminary Application for Special Agent Position), thereby eliminating all the lengthy data required on the FD-140. This should facilitate a much easier entry into the personnel system for both the applicants and reviewing officials. The FD-140 should be given only to those applicants who are going to be processed further in the selection system.

(2) The FD-140 will not be required at the initial application; but, as a practical matter it can be given to applicants when they appear for initial interview or testing. This will allow them extra time to begin completing the form while awaiting test results or FBIHQ review, in anticipation of a successful continuation of their processing. The procedure regarding the use of the FD-646b should be explained and disseminated to all individuals in each field division handling applicant responsibilities.

(3) Applicant Coordinators and support employees handling the FD-646b should ensure all applicants have read the FOIPA statement on the back of the form.

(4) The reverse side of the FD-646b can be utilized for extra space to continue any answers needed. It is noted the obtaining of the Social Security Account Number is voluntary and is not required until an applicant actually enters on duty.

EFFECTIVE: 04/07/97

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67-11.1.2 | Support Applicant Tracking System

The FBI has on-line scoring and a tracking system for its general (clerical) support applicants. This database, located within the Bureau Personnel Management System (BPMS), contains all necessary identifying (background) information on all applicants who meet minimum requirements, dates and pass/fail results of the various selection measures (tests and interview), and information that tracks the applicants through the extended applicant process (i.e., polygraph, drug test, background investigation, EOD date, and disqualification reason, if any). It is essential that the database be complete, accurate, and up to date at all times. It is the responsibility of the processing field office to enter the data described below and to ensure accuracy on all elements that change (address, position title for which applicant wishes to be considered, etc.). The following data elements are highlighted for particular importance:

(1) UNIVERSAL CASE FILE NUMBER (UCFN) - A 67 classification UCFN must be obtained by the processing field office on all applicants who meet the minimum requirements (see MIOG, Part I, 67-9). This is done through the on-line Automated Case Support (ACS) System that is available to all field offices. The field office must enter the UCFN and identifying background information into the support applicant tracking system within the BPMS before submitting the Clerical Selection Battery (CSB) written test answer sheet (3-829) to FBIHQ for grading. Otherwise, the test cannot be graded.

(2) RACE AND GENDER - Race and gender are not considered in the selection process for any position with the FBI; however, each item is a necessary component in some of the ongoing analyses of the selection tools to ensure that they are fair and meet legal requirements. The information for these items is based on the applicant's responses on the FD-804 (Applicant Background Survey). After entering that information into the BPMS, the office is to destroy the FD-804 (no copy is retained).

If the applicant does not return the FD-804, the data fields for race, gender, and disability code should be left blank in BPMS. If the applicant advises that he/she does not wish to furnish that information, an "N" should be entered into the field(s). Should the applicant later furnish the information for these fields, the office may enter the data into BPMS. Applicants should be encouraged to furnish this information. Once entered, however, it cannot be

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modified except through the FBI's Office of Equal Employment Opportunity Affairs.

(3) VETERANS' PREFERENCE - The Veterans' Preference Act of 1944, as amended, and codified in various provisions of Title 5, United States Code, applies for civilian positions in the Excepted Service, such as the FBI. There is a mandatory data field in the BPMS support applicant tracking system for this information, which must be entered by the field office at the time an applicant record is entered or modified. The points (5 or 10) are then applied as a component of the total numeric score AFTER an applicant passes the CSB written test and structured interview. Any points given, however, must be based on specific qualifying criteria discussed below, and only when the field office is in receipt of appropriate documentation to support the claim of eligibility.

(a) Criteria for Veterans' Preference Eligibility

The criteria for determining eligibility for veterans' preference points are as follows: For federal employment, "Veteran" is defined as a person who was separated with an honorable discharge or under honorable conditions from active duty in the Armed Forces performed:

1. in a war; or,
2. in a campaign or expedition for which a campaign badge has been authorized; or,
3. during the period beginning 4/28/52, and ending 7/1/55; or,
4. for more than 180 consecutive days, OTHER THAN FOR TRAINING, any part of which occurred during the period beginning 2/1/55 and ending 10/14/76.
5. A person who entered on active duty in the Armed Forces after 10/14/76 and before 9/8/80 may qualify if he/she:
 - a. served during a war or campaign or expedition for which a campaign badge has been authorized, or
 - b. is a disabled veteran.
6. A person who enlisted in the Armed Forces after 9/7/80, or who entered on active duty (through means other than

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enlistment) on or after 10/14/82 may qualify if he/she:

a. served during a war or in a campaign or expedition for which a campaign badge has been authorized and has completed 24 months of continuous service or the full period called or ordered to active duty, or

b. served during a war or in a campaign or expedition for which a campaign badge has been authorized and was discharged early under Title 10, USC, Section 1171 or for hardship under Title 10, USC, Section 1173, or

c. is a disabled veteran. (See MIOG, Part I, 67-7.8 (19).)

A disabled veteran is a person who was separated under honorable conditions from active duty in the Armed Forces performed AT ANY TIME and who has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pension. Veterans' preference for reason of disability must be withdrawn when the veteran recovers from the service-connected disability, unless he/she is receiving compensation, pension, or disability retirement benefits, or was awarded the Purple Heart.

Another form of veterans' preference you may encounter is "Derived Preference." This preference is granted to the widow/widower or mother of a deceased veteran, or to the spouse or mother of a disabled veteran, if these individuals assert their right to use it. It is derived preference because it is based on the military service of someone else - a veteran who is not using the preference. If the disabled veteran does decide to use his/her service for preference, the spouse or mother is no longer entitled to the preference.

An amnesty or clemency discharge does not meet the requirement for a discharge under honorable conditions. Therefore, no preference can be granted to persons with amnesty or clemency discharges.

(b) Proof of Veterans' Preference Eligibility

The burden of proof to justify veterans' points rests with the applicant and, ideally, should be submitted with the FD-646 or FD-140 application form. The applicants should be given information at the time they are given the FD-646 or FD-140 concerning the

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required documentation in order for them to claim veterans' preference points. Should a person have difficulty obtaining the necessary documentation to claim veterans' preference, the field office should be available to assist in obtaining the required documentation and, if necessary, make telephone calls or write letters for this purpose.

Acceptable documentation is a copy of the DD-214, or in the case of service-connected disabilities, a copy of the SF-15 or other applicable documentation from the Department of Veterans Affairs, the branch of Armed Forces in which the applicant served, or the National Archives and Records Administration's National Personnel Records Center (Military). Field offices are responsible for forwarding this documentation to the Bureau Support Applicant Unit with the opening of a background investigation.

A quick point of reference justifying preference points is a Campaign or Armed Forces Expeditionary Medal for service in a campaign/war (5 points), or a Purple Heart (10 points).

EFFECTIVE: 03/24/97

67-11.2 General Support (Clerical) Applicant Testing and Interviewing (See MIOG, Part I, 67-12.)

(1) With the implementation of new selection procedures for general support applicants, the results of the Short Employment Test (SET), Bureau Typing Test, and interview format on the FD-190a will no longer be used to process or select applicants for general support positions which are entry-level and clerical in nature.

(2) The SET has been replaced by the Clerical Selection Battery (CSB), which consists of a set of written tests and a structured interview, as well as a Typing or Word Processing Test for positions that require a qualified typist. The CSB may only be used for entry-level support positions, grades GS-3 to GS-6, where duties are mostly of a clerical nature. If not a CSB-approved position, this determination will be made after a review of the position description(s) and job analysis information. Offices MUST request such a review by contacting the Personnel Assessment Group (PAG), Personnel Resources Unit, Personnel Division.

(3) Upon completion of the CSB written test, Form 3-829

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(Clerical Selection Test Answer Sheet) must be sent to the Personnel Resources Unit (PRU), PAG, using Form FD-859 (CSB Shipping Invoice) as a cover communication. The following forms, which must be filled out completely, must be maintained by each field office to document each test session. They are to be submitted to the PAG only when a situation/complaint occurs that deviates from normal test procedures:

(a) FD-840 (Applicant Checklist for the CSB Written Test);

(b) FD-829 (FBI Record Sheet for Test Administrators); and

(c) FD-833 (Nondisclosure Statement for Selection Tests and Interviews Used by the Federal Bureau of Investigation); and

(d) FD-841 (Examinee Roster for the Clerical Selection Battery Written Test).

(4) The FD-828 (FBI Test/Interview Usage and Inventory Log) must be filled out and maintained in the field office to document each time a controlled (serialized) CSB test or interview item is removed from and returned to the safe.

(5) Only clerical applicants who pass the CSB written test are interviewed, and all applicants who do pass the test must be afforded the CSB structured interview. Once the CSB structured interview has been administered, the following forms must be submitted to the PRU, PAG, using Form FD-859 (CSB Shipping Invoice) as a cover communication:

(a) FD-800 (Clerical Applicant Rating Form); and

(b) 3-842 (Clerical Applicant Interview Rating Sheet).

The following forms must also be completed during the CSB structured interview, but they are retained in the field office applicant file:

(a) FD-535 (Privacy Act Notice);

(b) FD-798 (Clerical Applicant Preliminary Interview); and

(c) FD-858 (Clerical Selection Battery (CSB) Interview Follow-Up Sheet), if used.

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(6) |CSB EXEMPTION FOR SPOUSE/CHILDREN OF SPECIAL AGENTS (SAs) KILLED IN THE LINE OF DUTY - The surviving spouse and children of SAs officially listed as killed in the line of duty are exempt from the CSB written test. However, they are subject to an interview and all other steps in the standardized applicant process in that they must: (a) meet threshold qualifications (U.S. citizenship, possess a high school diploma or equivalent, be at least 16 years of age, and agree to remain with the FBI for at least one year); (b) be subject to proficiency testing (i.e., typing and word processing test, if applying for a position that requires a "qualified typist"); (c) undergo and pass the structured CSB interview; and (d) successfully pass all of the final stages of applicant processing (polygraph examination, Personnel Security Interview, drug testing, and background investigation). If the spouse/children previously worked for the FBI, the "reinstatement interview" (see MIOG, Part I, 67-12) applies in lieu of the CSB structured interview. |

| (7) | INVENTORY - The CSB |serialized| materials |and answer sheets for the written test (3-829) and interview (3-842) |are issued and controlled by the PAG of the Personnel Resources Unit. |These| materials will be issued only to |CSB| Certified Test Administrators (CTAs) who have been trained by the PAG, and they must be afforded strict security at all times. Only trained |CSB| CTAs may have access to |these| materials. The CSB written test booklets, interview booklets, and typing/word processing booklets are reusable. As such, they are serialized and charged out to the CTA who is accountable for their proper maintenance, administration, and security. |(See (8).)|

(8) |SECURITY (See MIOG, Part I, 67-11.2(7)) - Only CSB CTAs may have access to the serialized, controlled CSB materials at any time (i.e., while in storage or in actual use) and only they may administer the instruments (test and interview) to the applicants. They are solely responsible for following established procedures to ensure and maintain the security of these materials. Any procedural deviations or compromise of test and interview materials in any way will be investigated and could result in the removal of CTA status/authorization and the possibility of administrative action against the CTA.

Except as specified herein, the CSB materials (used and unused) must be maintained separately from routine office files and supplies, in a safe to which only CSB CTAs have access. This is necessary to preserve the integrity and security of the testing and interviewing process. Only the following forms, once completed, may be sent to the respective field office applicant files:

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(a) FD-840 (Applicant Checklist for the CSB Written Test);

(b) FD-833 (Nondisclosure Statement for Selection Tests and Interviews Used by the Federal Bureau of Investigation);

(c) FD-798 (Clerical Applicant Preliminary Interview Questions);

(d) FD-535 (Privacy Act Notice); and

(e) FD-858 (CSB Interview Follow-Up Sheet) (if used).

(9) TRAINING - Only field office personnel who have been trained by the PAG may administer the CSB written test battery and conduct the structured CSB interview. Training is a three-day course that covers all aspects of the CSB, including scoring of the interview.

(10) SCORING

(a) The CSB written test answer sheets (3-829) must be sent by overnight delivery to FBIHQ, Attention: Personnel Assessment Group, Personnel Resources Unit, for scoring. The answer sheets will be optically scanned and computer scored. The pass/fail results will be automatically placed into the BPMS tracking system for office retrieval.

(b) The CSB structured interview will then be given by specifically trained field office personnel to those applicants who passed the CSB written test. The interview rating sheet (3-842) must be sent by overnight delivery to FBIHQ, Attention: Personnel Assessment Group, Personnel Resources Unit, for processing. The interview sheets will also be optically scanned and computer scored through the on-line system within BPMS. Upon request, the PRU, PAG will prepare a best-qualified list of the offices' support applicants to assist in the selection of those applicants to be further processed (i.e., polygraph, Personnel Security Interview, drug test).

(c) The scoring procedures, however, are dependent upon correctly entering Bureau file numbers and demographic information into the BPMS prior to submitting the CSB tests/interviews to the PAG. Otherwise, the computer will reject test/interview sheets without scoring them. The pass/fail results will be automatically

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placed into the BPMS tracking system for office retrieval, and offices will computer generate the appropriate status letters to general support applicants. With regard to the CSB Typing/Word Processing Test, offices will be responsible for scoring and key entering the test form, test date, and results (words per minute) into the support applicant tracking system of the BPMS.

(11) SELECTION OF TEST TAKERS

(a) The CSB test takers must meet the minimum qualifications (see MIOG, Part I, 67-9, Qualifications for General Support Positions). Those applicants applying for GS-4 or GS-5 level positions must have post-high school education or qualifying work experience. Positions at the GS-6 level require one year of specialized experience and are reviewed on a case-by-case basis in consultation with the Pay Administration and Support Staffing Unit at FBIHQ. (See MIOG, Part I, 67-10.1, Clerical Positions.) The current list of general support positions approved for use of the CSB consists of the following:

- Clerk
- Clerk-Typist (Retitled Office Automation Clerk/Assistant)
- Computer Operator
- Communications Operator
- Data Transcriber (Typing)
- *Duplicating Equipment Operator
- *File Assistant (OA) (Plus Additional Measures)
- File Clerk
- File Clerk (Data Transcriber)
- Identification Record Clerk (Data Transcribing)
- Identification Record Clerk (Typing)
- Mail Clerk
- Mail and File Clerk
- Microform Equipment Operator
- *Office Management Assistant (Stenography/OA) (Plus Additional Measures)
- Quality Evaluation Assistant (Data Transcribing)
- *Secretary (Plus Additional Measures)
- Security Complaint Clerk/Assistant
- Security Guard/Warder
- Telecommunications Operator
- Time and Leave Clerk

*Additional measures can be obtained by contacting the PAG of the Personnel Resources Unit, FBIHQ

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The number of applicants tested with the CSB should be consistent with the number of vacancies to be filled, with consideration for test failures and other disqualifying factors that may surface during the course of a background investigation, polygraph examination, etc.

(b) In circumstances where an office has an excessive number of applications from individuals who meet minimum qualifications, the number of test takers will be scaled down through a random selection process conducted by the PAG prior to CSB testing. Random selection is necessary to ensure fair, consistent, nondiscriminatory, and legally justifiable selection procedures. The PAG will offer guidance to the field in determining what number of applicants is excessive and will make the random selection of test takers from the list of threshold qualified applicants supplied by the field office. Again, random selection comes into play only in situations where an excessive number of applicants apply for very limited vacancies (i.e., greater than 20 applicants per vacancy).

(c) An exception to the random selection process will be made for those applicants who are reinstatements and must take the CSB written test (see Section 67-12). These applicants will not be subject to the random selection process to take the CSB tests. If they pass the CSB (test battery and interview), their processing may continue. All other CSB applicants will have to participate in the random selection process as indicated above.

| (12) | RETEST POLICY - If an applicant fails the CSB written battery of tests, he/she will be eligible to retake an alternate version after six months, providing that the office has vacancies. A second failure will result in his/her elimination from any further consideration. If the applicant fails the CSB interview, no further consideration will be afforded him/her for employment (no reinterview). The two versions of the Typing or Word Processing Test may be given to an applicant (if necessary) with no imposed waiting period between test sessions or limit on the number of times tested.

| (13) | APPLICANTS WITH DISABILITIES - In support of laws governing disabled applicants, current Bureau policy requires that applications received from qualified persons who identify themselves as having a disability, which may require a reasonable accommodation, be processed in the same manner as those applications received from qualified persons who do not have or do not identify themselves as having a disability. If applications are received from qualified persons who identify themselves as having a disability, the Persons with Disabilities Program Manager must be notified prior to administration of the CSB or other testing procedures to discuss

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reasonable accommodations (if requested). The Persons with Disabilities Program Manager may be contacted within the Office of Equal Employment Opportunity Affairs, FBIHQ. Refer to MIOG, Part I, 67-9.2, "Placement and Processing of Disabled Individuals for Support Positions."

(14) DESTRUCTION OF CSB TEST AND INTERVIEW MATERIALS -
(See also MAOP, Part II, 2-4.5.2.)

(a) The following CSB materials, which are forwarded to FBIHQ (no copies retained in the field office), must be retained by the PRU, PAG, FBIHQ, for at least two calendar years and will be destroyed at the expiration of the two-year period:

1. 3-829 (Clerical Selection Test Answer Sheet);
2. 3-842 (Clerical Applicant Interview Rating Sheet);
3. FD-800 (Clerical Applicant Rating Form);
4. Training and Experience (T&E) Questionnaires that supplement the CSB for specific positions; and
5. Interview Summary Rating Forms that supplement the CSB for specific positions.

(b) The following forms must be retained in each applicant's field office file and submitted to FBIHQ (Attention: Bureau Support Applicant Unit) as part of the package when each applicant's background investigation is initiated. They will be destroyed pursuant to existing Bureau file destruction policy:

1. FD-840 (Checklist for the CSB Written Test);
2. FD-833 (Nondisclosure Statement for Selection Tests and Interviews Used by the Federal Bureau of Investigation);
3. FD-798 (Clerical Applicant Preliminary Interview Questions);
4. FD-858 (CSB Interview Follow-Up Sheet) (if used); and

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5. FD-535 (Privacy Act Notice).|

EFFECTIVE: 03/24/97

67-11.2.1 Administration of Tests

(1) In an effort to administer the tests in the most efficient manner, the field offices should attempt to test several applicants together whenever possible. However, on those occasions when there is only one applicant available, the tests can and should be administered on an individual basis.

(2) The generally accepted conditions of good test administration should be observed. Good lighting, comfortable seating, adequate desk or table space, and freedom from noise and other distractions are necessary for valid scores and for maintaining the good will of the applicant.

(3) Those administering the tests should have a stop watch, a regular watch with a second hand, or any other timer which will enable them to time the tests with complete accuracy. Timing errors should be kept to a second or two at the most.

EFFECTIVE: 08/19/85

| 67-11.2.2 |Deleted|

EFFECTIVE: 04/29/96

| 67-11.2.3 |Deleted|

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EFFECTIVE: 04/29/96

| 67-11.2.4 | Deleted |

EFFECTIVE: 04/29/96

| 67-11.3 | Deleted |

EFFECTIVE: 04/29/96

67-11.3.1 Social Security Number

All applicants should be advised that should they be offered and accept appointment with the Bureau, it will be necessary that they have a social security number at time they report for duty. If they do not have one, they should make arrangements to obtain one immediately. The applicant is to be advised that the social security number is required for the proper handling of tax information by the Internal Revenue Service. Furnishing the social security number is mandatory in accordance with Executive Order 9397, dated 11/22/43 and Internal Revenue Code, Section 6109.

EFFECTIVE: 09/25/91

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67-11.3.2 Applicants of Asian Ancestry

Each applicant of Asian ancestry, particularly those born outside the United States, at time of interview is to be requested to furnish a copy of his/her birth certificate. Each applicant is to be instructed, at time of interview, to furnish his/her name and the names of all relatives in Chinese characters. This will allow the Laboratory Division to transliterate the names for appropriate searches. Refer to the Foreign Counterintelligence Manual, Part I, Section 200, for detailed information as to how this information should be set forth. This information should be submitted to FBIHQ concurrently with the application, when possible, or expeditiously upon completion of the interview.

EFFECTIVE: 09/25/91

67-11.3.3 Deleted

EFFECTIVE: 09/25/91

67-11.3.4 Military Status

Applicant's military status should be ascertained. (See 67-5 of this section for further information.)

EFFECTIVE: 05/28/85

67-11.3.5 Verifying Prior Government Service

(1) If an applicant is presently employed by another Federal Civilian Agency, an SF-75, "Request for Preliminary Employment Data," must be completed and forwarded to FBIHQ. This form must also be completed for those applicants who have been employed by a Federal Civilian Agency within the past 60 days.

(2) The SF-75 will be used to ensure proper coverage from the time of entrance on duty (EOD) for Civil Service Retirement, social security, health insurance benefits and employees' group life insurance benefits. For those employees who EOD with no break in

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service, the SF-75 will be used to make any necessary salary adjustments. It does not serve as authorization to process other personnel actions, such as service computation dates giving credit for this service for retirement purposes or transferring leave. This can only be adjusted upon receipt of the 3-781, "Transcript of Federal Service." No salary adjustments can be made for individuals whose only previous Federal service was military.

EFFECTIVE: 05/28/85

67-11.3.6 Lesser Positions

Applicants for GS-3 or GS-4 Clerk-Typist and GS-4 Clerk-Stenographer positions are to be specifically asked whether they would be willing to accept a clerical position if they fail to qualify for the position sought. Their answer to the question must be reported.

EFFECTIVE: 05/28/85

67-11.3.7 Support Applicants Who Possess a Bachelor's Degree

The following three points must be covered with all applicants applying for a support position who possess at least a Baccalaureate Degree:

(1) It must be carefully explained to the applicant that if employed in a support capacity, he or she will begin employment performing routine clerical work and the Bureau is not in a position to accelerate advancement solely because the applicant has a college degree.

(2) If a favorably recommended applicant for a support position would obviously be precluded from future consideration for the Special Agent position for any reason including vision, personality, missing limb or some trait or condition which could not be overcome, he or she must be so advised.

(3) If the favorably recommended support applicant is not considered disqualified for future Special Agent consideration and his/her interest in a support position is for the purpose of qualifying for the Special Agent position, a total of three years'

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work experience of a full-time, fairly continuous nature will be required. This can include work experience gained prior to Bureau employment. The applicant should be made fully aware, however, that service with the Bureau does not automatically guarantee a future appointment to the Special Agent position. Support employees aspiring to the Agent position will be processed in the same manner as all other applicants and must compete with all other candidates on an equal basis for the openings available.

EFFECTIVE: 07/27/81

67-11.3.8 Fingerprinting

All Bureau applicants who are favorably recommended for employment should be fingerprinted at time of interview on the applicant fingerprint card (FD-258). It is not necessary to fingerprint those applicants who are unfavorably recommended. When an employee enters on duty, he/she is also fingerprinted on the personnel fingerprint card (FD-380). Applicants must be fingerprinted by Bureau personnel and not referred to police agencies.

EFFECTIVE: 07/27/81

67-11.3.9 Support Applicant Interview Form (FD-190a)

This form has been designed for the interviewing of support applicants.

(1) |The FD-190a is NOT used for general support entry-level positions (GS-3/6) in which the basic duties are clerical in nature. The FD-190a has been replaced by the Clerical Selection Battery (CSB) structured interview.

(2) |However, the FD-190a is still being used for all higher grade support positions which include technical and specialty positions. This form is not required for the Honors Internship Program.

(3) |The dimensions rated under the captions of "Personal Appearance" and "Evaluation of Applicant as Result of Interview" have been revised to increase the relevancy to support applicants and job requirements and/or performance.

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(4) The adjective ratings for dimensions under these two captions have been revised in the form of a horizontal rating scale. Most of these dimensions have three descriptive adjectives and five possible rating areas to facilitate the rating in degrees. For example, under the caption of Personal Appearance, the dimension of Initial Impression has the descriptive adjective ratings of Outstanding, Average, and Poor in a horizontal rating scale of five possible rating areas. If the applicant's initial impression was considered to be above average, then that rating area between the descriptive adjectives of Average and Outstanding would be marked. Exceptions to the dimensions having three descriptive adjectives are the dimensions of Build, where there are seven descriptive adjectives and ratings areas, and the dimension of Assurance, where there are four descriptive adjectives and five rating areas.

EFFECTIVE: 04/29/96

67-11.3.10 Deleted

EFFECTIVE: 04/29/96

67-11.4 Disposition of Application and Related Papers (See MIOG, Part I, 67-11.2.)

(1) SUBMITTING COMPLETED WRITTEN TEST MATERIALS

After an applicant has been given the Clerical Selection Battery (CSB) written test, the field office must submit the following to FBIHQ, Attention: Personnel Assessment Group, Personnel Resources Unit, using Form FD-859 (CBS Shipping Invoice) as a cover communication:

(a) 3-829 (Clerical Selection Test Answer Sheet)

(b) FD-840 (Applicant Checklist for the CSB Written Test) (only if necessary)

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(c) FD-829 (Record Sheet for Test Administrators)
(only if necessary)

(d) FD-833 (Nondisclosure Statement for Selection
Tests and Interviews Used by the Federal Bureau of Investigation)
(only if necessary); and

(e) FD-841 (Examinee Roster for the CSB Written
Test) (only if necessary).

(2) SUBMITTING COMPLETED INTERVIEW MATERIALS

(a) After a CSB interview, the field office must
submit the following to FBIHQ, Attention: Personnel Assessment Group,
Personnel Resources Unit, using Form FD-859 (CSB Shipping Invoice) as
a cover communication:

1. FD-800 (Clerical Applicant Rating Form); and
2. 3-842 (Clerical Applicant Interview Rating
Sheet).

(b) The FD-798 (Clerical Applicant Preliminary
Interview Questions), FD-535 (Privacy Act Notice), and if necessary,
FD-858 (CSB Interview Follow-Up Sheet) are also filled out at the
time of the CSB interview. However, they are retained in the field
office and submitted to FBIHQ as part of the package when a
background investigation is initiated on the applicant.

EFFECTIVE: 03/24/97

67-11.5 Physical Examinations

(1) General support and most specialty applicants do not
require a preemployment physical examination. The specialty
positions of auto mechanic, police officer, investigative specialist,
and electronics technician do require a preemployment physical
conducted at an FBI-designated examining facility. The FBI will bear
the cost of this examination. Obtain complete details regarding any
medical history applicant lists which would bear on suitability for
any of the aforementioned specialty positions. Physical examinations
must be scheduled on a timely basis to allow for a thorough review by
FBIHQ before an appointive decision may be made. See FD-300 for

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required scope of examination.

(2) Bureau Form FD-300 and government forms SF-88 and SF-93 are to be used for appropriate specialty applicants. It is the responsibility of the field office to ensure these forms are completely executed by the examining physician and that all necessary tests have been afforded.

(3) Language Specialist applicants are to be afforded an audiometer test only.

EFFECTIVE: 05/21/97

67-12 REINSTATEMENT POLICY FOR FORMER SUPPORT PERSONNEL (See MIOG, Part I, 67-7.11, 67-9, and 67-11.2.)

A "REINSTATEMENT" is defined as an applicant who met his/her initial employment obligation as a permanent part-time or full-time employee during prior FBI service, REGARDLESS OF THE DATES OF THAT SERVICE. By definition, individuals given temporary, seasonal, and/or intermittent appointments (i.e., summer employees, Honors Interns, temporary Tour Guides) are not reinstatement applicants and must compete at all stages of processing (i.e., must undergo the Clerical Selection Battery written test and interview if applying for a permanent part-time or full-time entry-level clerical vacancy). This policy does not apply to staff on long-term disability (see the Manual of Administrative Operations and Procedures (MAOP), Part I, 15-1.12) or to those who are ex-military personnel (see MAOP, Part I, 10-1) or on military furlough (10-5.4).

EFFECTIVE: 04/29/96

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67-12.1 Reinstatement Hiring Procedures for Support Positions
(See MIOG, Part I, 67-12.2, 67-12.3 and 67-12.4.)

Upon receipt of a request for reinstatement, a communication should be directed to FBIHQ, |Bureau|Support Applicant Unit| (BSAU). | A determination regarding eligibility for reinstatement will thereafter be made at FBIHQ, |BSAU,| based on review of the exit interview and performance appraisals. The field office will be appropriately advised. Under no circumstances should active consideration be given to a reinstatement request until FBIHQ, |BSAU| approval has been received. If such approval is granted, the following steps must be followed in sequential order when processing reinstatements for FBI support positions:

When a request for reinstatement is received and a vacancy exists, the |BSAU| must be informed. |BSAU| will review the former employee's personnel file for the exit interview to determine if he/she was recommended for rehire and the last performance appraisal(s) on record (maximum of three). In this regard:

(1) If the applicant was not recommended for rehire or left under negative circumstances, the applicant will not be further processed.

(2) If the applicant was recommended with reservations for rehire, the exit interview information should be carefully considered in terms of the position for which the applicant is being considered. From the information provided, |BSAU| might determine that the applicant is not eligible for rehire. However, if the information is not complete enough to determine whether the applicant is eligible for rehire, |BSAU| will authorize further processing to gather additional information to make an informed decision.

(3) If the applicant was recommended for rehire, |BSAU| will review the last three performance appraisal ratings in file. Each of these must have an overall rating of at least "Fully Successful" in order for the applicant to be considered further. If the applicant has only one or two previous performance review(s), each one must still be at least "Fully Successful" for further consideration.

However, ALL critical elements in the last performance appraisal must have been rated at least "Fully Successful" for further consideration. If one or more of the element ratings is/are less than "Fully Successful," the applicant will not be considered for reinstatement.

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(4) If authorized by BSAU, each support applicant who is not required to take the Clerical Selection Battery must receive a reinstatement interview in connection with his/her reinstatement request to determine:

(a) whether the applicant understands the current requirements, duties and responsibilities of the position, and is willing and able to meet them;

(b) how he/she is qualified for the advertised position;

(c) why he/she wants to return to the FBI;

(d) how he/she has been employed since leaving the FBI; and

(e) the reason(s) for his/her resignation and the manner in which those problems/issues, if any, have been resolved.

Each office is to make an assessment of the depth of the applicant's commitment to a long-term career with the FBI and make a recommendation to BSAU concerning the preliminary suitability of the individual for rehire in the advertised position.

(5) If the reinstatement interview is favorable, each office will interview or set out leads to interview the applicant's former supervisor(s) and co-workers for his/her last three years of FBI employment. The results of the reinstatement interview, assessment/recommendation, and the preliminary interviews are then forwarded to FBIHQ, BSAU. While this process is underway, the processing of other qualified applicants should not be stopped or delayed.

EFFECTIVE: 03/24/97

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67-12.2 Clerical Reinstatement with FBI within Two Years
of Last FBI Employment

If a reinstatement applicant is eligible for rehire, is being considered for an entry-level clerical position, and an application is received within two years of his/her cease-active-duty date, he/she will not have to take the Clerical Selection Battery (CSB) written test and structured interview. That person will, however, have to pass the CSB Typing or Word Processing Test if applying for a position that requires the services of a "qualified typist," and will also have to be afforded a reinstatement interview and processing as described above in 67-12.1.

EFFECTIVE: 04/29/96

67-12.3 Clerical Reinstatement with FBI More Than Two Years
from Last FBI Employment

If the reinstatement applicant is eligible for rehire, is being considered for an entry-level clerical position and an application is not received within two years of his/her cease-active-duty date, he/she will have to take the Clerical Selection Battery (CSB) written test and structured interview. In this situation, the individual will not be afforded the reinstatement interview and processing as referred to in 67-12.1. However, if the reinstatement applicant previously passed the CSB, he/she will not have to retake the CSB as those prior test/interview scores are still valid. This applicant would be afforded the reinstatement interview and the processing as described above in 67-12.1.

EFFECTIVE: 04/29/96

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67-12.4 Reinstatement Applicant for Specialty Position

If the reinstatement applicant is eligible for rehire, and is being considered for a specialty or professional support position, he/she must be afforded the reinstatement interview and processing as described above in 67-12.1, plus any other selection procedure(s) as applicable to the specific position.

EFFECTIVE: 04/29/96

67-12.5 Preferential Treatment for Reinstatement Applicants

When a field office has an entry-level clerical position to fill and has reinstatement applicants who must take the Clerical Selection Battery, these applicants may be tested/interviewed ahead of the rest of the office's pool of applicants if the field office makes an initial determination that these individuals are highly qualified for the position. However, once interviewed, no further preferential treatment will be given to these individuals. They must compete for final selection and appointment along with all other applicants.

EFFECTIVE: 04/29/96

67-13 PART-TIME EMPLOYMENT (See MAOP, Part I, 20-21, 20-28.4.)

Part-time employment is a scheduled workweek between 16 and 32 hours per week if the employment became effective on or after April 8, 1979, according to Public Law 95-437.

(1) Processing procedures and requirements regarding applications, the Clerical Selection Battery scores (test and interview results), and background investigations are the same for part-time support employees as for full-time support employees.

(2) The following regulations apply to part-time employees:

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(a) A prearranged work schedule must be set forth on the appointment letter.

(b) Prior Bureau approval is needed before any work schedule changes are made, whether they be temporary, permanent, or of short duration.

(c) A scheduled lunch period is required if the workday is in excess of four hours.

(d) Health benefits - The government pays a prorated share based on the number of scheduled work hours per pay period.

(e) Annual leave and sick leave accrual is based on the number of scheduled work hours per pay period compared to a full 80-hour pay period, determined by years of service.

(f) The part-time employee is entitled to overtime pay for hours worked in excess of eight per day or 40 per week. Employee is entitled to straight hourly pay for hours worked in excess of the schedule up to eight per day or 40 per week. Prior Bureau approval is needed before a part-time employee may work in excess of his/her schedule.

EFFECTIVE: 03/24/97

67-14 HONORS INTERNSHIP PROGRAM

(1) The FBI Honors Internship Program (HIP) is designed to expose outstanding undergraduate and graduate students to career opportunities within the FBI during the summer months. This program is similar to other internships and cooperative education programs utilized as recruitment vehicles. One objective of the HIP is to enhance the FBI's visibility on college campuses throughout the United States. The program has also been an excellent recruitment vehicle to locate and identify outstanding minorities and women for future careers with the FBI.

(2) In those field offices where Special Agent Recruiters (SARs) are assigned, the SARs will be responsible for recruiting only highly qualified candidates for the HIP. In those field offices without SARs, the Applicant Coordinators (ACs) will continue to assume this responsibility. The FBI HIP is an extremely selective and

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competitive program with only a limited number of interns being appointed each summer. As such, each field office SAR or AC is requested to contact appropriate college/university placement offices to ensure that the most recent HIP brochure, entitled "FBI Honors Internship Program, A Summer Internship That Lasts A Lifetime," is available for prospective applicants. Each brochure should include an FD-646a application.

EFFECTIVE: 02/27/96

67-14.1 Selection Procedure

(1) Each Special Agent in Charge may nominate candidates for consideration in the HIP. All candidates must be currently enrolled in a college or university at the time they are nominated.

(2) All field offices, with the exception of those offices listed below, may submit a maximum of five candidates to FBIHQ for consideration. Candidates should not be stack-ranked by the nominating offices; however, all candidates must be highly qualified for the program. Field offices submitting a minimum of three candidates will be guaranteed one intern selection.

(3) The following field offices where Special Agent Recruiters are assigned may submit a maximum of ten candidates to FBIHQ for consideration. Again, candidates should not be stack-ranked by the nominating offices; however, all candidates must be highly qualified for the program. These field offices submitting a minimum of six candidates will be guaranteed two intern selections.

The field offices are:

Atlanta	El Paso	New Orleans	San Diego
Baltimore	Honolulu	New York	San Francisco
Birmingham	Houston	Norfolk	San Juan
Boston	Kansas City	Oklahoma City	WMFO
Charlotte	Los Angeles	Philadelphia	
Chicago	Miami	Phoenix	
Detroit	Newark	San Antonio	

(4) When considering nominees, offices should recruit individuals from all ethnic groups to ensure diversity in the class composition. All field office nominations are to be forwarded to

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the Personnel Resources Unit, Personnel Division, along with all appropriate documents necessary for processing, no later than December 1st of each year. A selection committee at FBIHQ will select the finalists and alternates. Each field office is responsible for notifying unsuccessful HIP candidates. This will include those candidates (submitted to FBIHQ) who are not selected to participate in the HIP. After the selectees have been chosen and the field offices have been notified, FBIHQ will send conditional letters of employment to the finalists and alternates. Headquarters will then order a drug urinalysis, polygraph examination, Personnel Security Interview, and a full-field background investigation for each finalist. The finalists who successfully complete their background investigations will be sent an appointment letter from FBIHQ.

(5) All application packages are to be processed through the field offices before being submitted to FBIHQ. Application packages received at FBIHQ without being processed by a field office will be forwarded to the appropriate field office for processing. Nominees should be interviewed and recommended by the SAC or a designated official. The purpose of the SAC interview/recommendation is to help the selection committee to determine each nominee's suitability for the HIP.

EFFECTIVE: 02/27/96

67-14.2 Qualifications

The qualifications for applicants for this program are as follows:

(1) Undergraduate students must be in their junior year of college and attending full-time at the time they apply to the HIP;

(2) Graduate-level students must be enrolled in a college or university and attending full time;

(3) Students must be returning to their respective campuses following the program;

(4) Applicants must have a cumulative grade point average of 3.0 or above;

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(5) Applicants must be United States citizens.

EFFECTIVE: 02/27/96

67-14.3 Application Process

(1) Each field office should ensure appropriate contacts are made with selected colleges/universities so nominations can be made and forwarded to the Personnel Resources Unit, Personnel Division, no later than the December 1st deadline. Each HIP applicant is expected to complete/submit the following:

- (a) an FD-646a application form
- (b) a current academic transcript
- (c) a two-page resume
- (d) a written recommendation from the appropriate dean or department head
- (e) a 500-word essay addressing the applicant's motivation for participating in the program
- (f) two professional photographs (photographs should be current, approximately 2 X 2 inches in size, and a good likeness of the candidate)
- (g) an FD-804 (Applicant Background Survey)

The application package should be submitted to the field office nearest to the applicant's college/university by the November 1st deadline. Each field office should ensure that appropriate data, including demographic information, concerning all nominees is entered into the Specialty Applicant System of the Bureau Personnel Management System.

Each nomination package to FBIHQ should include the following:

- (a) an FD-646a (Preliminary Application)
- (b) an FD-140 (Application for Employment)

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- (c) an FD-406 (Authority to Release Information)
- (d) an academic transcript
- (e) letter(s) of reference
- (f) a two-page resume
- (g) a 500-word essay
- (h) fingerprint card
- (i) two professional photographs
- (j) SAC's Interview/Recommendation

(2) All nominees must be briefed regarding the beginning/ending dates of the HIP. Any nominee who is unable to participate through the ending date should be considered ineligible for the program.

(3) Selections will be based upon academic achievements, life and work experiences, area of study, interest in law enforcement, and the needs of the Bureau. A selection committee will convene at FBIHQ in December to make the selections.

EFFECTIVE: 02/27/96

67-14.4 Assignments

(1) Interns receive a two-day orientation at FBIHQ in Washington, D.C., and thereafter, are assigned to an FBIHQ division or to the FBI Academy based in Quantico, Virginia. Assignments are made based upon the intern's interest, educational discipline, life/work experience, and potential contribution to the FBI. Each intern will be under the direct supervision of an FBI manager within the appropriate division to which he/she will be assigned. Undergraduate students will be paid at the GS-6 step 1 level and graduate students will be paid at the GS-7 step 1 level on the government pay scale. FBIHQ will reimburse the intern's transportation expenses for round-trip travel to and from the Washington, D.C. area to participate in the HIP. All other related expenses must be borne by the intern. Honors interns will be given the option of receiving a two-week salary

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advance upon arrival at Headquarters, and consequently will not receive their last two-week pay check. Interns are also responsible for securing their own housing arrangements; however, the Personnel Resources Unit will provide the interns with information on lodging in the Washington, D.C. area.

(2) Honors interns will be required to have their salary checks direct deposited. All interns will commence their employment with the FBI at the beginning of the first pay period in June. Interns will conclude their employment on approximately the third Friday in August.

EFFECTIVE: 02/27/96

67-14.5 Program Objective

(1) The Honors Internship Program (HIP) was implemented in an effort to enhance the FBI's visibility in recruiting efforts at a variety of colleges and universities in the United States. Due to the very selective and highly competitive nature of the few internships to be awarded in this program, only those individuals with strong academic credentials who possess the characteristics and motivations desired in FBI employees and who would be excellent representatives of the FBI upon their return to their various campuses will be selected. Due to the FBI's specific long-range personnel needs which include individuals with skills and education in the areas of engineering, computer science, foreign languages, political science, law, and accounting, particular emphasis will be given to individuals from these academic areas.

(2) There are certain fundamental roadblocks to quick, efficient processing of HIP candidates, that although not problems in and of themselves, may preclude a short-term resolution. Given the short period within which the application, processing and background investigation must occur, and then weighed against the short period of employment, anything in an HIP candidate's background which lengthens this period could mitigate against selection. For instance, applicants with extensive overseas travel, or with relatives overseas, particularly if either involve countries on the National Security Threat List, would be somewhat problematic. The delay and additional investigative steps made necessary by such make it questionable whether these applicants could be fully investigated prior to employment. In summary, the field should weigh such potential

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complications as these and exercise judgment accordingly. The above is presented to act not as a total bar against such candidates, for, in reality, some of the most competent interns had such security issues that required resolution. Rather, this is an element of the program that needs to be carefully analyzed by the field, prior to making any recommendation.

EFFECTIVE: 02/27/96

67-15 DELETED

EFFECTIVE: 08/28/91

67-16 QUALIFICATIONS FOR SPECIAL AGENT POSITION (entrance GS-10)

EFFECTIVE: 08/28/91

67-16.1 General Requirements - All Applicants For SA Position

(1) Must be citizens of the United States.

(2) Must be willing and available to serve in any part of the United States or Puerto Rico where their services are required.

(3) Must have reached their 23rd birthday but not their 37th birthday on the date that they enter on duty. An individual who has had prior employment as a Federal law enforcement officer and who is covered by the retirement provisions contained in Title 5, USC, Section 8336(c), may be considered for appointment beyond age 37. As defined in Title 5, USC, Section 8331(20), a Federal law enforcement officer is an individual whose duties are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the laws of the United States, including employees engaged in this activity who are transferred to a supervisory or administrative position. Former Federal fire fighters, as defined in Title 5, USC, Section 8331(21), may also be considered for appointment after reaching their 37th birthday. It will be the responsibility of any applicant affected by the foregoing to provide the documentation necessary to

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support his/her eligibility for consideration beyond age|37.|

(4) Must agree, in writing, to remain with Bureau for at least three years provided they receive an appointment and their work is satisfactory.

(5) Must have a valid license to drive an automobile at time of entry on duty.

EFFECTIVE: 08/28/91

67-16.2 Physical

EFFECTIVE: 07/23/90

67-16.2.1 General Physical Requirements (See MIOG, Part I, 67-9.1 (1) and 67-16.2.2.)

(1) Height - No restrictions; however, applicants must be capable of handling complete range of duties expected of all Special Agents.

(2) Vision - Must possess uncorrected visual acuity no worse than 20/200 (Snellen) in each eye, with correction to 20/20 in one eye and at least 20/40 in the other eye.

(3) Hearing - No applicant will be accepted if found by audiometer test to have a hearing loss exceeding a 25 decibel average American National Standards Institute (ANSI) in either ear in the frequency range 1000, 2000, and 3000 Hertz. (Hertz is a unit of frequency equal to one cycle per second.) No single reading in that range may exceed 35 decibels and no applicant will be accepted if found to have a hearing loss exceeding 35 decibels at 500 Hertz or 45 decibels at 4000 Hertz. To determine from an audiogram if an applicant meets the hearing standard on the ANSI scale, add decibel losses in the 1000, 2000, and 3000 Hertz frequency range blocks and divide by three to obtain the average decibel loss in each ear. If the audiogram is based on the International Standards Organization (ISO) scale, the same method may be used. If the audiogram is based on the American Standard Association (ASA) scale, to convert recorded decibel losses so they will be comparable with the ANSI standard, add 10 to the decibel loss in the 1000, 2000, and 3000 blocks and divide

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by three to arrive at the average decibel loss in each ear. Also add 15 to the decibel loss in the 500 block and five to the decibel loss in the 4000 Hertz block.

(4) Must be in excellent physical condition and can have no defects which would interfere with the use of firearms or with participation in raids, dangerous assignments, or defensive tactics. Applicant's physical and visual condition will be ascertained through a rigid physical examination conducted at a government examining facility where possible. FBI will bear cost of this examination. A private doctor's report will not be accepted in lieu of a government medical report unless specific approval is obtained from FBIHQ. Obtain complete details regarding any medical history applicant lists which would bear on suitability for Agent position. Secure physicians' statements and information from hospital or military records, etc., where warranted, so that, if not disqualifying, they can be made available to government examiner at time of applicant's physical examination to assist the examiner in determining whether applicant is physically qualified for all duties of the Agent position. (To obtain necessary information signed medical releases may be required from applicant.) If applicant has a history of any illnesses or injuries which might require special tests, such as cardiology or orthopedic consultations, arrange for these to be performed at time of physical examination.

(5) Results of physical examination are submitted on SF-88, a report of medical examination, and its attachment, FD-300. Medical examiner must be furnished with a report of medical history (Form SF-93) executed by applicant, which assists doctor in the doctor's evaluation. Form FD-300a concerning the applicant's estimated ability to perform specific exercises must also be executed by the examining physician.

(6) Agent applicants must be certified for strenuous physical exertion, and must be within limits as contained on FD-300 form. If an applicant's weight exceeds desirable limits based on the FD-300 form, a body fat measurement must be afforded as a determining factor for further processing. The maximum allowable body fat percentage for Agent applicants is 19 percent for males and 22 percent for females.

(7) Preemployment Physical Fitness Test

(a) To ensure that Special Agent (SA) applicants report to New Agents' Class in proper physical condition, all applicants must perform satisfactorily on a preemployment physical

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fitness test prior to their being tendered an appointment letter. The areas of measurement are: body fat assessment, sit-ups (two minutes), push-ups (maximum number), pull-ups (maximum number), two-mile run, and flexibility. These six measurements will provide the Bureau with an excellent indication of the candidate's body strength, muscle endurance, abdominal muscle endurance, cardiovascular endurance, and body fat composition. Appointees must score a minimum of two or more points in the percent body fat category and one or more points in each of the remaining categories, excluding flexibility, before receiving an appointment to New Agents' Class at Quantico.

The test must be administered immediately following a preemployment physical examination certifying the applicant for strenuous physical exertion. It is imperative that it be afforded during the background investigation stage since no appointment will be made until such time as the applicant can display the proper level of physical fitness. Furthermore, applicants must be retested if the test is more than 60 days prior to their entrance-on-duty date at Quantico.

(b) A Waiver of Liability form (FD-701) must be executed by the applicant when he/she takes the written test (Special Agent Entrance Examination). He/She should at that time be advised of the necessity to prepare for the preemployment test. A second waiver will be obtained at the time of actual testing. The first waiver will serve to minimize the FBI's liability during any preparation the applicant might undertake while the second waiver will be obtained to minimize liability during the actual testing.

(c) The Applicant Coordinator should coordinate the testing process for all applicants and apprise the applicant of the site and procedures that will be used. While facilities, weather and other conditions may vary from field office to field office, consistency and uniformity should be maintained where possible. The Applicant Coordinator will maintain meticulous records regarding administration of the test and scores obtained by individual applicants. Personnel present must be familiar with test procedures.

(d) The following guidelines should be used in administering the preemployment physical fitness test:

1. Bureau personnel and applicant should meet at a site and time agreed upon.
2. Applicant should execute a second Waiver of Liability (FD-701) at the time of actual testing.

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3. Allow reasonable period of time for warm-up.
4. Review test sequence and procedures. Allow reasonable recuperation time between events--generally not to exceed five minutes.
5. Record results on the Preemployment Physical Fitness Test Evaluation Sheet, Form FD-740, and forward same to FBIHQ.
6. Bureau personnel present during testing should witness results by signing the Preemployment Physical Fitness Test Evaluation Sheet, Form FD-740.
7. Applicants failing initial test must satisfactorily perform retest within six months of the date of the initial test. During this period retests will be granted by the field based on totality of circumstances (i.e., prior score obtained, improvements between testing, Bureau hiring needs, etc.). Applicant must request retests by recontacting appropriate field office. After six months, Special Agent Applicant Unit, Personnel Division, should be contacted and decision will be made as to future action to be taken.
8. Submit results to FBIHQ with original waivers. Copies will be maintained by field office.

(e) Satisfactory performance is a score of two or more points in the percent body fat category and one or more points in each of the remaining categories, excluding the flexibility category, at one testing session. Failure to perform satisfactorily in one or more events will necessitate retesting in all above categories.

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67-16.2.2 Automatically Disqualifying Factors (See MIOG, Part I, 67-7.1.1 and 67-9.)

(1) These include distant vision which exceeds 20/200 in either eye or is not correctable to 20/20 in one eye and at least 20/40 in the other eye; a hearing loss in either ear in the 1000, 2000, and 3000 Hertz frequency range which amounts to more than a 25 decibel average on the ANSI scale or a single reading in that range which exceeds 35 decibels or a reading which exceeds 35 decibels at 500 Hertz or 45 decibels at 4000 Hertz. (See MIOG, Part I, 67-16.2.1.)

(2) DRUG USE - The FBI is firmly committed to a drug-free society and workplace. Therefore, the unlawful use of drugs by FBI employees will not be tolerated. Furthermore, applicants for employment with the FBI who currently are using drugs will be found unsuitable for employment. The FBI does not condone any prior unlawful drug use by applicants. The FBI realizes, however, some otherwise qualified applicants may have used drugs at some point in their past. The guidelines set forth should be followed for determining whether an applicant's prior use makes him/her unsuitable for employment, balancing the needs of the FBI to maintain a drug-free workplace and the public integrity necessary to accomplish its law enforcement mission, with the desirability of affording the opportunity of employment to the broadest segment of society consistent with those needs. These guidelines apply equally to Agent and support applicants.

(a) GUIDELINES (See 67-3.2.2 and 67-3.2.3.)

1. An applicant who has illegally used any drug while employed in any law enforcement or prosecutorial position, or while employed in a position which carries with it a high level of responsibility or public trust, will be found unsuitable for employment. Refer to Special Agent Applicant Unit (SAAU) for decision and notification.

2. An applicant who is discovered to have deliberately misrepresented his/her drug history in connection with his/her application will be found unsuitable for employment. Field offices will notify applicant of unsuitability for employment.

3. An applicant who has sold any illegal drug will be found unsuitable for employment. Refer to SAAU for decision and notification.

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4. An applicant who has used anabolic steroids after February 27, 1991 or illegally used any drug, other than experimental use of cannabis, within the past ten years will be found unsuitable for employment, absent compelling mitigating circumstances. Experimental use of drugs other than cannabis which occurred more than ten years prior to the application for employment will be evaluated based upon the general factors specified below. Field offices will notify applicant of unsuitability for employment.

5. Anabolic steroids have been defined as an illegal drug under the FBI's drug policy since February 27, 1991. Prior to February 27, 1991, anabolic steroids came under the provisions of Title 21, USC, Section 353 in that they could legally "be dispensed only upon a written prescription of a practitioner licensed by law to administer such drug..." or upon an oral prescription or a refill if the proper procedures were followed. "The act of dispensing a drug..." contrary to the provisions of section 353 "results in the drug being misbranded while held for sale." In determining eligibility for applicants who have used anabolic steroids prior to February 27, 1991, the following guidelines are to be followed: (a) Refer to SAAU the full details concerning the usage, to include the frequency of use and specific time frame. SAAU will evaluate these matters on a case-by-case basis, following consultation with the Health Care Programs Unit and the Office of General Counsel.

6. An applicant who has used cannabis within the past three years will be found unsuitable for employment. Experimental use of cannabis which occurred more than three years prior to the application for employment will be evaluated based upon the general factors specified below. Field offices will notify applicant of unsuitability for employment.

(b) GENERAL FACTORS - In determining suitability, the following general factors have been identified by the Office of Personnel Management and will be taken into account:

1. The kind of position for which the person is applying, including the degree of public trust or risk in the position;

2. The nature and seriousness of the conduct;

3. The circumstances surrounding the conduct;

4. The recency of the conduct;

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5. The age of the applicant at the time of the conduct;
6. Contributing societal conditions; and,
7. The absence or presence of rehabilitation or efforts toward rehabilitation.

(c) Security determinations will continue to be made pursuant to Executive Order 10450, with illegal drug usage viewed in terms of the general factors listed above with respect to the suitability determination.

(d) The following parameters will be used regarding the definition of "experimental":

Use of cannabis 15 times or less and/or use of any other drugs a combined total of five (5) times or less should be considered experimental and will be acceptable, consistent with the time limitations set forth in the new policy. Under exceptional circumstances, the Assistant Director (AD), Personnel Division (PD), on his/her own initiative or at the request of the Director; Deputy Director; AD; General Counsel; Inspector-in-Charge of an FBIHQ office; or Special Agent in Charge of a field division, may determine that drug usage outside these parameters does not disqualify an applicant for employment. The PD shall maintain a record of all requests for such exceptions and the reasons for the determination to grant or deny such a request.

(e) Finally, the drug policy also states that "an applicant who has illegally used any drug while employed in any law enforcement or prosecutorial position, or while employed in a position that carries with it a high level of responsibility or public trust, will be found unsuitable for employment." In lieu of defining specific positions of trust to which this provision applies, the AD, PD, will be responsible for making decisions regarding the application of this particular guideline when necessary.

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67-16.2.3 Frequently Disqualifying Factors

Included in this category are color vision problems; an ulcer history; a history of asthma, diabetes or rheumatic fever; a slipped disc, even if surgically corrected; history of seizure disorder (epilepsy); or any type of arthritis. Any unique or special physical history should be resolved as early as possible in the processing of applicants. If necessary, consultation with the Health Care Programs Unit, Personnel Division, at FBIHQ should take place. Health matters will be reviewed on a "case-by-case" basis as they pertain to the essential job functions of the position occupied or the position for which a person is requesting consideration. The process will have multiple-level review by nurses, physicians and program managers.

(1) |Deleted|

(2) Ulcer history - Any applicant with an ulcer history should be requested to obtain a statement from physician who treated him/her covering the following points: type of ulcer applicant had and whether diagnosis was based on results of an upper GI series; whether applicant was hospitalized, and, if so, when and for how long; what methods of treatment were utilized; whether applicant is at present under any medication or on any special diet; whether condition is currently considered cured; and whether doctor feels that pressures to which an Agent is subjected are likely to bring about a recurrence of the ulcer. If information furnished by applicant's physician is not, in itself, disqualifying, ensure that his/her government physical examination includes an upper GI series and that examining physician is aware of pressures of Agent position.

(3) Asthma history - Applicant who has had a history of asthma should be requested to secure a statement from doctor who treated him/her setting forth following information: age at onset of asthmatic attacks; severity and frequency of attacks; what medication, if any, has been utilized in treating him/her; whether applicant has ever been incapacitated due to asthma and, if so, when and for how long; when applicant had last attack; whether applicant has ever had any allergy workups, and whether moving to different geographic locations in the United States would aggravate the condition. If information furnished by applicant's physician indicates an asthmatic history extending into applicant's teens, statement should be furnished FBIHQ and further instructions awaited. If applicant has had no asthmatic attacks since age twelve, proceed with the processing, but make information secured available to the government medical examiner.

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(4) Insulin-dependent diabetes mellitus is disqualifying for appointment to the Special Agent position. For diabetics whose condition can be controlled by diet alone or with oral hypoglycemic agents, however, each case will be evaluated individually. In such cases, it is imperative that the applicant furnish the necessary medical documentation from his/her physician at the outset of the processing so that a determination can be made as to whether the applicant is eligible for further consideration. Medical documentation should include a detailed case history, as well as information about how the disease is being treated, and a prognosis for the future. This information should be forwarded to the Bureau for evaluation prior to the institution of any formal processing of the application. It is anticipated that the determination of a candidate's eligibility for further consideration may include contact with the physician treating the applicant to inform that individual in detail about the nature of the Special Agent position and to obtain his/her opinion about the applicant's suitability for such employment given his/her diabetic condition.

(5) Rheumatic fever history - If applicant indicates a history of rheumatic fever, have him/her secure a statement from physician who treated him/her indicating age at which he/she had this disease; whether applicant had more than one attack; whether applicant was hospitalized or required to remain in bed for a lengthy period of time and, if so, for how long; whether his/her activities have ever been restricted as a result of having had this disease; and whether doctor is aware of any residuals from disease which might affect applicant's suitability for Agent position. If statement does not, in itself, appear to preclude further consideration of applicant, proceed with the processing but ensure government examiner is furnished with background information and that examination includes an electrocardiogram.

(6) Orthopedic conditions - Orthopedic consultations should be included as a part of physical if applicant has had a history of bone, joint, or related problems, such as a slipped disc or other back difficulty, trick knee or shoulder, any arthritic condition, etc. In such cases, applicant should be appropriately tested in your office by the Principal Firearms Instructor to ensure he/she has no problems obviously restricting his/her ability to handle firearms or participate in defensive tactics.

(7) Special Agent applicants with a seizure disorder (epilepsy) or a history of a seizure disorder must:

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(a) Not be on any anticonvulsant therapy for a period of not less than two (2) years prior to applying for the Special Agent position.

(b) Be seizure-free for a period of two (2) years prior to applying for the Special Agent position.

(c) Have had a normal neurological examination.

(d) Have had a normal awake and sleep electroencephalogram free of epileptiform abnormalities within the past year.

EFFECTIVE: 05/13/97

67-16.3 Qualifying Programs and Educational Requirements

EFFECTIVE: 03/23/92

67-16.3.1 Law Program

Must be graduates from state-accredited resident law schools and have successfully completed at least two years of resident undergraduate work at a college or university accredited by one of the six regional accrediting bodies of the Commission on Institutions of Higher Education.

EFFECTIVE: 03/23/92

67-16.3.2 Accounting Program

Must possess a four-year resident degree from a college or university accredited by one of the six regional accrediting bodies of the Commission on Institutions of Higher Education. In those instances when applicants have four-year, nonresident degrees but also have postgraduate degrees from resident colleges or universities, they meet the educational requirements, provided both degrees were attained at colleges and universities accredited by one of the six regional accrediting bodies of the Commission on Institutions of Higher

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Education.

In addition to the foregoing, an individual applying for a Special Agent position will be eligible for inclusion in the Special Agent Accountant Program (SAAP) upon meeting at least one of the following criteria:

(1) The applicant is registered as a Certified Public Accountant (CPA) in any of the 50 states, the District of Columbia, Guam, Puerto Rico, or the U.S. Virgin Islands.

(2) The applicant has attained a baccalaureate or an advanced degree in accounting and successfully completed the FBI Special Agent Accountant examination or the written portion of the CPA examination.

(3) The applicant has attained a baccalaureate or an advanced degree in a business discipline (i.e., business management, business administration, economics, finance, financial administration). Also, the applicant must have completed a minimum of 24 semester hours, or the equivalent number of quarter hours, of accounting courses as well as 3 hours of a business law course. (This requirement is generally consistent with state qualifications to sit for the CPA examination.) The following courses must have been completed:

Accounting Principles (6 hours)
Intermediate Accounting (6 hours)
Cost Accounting (3 hours)
Advanced Accounting (3 hours)
Elective Accounting Courses (i.e., Federal Tax or auditing) (6 hours)
Business Law (3 hours)

Additionally, the applicant must have successfully completed the FBI Special Agent Accountant examination or the written portion of the CPA examination.

(4) An applicant who has not passed the CPA examination must provide certification from the college or university at which the degree was earned that the applicant is academically eligible to sit for the CPA. Certification is to be provided by the school through execution of Form FD-633. A Form FD-633 should be given to the applicant, along with a Form FD-646 (Preliminary Application for Special Agent Position), and it is the applicant's responsibility to have the form executed by the school. Unless the applicant is

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threshold qualified under another basic entrance program, no processing should occur beyond the test phase until the above certification has been provided.

EFFECTIVE: 05/17/93

67-16.3.3 Language Program

Must possess a four-year resident degree from a college or university accredited by one of the six regional accrediting bodies of the Commission on Institutions of Higher Education and be fluent in a language for which the Bureau has a current need. In those instances when applicants have four-year, nonresident degrees but also have postgraduate degrees from resident colleges or universities, they meet the educational requirements, provided both degrees were attained at colleges and universities accredited by one of the six regional accrediting bodies of the Commission on Institutions of Higher Education.

EFFECTIVE: 05/17/93

67-16.3.4 Engineering/Science Program

Applicants with the following backgrounds will be considered; however, all candidates must possess a four-year, resident degree from a college or university accredited by one of the six regional accrediting bodies of the Commission on Institutions of Higher Education. Should the applicants not meet the foregoing criteria but instead possess a four-year, nonresident degree (with the above accreditation) as well as a postgraduate, resident degree, also with the above accreditation, they do meet the necessary educational requirements.

(1) Bachelor's degree in Electrical Engineering, Metallurgy, Electronic Engineering, Mechanical Engineering, or Aerospace Engineering; or a Master's degree in any Engineering discipline; or a Bachelor's degree in an Engineering discipline other than those specified above, with three years of engineering-related work experience.

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(2) Master's or doctor's degree in physics, chemistry, biological science, geology, pharmacy, pharmacology, toxicology, mathematics, photography or engineering science. To qualify with a degree in biological science, an individual must have satisfactorily completed a minimum of 16 semester hours of chemistry (including organic chemistry) and 8 semester hours in physics. To qualify with a degree in photography, the majority of course work must be in technical applications.

(3) Bachelor's degree in any of the following fields plus a minimum of three years of scientific professional experience in the major field or allied area: physics, chemistry, biological science, geology, pharmacy, toxicology, photography, or engineering/science. Applicants with a degree in photography must have a minimum of three years of professional experience in the major field or allied area involving optics, optical systems, physics or chemistry. General technical photography, forensic photography, medical photography, industrial photography, photogrammetry, or other predominantly technical photographic fields are among the types of background most desired. Applicants must have satisfactorily completed at least 20 hours of course work regarding the physical aspects of the photographic process.

(4) Provision is also made to consider under the Engineering/Science Program individuals having unique expertise in technical areas for which the Laboratory Division or Information Resources Division has an identified need. A determination as to whether an SA candidate may be considered under this provision will be made by the Assistant Director in Charge of the Laboratory Division or Information Resources Division upon an evaluation of the candidate's credentials.

(a) through (c) Deleted

(5) Fingerprint Examiners - Those individuals applying under the Fingerprint Examiner specialty will be evaluated by an official of the Criminal Justice Information Services (CJIS) Division. The basic requirements are as follows: bachelor's degree from a resident, accredited four-year college or university or a nonresident, accredited bachelor's degree and a postgraduate degree from a resident, accredited college or university and a minimum of three years' work experience of which eighteen months has been that of a Fingerprint Examiner. Personnel of the CJIS Division are responsible for reviewing the qualifications of every applicant and certifying his or her acceptability from a technical standpoint. Applicants must obtain a passing grade on a test designed to demonstrate competence

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consistent with the level of knowledge expected of a person with eighteen months of experience.

(6) The FBI requires Special Agents with technical expertise in the use of computers to support business/financial information processing. This expertise is required to investigate computer fraud. Applicants must meet the following qualifications: bachelor's degree in computer science, mathematics, accounting, economics, business administration, public administration, management information systems, physics, engineering, operational research, or management science, with three years' experience designing and/or developing computer-related systems; or a master's degree in mathematics, physics, engineering, business administration, public administration, operational research, or management science, with two years' experience designing and/or developing computer-related systems; or a master's degree in computer science, management information systems, or a comparable degree with a major curriculum emphasis on the design and development of computer-related systems.

(7) All applicants applying under the Engineering/Science Program must furnish a copy of their college transcripts. No applicant will be considered under the Engineering/Science Program until these transcripts have been reviewed and the individual has been certified by personnel of the FBI Laboratory or, in the case of Fingerprint Examiners, an official of the CJIS Division. Certification of applicants applying under the computer option is handled by an official of the Information Resources Division.

EFFECTIVE: 04/08/96

67-16.3.5 Diversified Program

Applicant must have either:

(1) a four-year resident degree from a college or university accredited by one of the six regional accrediting bodies of the Commission on Institutions of Higher Education or a four-year, nonresident degree with the aforementioned accreditation with a resident, accredited postgraduate degree. Should the applicants possess a four-year degree, they will be required to have three years' work experience of a fairly continuous, full-time nature, or

(2) master's or other graduate degree, resident in nature

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and accredited as above, with two years' work experience of a fairly continuous, full-time nature.

EFFECTIVE: 05/17/93

67-16.3.6 Deleted

EFFECTIVE: 02/25/91

67-17 PROCESSING APPLICANTS FOR THE SPECIAL AGENT POSITION

EFFECTIVE: 02/25/91

67-17.1 General Instructions

(1) No work is more important than properly interviewing, evaluating and investigating applicants for the Special Agent (SA) position with the FBI. Interviews and investigations must be exhaustive and designed to determine applicant's suitability for the position of Special Agent and develop any information bearing on his/her suitability for FBI employment.

(2) Instructions set out herein are not all-inclusive and personnel processing Bureau SA applicants should utilize every resource to ensure applicant's suitability for employment.

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67-17.1.1 Applications for Employment (FD-646* and FD-140)

(1) Form FD-646* (Preliminary Application for Employment), FD-804 (Applicant Background Survey), and FD-843 (Special Agent Qualifications Questionnaire) should be provided to all applicants meeting the basic threshold requirements for employment. If an applicant passes Hurdle I (Written Test) of the Special Agent Selection System (SASS), he/she will be required to submit Form FD-140 (Application for Employment) at this stage of processing.

(2) Form FD-646* and FD-140, as well as FD-804 and FD-843, must be completely executed and signed by the applicant. Reviewing employee must ensure that the form is accurate, with any omissions or discrepancies being resolved prior to submitting to FBIHQ. There should be no abbreviations. All names should be complete, to include middle names, when possible. Regarding applicants and their references and/or relatives who are of Hispanic origin, it is essential that the patronymic and matronymic names of all such individuals be obtained as well as the full married name of all married females. The patronymic name is to be followed by the matronymic name. In the case of a married female, the full married name is necessary to include given name, patronymic last name, followed by the matronymic last name and husband's surname. When the initial form (FD-646*) is received, it should be reviewed to determine whether the applicant is basically qualified for the SA position. If the applicant is not qualified, he/she should be so advised immediately. (See MIOG, Part I, 67-11.1.)

(3) In order to obtain the Universal Case File Number for Special Agent Positions, the FD-646* is to be submitted to FBIHQ, Information Resources Division (IRD), Personal Attention: Personnel Verification and Records Subunit. The following procedure is required in requesting a Universal Case File Number: (1) alphabetize applications; (2) a cover page alphabetizing each candidate; and (3) a point of contact from the field office along with a facsimile number.

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67-17.1.2 Social Security Number

All applicants should be advised that if they are offered and accept appointment with the Bureau, it will be necessary that they have a social security number at the time they report for duty.

EFFECTIVE: 09/26/90

| 67-17.1.3 | Deleted |

EFFECTIVE: 06/21/94

67-17.1.4 Report of Separation from Active Duty DD Form 214

All applicants for the SA position indicating active military service must submit a copy of Report of Separation from Active Duty (DD Form 214) along with their application. The DD Form 214 and test results are to be forwarded to FBIHQ in a single package form. Eligibility for veterans' preference is determined from the DD Form 214. Veterans serving in excess of 180 days' active duty (exclusive of training), provided this duty began on or before 10/14/76, are entitled to five points and if disabled, an additional five points. Attendance at one of the military academies - Army, Navy, Air Force or Coast Guard - is considered active duty, provided the attendance began on or before 10/14/76, extended for more than 180 days and was regarded as honorable service. Written documentation of such attendance must be provided. (Those veterans who entered on active duty after 10/14/76 are eligible for veterans' preference points if they are disabled or serve in a campaign or war.) One half of the applicant's veterans' points are added to the Test Ranking Grade and the other half to the interview grade if the applicant has achieved the minimum qualifying scores on the test and the interview.

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67-17.1.5 Affiliation with Ready Reserve

Special Agent applicants on active duty or in the Ready Reserve of the Armed Forces must transfer to the Standby Reserve or resign if an appointment to the SA position is offered. In the event of a national emergency the FBI must have first claim on the services of its employees. For further information on this matter, refer to 67-5 and MAOP, Part I, 1-17.

EFFECTIVE: 09/26/90

67-17.1.6 SA Applicants of Asian Ancestry

Each applicant of Asian ancestry, particularly those born outside the continental limits of the United States, at the time of the interview should be requested to produce a copy of his/her birth certificate. The interviewing field office will be held responsible for verifying the existence of and obtaining a copy of applicant's birth certificate. Each applicant of this heritage should also be instructed, at time of interview, to furnish his/her name and names of all relatives in Chinese characters for transliteration by the Language Services Unit, Laboratory Division, to allow a thorough search of the names at FBIHQ and other agencies. Refer to the Foreign Counterintelligence Manual, Part I, Section 200, for detailed information as to how this information should be set forth. This information should be submitted to FBIHQ expeditiously.

EFFECTIVE: 09/26/90

67-17.1.7 Fingerprinting (See MIOG, Part II, 14-8.1.5.)

Applicants for the SA position must be fingerprinted at the time of their panel interview. Applicant Fingerprint Cards are to be submitted to FBI Headquarters, Attention: Personnel Division, along with application, interview sheets, questionnaires, and examination papers. In every instance, applicants for FBI positions should be fingerprinted by FBI personnel.

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EFFECTIVE: 04/21/94

67-17.1.8 Deleted

EFFECTIVE: 02/12/92

67-17.1.9 Early Processing

All applicants for the SA position may be tested no more than five months prior to meeting the educational requirements, assuming that upon meeting the educational requirements they will also meet the age and work experience requirements. The only exception to this policy is Attorney applicants who may be processed during the second semester of their second year of law school, provided they will meet all other SA threshold qualifications at the time of graduation. Those individuals who pass the test can then be scheduled for interviews at the beginning of their senior year.

EFFECTIVE: 02/12/92

67-17.1.10 Processing of Offspring of Special Agents Killed in the Line of Duty

Children of Special Agents who have been officially listed in Bureau records as killed in the line of duty can be given special consideration for the Special Agent position. Such applicants must meet the basic threshold qualifications for the Special Agent position such as age, citizenship, education, experience, and physical requirements. This would include passage of necessary examinations to attest to the applicant's proficiency if he/she is applying as either an accountant or linguist. Once all threshold qualifications have been met, the applicant is exempt from Hurdle I (Written Test) of the Special Agent Selection System (SASS). However, the applicant is required to pass Hurdle II (Writing Exercise/Interview) of the SASS. Upon successful completion of Hurdle II, a background investigation will be ordered and physical examination scheduled. Results of the processing will be summarized and forwarded to the Director for sole appointive decision. If appointment is offered, applicant will be placed in a New Agents' Training Class and will be required to successfully complete all phases of this training.

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EFFECTIVE: 10/13/95

67-17.2 Testing of SA Applicants

No applicant's processing should be initiated until it appears evident that he/she meets the basic educational requirements for the position, or will within the time prescribed above. The accreditation of any particular institution should be ascertained by consulting "Lovejoy's College Guide," "Accredited Institutions of Postsecondary Education" or similar publications. In any case where acceptable accreditation or the receipt of a resident degree appears in doubt, the applicant should be required to provide appropriate documentation regarding the questionable item(s) before testing is allowed.

EFFECTIVE: 02/12/92

67-17.2.1 Test Security

All Special Agent Entrance Examination (SAEE) test booklets are serial numbered and charged out to specific field offices for security. Testing materials are to be maintained in the safe of the SAC and should be provided appropriate security. Completed SAEE answer sheets are to be forwarded to SAAU in sealed envelopes, without cover communications.

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67-17.2.2 Video Cassette Film "FBI Academy - New Agents' Training"

Prior to testing all SA applicants are required to view the Video Cassette Film, "FBI Academy - New Agents' Training." Should an applicant, upon viewing this film, express hesitation relative to his/her desire and ability to attain the SA position, he/she should be counseled to postpone testing until these uncertainties have been completely resolved. In addition, all applicants should be made aware of the fact that they must successfully pass all three phases of training, i.e., academic, physical, and firearms, before graduation from New Agents' Training. They should be orally advised of the requirements in each phase of training, and particular emphasis should be placed on the need for each applicant to be in good physical condition prior to entry on duty.

EFFECTIVE: 02/25/91

67-17.2.3 Selection System Briefing

During testing procedure all SA applicants must be given a briefing relative to our preemployment selection process. This briefing must include the fact that test grades are utilized to determine an applicant's eligibility for interview. After applicant has been interviewed, a combination of test and interview scores is utilized to rank applicants. The highly ranked individuals are then selected for further consideration based on the specialized needs of the FBI. Any necessary travel expenses incidental to the testing or interviewing must be borne by the applicant, unless such travel is ordered by FBIHQ, in which case FBI will bear cost. At no time should it be assumed that an appointment is forthcoming because the opportunity for testing and/or interviewing is offered. Prior to any appointment being made, applicants ranked highly as a result of test and interview scores are thoroughly investigated for the purpose of determining each applicant's suitability for employment as a Special Agent. Appointments are made on a competitive basis due to the limited number of vacancies occurring in this position.

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67-17.2.4 Tests Given to SA Applicants

(1) All applicants for the SA position are to be afforded the following:

(a) Special Agent Entrance Examination - An examination composed of two ability and three behavioral tests designed to predict Special Agent job performance. The test booklet is not to be written in. Answers are recorded on a marksense Agent Answer Sheet (FD-656) which is computer graded at FBIHQ. It is essential that the instructions on the answer sheet, particularly those pertaining to the coding of responses, be closely followed.

(b) Deleted

(c) Firearms Proficiency Indicator - These tests are designed to predict an applicant's potential for success in the firearms portion of new Agent's training and are to be administered to all SA applicants at the time the Special Agent Entrance Examination is given. The Principal Firearms Instructor should administer the test; in his/her absence an approved Firearms Instructor is authorized to administer the test. All weapons used in these tests must be carefully inspected by the firearms instructor before they are ever handed to an applicant, to ensure they are unloaded and in a safe condition. The results of these tests are to be furnished to the Special Agent and Support Applicant Unit, FBIHQ.

1. Service Revolver - Utilize one of the test weapons, Model 13, provided by Quantico specifically for this purpose. The applicant must take the test in the standing position with a one-hand grip and the arm locked straight out at shoulder level and parallel with the floor. The applicant will then pull the trigger, double action, as many times as possible in 30 seconds. The procedure will be repeated with the other hand and both scores recorded. Minimum passing score is 40 for both strong and weak hands. Any test score more than 60 days old is invalid and candidates must be retested, if necessary.

2. Service Rifle - Utilize an M16A1 (M), .223-caliber rifle without a recoil pad with a weight of 7 pounds 8 ounces. Place the weapon to the shoulder in firing position with the weak hand on the foregrip and the strong hand index finger on the trigger. Hold the weapon in this position for one minute. Record whether the applicant can accomplish this test.

3. Service Shotgun - Utilize a Remington Model

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870 12-gauge pump shotgun with a recoil pad a distance of 14 inches from butt to trigger. Place the weapon to the shoulder in firing position with the weak hand on the foregrip and the strong hand index finger on the trigger. Record whether the applicant is able to reach and operate the trigger with the trigger finger.

Any applicant who, upon initial testing, is unable to achieve a minimum score of 40 with either hand in the trigger-pull test should be furnished a copy of the physical exercises which have been designed to improve grip strength. If such an applicant becomes eligible for further processing, he/she should be retested at time of interview. Any applicant who still has a weakness in the trigger-pull test at that time but is considered an acceptable candidate as a result of the overall interview should be strongly urged to continue to work on developing grip strength to the point where a score of at least 40 in the trigger-pull test can be attained. Retests to assess improvement should be conducted according to the time schedules of both the applicant coordinator and the applicant involved. Results of any testing should be forwarded to FBIHQ. If records indicate that an applicant selected for a background investigation has not yet been able to score 40 in the trigger-pull test, he/she should be retested to determine current level of performance at the time the background investigation is ordered. Thereafter, it will be the responsibility of the office in whose territory the applicant resides to work with the applicant and monitor his/her progress to ensure the applicant is afforded every opportunity to improve to the degree that successful completion of training school can be expected. Progress reports should be submitted to FBIHQ for inclusion in the applicant's file.

(2) Accounting Test - This is a standardized proficiency test designed by the American Institute of Certified Public Accountants. It is to be administered to educationally qualified applicants prior to the Special Agent Entrance Examination and graded by the processing field office. Applicants who have passed a Certified Public Accountant examination, whether or not they are registered Certified Public Accountants, are exempt from taking the accounting proficiency test and should be expeditiously afforded the Special Agent Entrance Examination. Also, if an applicant qualifies under the Diversified, Law, or Engineering/Science Program, as well as the Accounting Program, he/she can be afforded the Special Agent Entrance Examination without awaiting the results of the accounting examination.

(3) Foreign Language Tests - |(See MAOP, Part I, 22-1.)|

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EFFECTIVE: 09/08/93

67-17.2.5 Deleted

EFFECTIVE: 12/16/88

67-17.2.6 Special Agent Applicant Interview Board Background
Information Form (FD-510)

The FD-510 may be filled out by all applicants at the time of testing and maintained in the field office file until such time as the individual is scheduled for interview.

EFFECTIVE: 12/16/88

67-17.2.7 Retesting

(1) Applicants who when first tested were afforded the test battery consisting of the Cognitive Functions Test and the Agent Entrance Test are eligible to test a total of three times. Thus, applicants who have taken the aforementioned test battery once can take the Special Agent Entrance Examination twice, but applicants who have taken the test battery twice are eligible to take the Special Agent Entrance Examination only once. Six months must elapse between such applicants' first and second testings and one year between the second and third testings. Applicants whose first testing occurred after the implementation of the Special Agent Entrance Examination will be permitted to retest only once, with a one-year waiting period being required between tests. If an applicant elects to retest, the higher Special Agent Entrance Examination score will prevail. Individuals who decide to retest are allowed to retain a previous interview score, if they so desire. (See MIOG, Part I, 67-17.3(2).)

(2) The Accounting Proficiency Test, if passed the first time, is not to be readministered. The Accounting Proficiency Test is limited to two test opportunities with a one-year interval between each test. The higher of the two test scores will remain as the score of the record. (See MAOP, Part I, 22-1 regarding foreign language tests.)

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EFFECTIVE: 09/08/93

67-17.3 Interviewing SA Applicants

Special Agent applicants who were initially afforded the test battery consisting of the Cognitive Functions Test and the Agent Entrance Test can be granted as many as three interviews at graduated intervals. Six months must elapse between an applicant's first and second interview and one year between the second and third interview. Applicants whose first testing occurred after the implementation of the Special Agent Entrance Examination will be permitted to interview a maximum of two times, with a one-year waiting period being required between interviews.

(1) Initial Special Agent interviews - See 67-17.3.2 (1). Support, former employees and relatives of on-board and former employees should be scheduled for interview in another office.

(2) Applicants who retest can retain their original interview score, if they so desire, and applicants who do not wish to retest can request an additional interview. Any individual who receives an interview beyond the initial one will forfeit any previous interview score, the last interview score being the one of record.

(3) Reinterviews - are to be automatically scheduled by the field upon the request of Special Agent applicants provided the following criteria have been met: the initial results are acceptable; the Special Agent Entrance Examination results are currently competitive under a minimum of one selection category; and the required one-year waiting period has been fulfilled since the initial interview. Field offices are not to advise FBIHQ that reinterviews are being scheduled.

(4) It is necessary to request FBIHQ authorization to reinterview any candidate who was previously rated as "unacceptable," since these are permitted on a very selective basis after a consideration of all factors involved.

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67-17.3.1 Deleted

EFFECTIVE: 02/25/91

67-17.3.2 Interview Board

(1) When eligible, SA applicants will automatically be interviewed by an interview board consisting of three Special Agents, all of whom must have attended the one-week in-service training program for the Targeted Selection Interview (TSI). This is an absolute policy. No exceptions may be made, and the presence of any untrained interviewers on the panel may open the TSI process to a challenge as to the validity of the interview. Supervisory personnel above the relief supervisor level may not participate on the Interview Board. (See MIOG, Part I, 67-17.3 (1).)

(2) All offices MUST conduct a TSI panel interview within established Buded. To expedite processing, each applicant should have been provided an FD-140 at time the entrance examination was afforded, with instructions to complete same. Then, upon notification of eligibility for interview, there will be no delay in having the applicant's FD-140 available for the TSI board.

(3) At the conclusion of the panel interview, the interview should be recorded on the Special Agent Interview Form (FD-190) and immediately scored by the field office. Once the TSI is scored, should the score be competitive, the field is to forward all processing material to the SAAU within established Buded for background initiation consideration. The SAAU will not authorize any background investigation unless in receipt of the FD-190 and the typed interview narrative. Should the score not be competitive, the field office is to forward all processing material directly to the Information Resources Division. In both instances, it is the lead interviewer's responsibility to ensure that the FD-190 has been signed by all three interviewers.

(4) Priority of Interviews - Interviews are to be conducted in accordance with the priorities established by FBIHQ, and furnished to the field periodically.

(5) Availability of Interviewers - Interviewers are to be made available in each field office to ensure SA applicant interviews are conducted in a timely fashion.

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(6) Interviews must be carefully planned, penetrative, exhaustive, and designed to determine an applicant's suitability for the position of Special Agent and to develop any information bearing on his/her suitability for the position. A copy of the FD-190 and narrative is furnished to each auxiliary field office when the background is initiated. It is utilized by investigatory personnel for the purpose of verifying and expanding on the information provided by the applicant during the interview.

(7) Special Agent Dimension Evaluation Work Sheet (FD-511) - FD-511 is to be utilized as note-taking device during the course of interview. Each member of the interview board is to fill out one copy of this form during the interview and subsequently make his/her own independent numerical evaluation of the applicant in each dimension being evaluated. The composite grade on each dimension is arrived at after discussion within the interview board and is then recorded on the FD-190. It is not necessary to fill out an additional FD-511 with a composite grade. The FD-511s are then attached to the FD-510 (Special Agent Applicant Interview Board Background Information Form) and maintained in the field office applicant file subject to normal file destruction procedures.

EFFECTIVE: 04/07/97

67-17.3.3 Deleted

EFFECTIVE: 02/25/91

67-17.3.4 Special Agent Interview Form (FD-190)

All SA applicant interviews are to be recorded on Form FD-190 and forwarded to FBIHQ, as instructed in 67-17.3.2 (3).

(1) The FD-190 must be accurate, completely executed and signed by all three interviewers. Interviewers are obligated to report on this form any information of a derogatory nature developed during the course of the interview which might have any bearing on the applicant's suitability for the SA position.

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(2) In connection with Item #13, Special Agent applicants must be advised that it will be necessary for them to agree to remain in the Bureau's service for at least three years if they receive an appointment and their work is satisfactory. Interviewing Agents must make certain that each SA applicant thoroughly understands the responsibilities inherent in the SA position, that long hours are demanded, that occasional personal hardships are involved, that all assignments are based upon the needs of the service, and that Agent personnel are expected to be completely available for general or special assignment wherever their services are needed.

(3) Item #17 concerning drug usage, if answered affirmatively, must be fully commented on in narrative comments. Ascertain during the interview the exact and complete details of any and all usage as well as the applicant's attitude with regard to usage and the law. The foregoing applies only to marijuana and not to any other drugs of abuse, any usage of which, regardless of the degree, is grounds for an unfavorable recommendation.

(4) Item #27 (Narrative Comments) must contain detailed behavioral justification for numerical grade awarded or each of the eight dimensions, set forth in the same order as dimensions are arranged on the FD-190.

EFFECTIVE: 04/19/91

67-17.3.5 Interview by SAC or ASAC

Subsequent to the interview by the interview board, at the discretion of the SAC, an applicant may be interviewed by either the SAC or the ASAC. Concurrence or nonconcurrence with the findings of the interview board will be reported in the form of an addendum to the FD-190.

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67-17.3.6 Processing of Support Personnel

(1) When a support employee is within the specified time frame of fully qualifying under any of the various Special Agent programs, and provided that his/her services in a support capacity are rated Fully Successful, employee's qualifications are to be briefly set forth in a communication to FBIHQ, with a request to process for the SA position. If employee received his/her college degree after entry on duty with the FBI, a copy of this degree or a transcript of college credits showing issuance of the degree should be attached to the communication. Additionally, if employee is attempting to qualify under the Engineering/Science Program, college transcripts should also be submitted. After review, FBIHQ will issue specific instructions regarding processing, but the written examination to be given employee will be the same as that afforded other applicants. A support employee's test will be processed at FBIHQ, and a letter advising employee of his/her status based on test performance will be sent directly to employee. A copy of same will be forwarded to the SAC, Assistant Director or Inspector in Charge of the division/office to which employee is assigned. (See MAOP, Part I, 17-2.1(4).)

(2) Interviews are afforded support employees only upon specific instructions from FBIHQ. A support employee's formal interview is conducted by the interview board of a field office other than the one to which employee is assigned and will be appropriately designated by FBIHQ in the aforementioned instructions. In the case of support personnel assigned to FBIHQ, the interview will be conducted in one of the surrounding field offices. These interviews must be identical to those afforded to individuals applying from outside the Bureau. The FD-140, FD-190 and typed narrative must be forwarded directly to SASAU for scoring. The results of the interview will be sent to employee by means of a computer-generated status letter.

(3) When a support employee is selected for consideration for appointment to a New Agents' Training Class, a written communication containing processing instructions will be sent by FBIHQ to the employee's office of assignment. Specific comments and recommendations are to be given, in the form of separate memoranda, by each of employee's current and former supervisors to cover a two-year period. Comments should also be obtained from the SAC and a representative number of co-workers, including Agent personnel who are familiar with the employee and can comment relative to his/her suitability for the SA position. If comments and recommendations are favorable, employee should be given a complete physical examination. A drug screening test should also be taken; and arrangements should be

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made to interview employee's spouse, if married. A current application should be obtained and investigation conducted to update all items since employee's entry on duty, including up-to-date criminal checks on all listed relatives. A current neighborhood check should be conducted to include any applicant who currently resides with a relative who is a Bureau employee. It is necessary to interview, conduct arrest and indices checks on CURRENT roommates. FORMER roommates who have resided with the applicant for the past five years should also be interviewed and indices checks conducted on them. Arrest checks should be conducted on former roommates ONLY if a date of birth is provided by the applicant. If the roommate resided with the applicant OVER five years ago, no investigation will be necessary. The only checks not to be initiated are credit checks which will be handled by FBIHQ. References and social acquaintances should not be interviewed. If appointed to the SA position, the support employee will, at the appropriate time, proceed to the FBI Academy at Quantico, Virginia, where he/she will be administered the oath of office.

(4) Support employees meeting the requirements for SA position will continue to be considered for possible appointment to this position upon separation from Bureau service, if they so desire. (See MAOP, Part I, 17-2.1(4).)

EFFECTIVE: 11/25/94

67-17.3.7 Computation of Grades

- (1) Test Ranking Grade (TRG) - This is the grade that is achieved by an applicant in the testing portion of the Special Agent Selection System. It has a maximum of 45 points and is based on an applicant's performance in the Special Agent Entrance Examination.
- (2) Interview Grade - An applicant may earn a maximum of 55 points in the interview.
- (3) Percentile Ranking Grade (PRG) - This is an applicant's total score under the Selection System. It is composed of the TRG, to which is added the interview grade and veterans' preference points, where applicable. The PRG is utilized to rank each applicant in the program(s) under which he/she may qualify.

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(4) Veterans' Points - Any veterans' points earned are awarded one-half to the TRG and one-half to the interview grade if the candidate achieves the minimum qualifying scores on both the test and the interview.

(5) Reprocessing - If an applicant elects to be reprocessed, the higher test score will be the score of record. This score will be combined with the most recent interview score to arrive at the PRG.

EFFECTIVE: 02/25/91

67-17.3.8 Special Agent Reinstatement Requests (See MIOG, Part I, 67-7.11.)

Reinstatement of a former Special Agent is by no means an automatic process. Since resignations and reinstatements of Special Agent personnel are costly to the Bureau, it is to our advantage to keep turnover to a minimum. The Bureau is very favorably disposed to reinstating former Agents because of the benefits that experienced Agents bring back to the FBI. Reinstatement appointments are, however, at the discretion of management and other factors will be considered when approving such an appointment, including the FBI's anticipated hiring plan and specialized needs.

(1) To qualify for reinstatement consideration:

(a) Former Agents who have met their initial three-year obligation during prior service may apply for reinstatement at any time, without regard to the length of time since their resignation. However, reinstatement requests will be denied to applicants who cannot complete 20 years of FBI service by mandatory retirement age.

(b) Deleted

(c) Individuals who are eligible for reinstatement consideration based on the above guidelines will then be required to meet the following criteria:

1. Must meet the same entrance-level medical and general suitability guidelines of a new applicant;

2. Must be completely available for

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assignment/transfer anywhere in the Bureau;

3. Must have received at least an overall Fully Successful rating on all performance appraisals;

4. Must successfully complete an SAC/ASAC interview and be recommended for reinstatement by the interviewer;

5. Must be recommended for reinstatement by his/her former FBI supervisors and co-workers;

6. Must not have resigned during or as the result of an administrative inquiry;

7. Must not have resigned due to academic, firearms or physical fitness failure during New Agents' Training;

8. Must not have retired from the FBI.

(2) Upon receipt of a reinstatement request from a former Agent, you should immediately forward same to FBIHQ. A review of the former Agent's personnel file will be conducted. The request will be immediately denied if any unfavorable information exists or if the individual fails to meet the above guidelines.

(3) If no information is located which warrants an immediate denial, the SAC of the office covering the applicant's current residence will be requested to conduct an in-depth interview of the former Agent. Concurrent with or shortly after the SAC's interview, comments will be solicited from former supervisors and co-workers about the individual's performance and suitability for reemployment. After the above material has been reviewed, a decision will be made as to whether the reinstatement request will be further considered.

(4) Assuming that the comments are favorable and further action is to be taken, an updated background investigation (see Section 67-7.11 for general instructions concerning the updating of investigations), physical fitness test, drug test, physical examination, Personnel Security Interview (PSI) and polygraph examination will be ordered.

(5) Assignment of SAs who have been reinstated will be determined by the Special Agents Transfer Unit based strictly on the needs of the Bureau. The Agent will be given the opportunity to indicate geographic preferences; however, ultimate assignment will be

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determined by the staffing needs of the field offices as well as the need for any skills the Agent may possess. First consideration will be given to assign the Agent to his/her last office of assignment. Unique and unusual situations will continue to be addressed separately and evaluated on a case-by-case basis; for example, reinstating an Agent who qualifies for a Personnel Resource List transfer or who is married to an on-board Agent. (See MAOP, Part I, 11-13.)

(6) Former Agents who were in grades GS-10 through GS-13 at the time of their resignation will be reinstated at their former grade level. Former Agents who were in grades GS-14 or higher will be reinstated at the GS-13 level. (See MAOP, Part I, 8-9.)

(a) Reinstated GS-10 through GS-13 Agents will be placed in a step within the rate range (Steps 1 to 10) of their former grade level that equals as much as the highest previous rate he/she received for previous federal government service. To receive the highest previous rate, the individual's former pay system must be compatible with that of the FBI (i.e., General Schedule).

(b) Agents who resigned at grade GS-14 or higher will be placed in the step of the GS-13 rate range, not to exceed Step 10, that equals as much as the highest previous rate they received for previous federal government service, if the former pay system is compatible with that of the FBI.

(c) A "highest previous rate" is defined as the highest rate of basic pay previously paid to an individual while employed in the federal government. This provision has reference to the actual salary rate rather than the step rate within the grade. The highest previous rate must be for employment in excess of 90 continuous calendar days and cannot be based on a special salary rate or on a rate received for an appointment as an expert or consultant.

(7) A former Agent who at the time of reinstatement has been off the Bureau's rolls for MORE than two years is required to again complete New Agent's Training School. Those who have been off the rolls for LESS than two years will be ordered to report directly to one of our field offices.

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CLASSIFICATION 67E--REINVESTIGATION OF FBI PERSONNEL
(See also MIOG, Introduction, 2-2.4.3; Part I, 259-1,
261-1; Part II, 26-10; MAOP, Part I, 20-2.5.1, 20-25,
20-26.)

The 67E personnel reinvestigation classification was in existence at the time the FBI Security Program was approved as an operational program at both Headquarters and in the field in September, 1986. Personnel reinvestigations are an integral part of the Program. However, in order to avoid creating additional files on FBI employees by creating new classifications, it was decided employee investigations emanating from the FBI Security Program would be TURK'd under the existing numerical and alpha designator 67E. Therefore, 67E was reprogrammed from the Applicant Investigations Nonreimbursable Program to the FBI Security Program.

(1) FBI employee reinvestigations are conducted to determine whether or not an employee's continued federal employment is consistent with the interests of national security. The following FBI Security Program activities reflect the various types of reinvestigations where the focus is on employee "trustworthiness" for continued access to National Security Information (NSI) under provisions of Executive Order (EO) 10450 entitled "Security Requirements for Government Employment."

(a) MARRIAGE PROGRAM: This is an investigation of the intended spouse of an FBI employee to determine whether or not the marriage could result in the possible coercion or undue influence by the intended spouse over the employee so as to possibly compromise NSI. (See Manual of Administrative Operations and Procedures (MAOP), Part I, Section 20-2.5.1 and MIOG, Part I, 67-18.1.2(2)(k).)

(b) FIVE-YEAR REINVESTIGATION: In compliance with Executive Orders and Federal Personnel Security policies, all FBI employees are subject to a five-year reinvestigation, which consists of a personnel file review, interviews of employee, supervisors, co-workers, neighbors, references, associates, and roommates, verification of court actions, military service, and education, and criminal and indices searches on the employee and all individuals over the age of 16 residing with the employee. This reinvestigation will cover the period within five years of the date of the employee's entry on duty and at least once every five years thereafter. The results of this investigation will be adjudicated to determine the employee's eligibility to continue access to national security information. (See MIOG, Part I, 67-18.1.1, and MAOP, Part I, 20-26.)

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(c) TRAVEL PROGRAM: This reinvestigation consists of a determination as to what, if any, impact the proposed foreign travel of an employee will have on his/her trustworthiness. This type of reinvestigation could consist of briefings/debriefings, possibly polygraph examinations, etc. (See MAOP, Part I, Section 1-20.)

(d) DELETED

(e) SENSITIVE COMPARTMENTED INFORMATION (SCI) INVESTIGATIONS AND REINVESTIGATIONS: The Security Programs Manager (SPM), FBIHQ, will initiate and direct the field to conduct the initial and five-year update investigations.

The Security Countermeasures Program Manager (SCMPM) within each field office and FBIHQ component is required annually, usually by May 1st of each calendar year, to recertify each employee's SCI access level. The Security Programs Manager (SPM), FBIHQ, is to forward to each FBI component a list of employees with SCI access. The list will contain the employee's name, social security number, SCI access, briefing date/debriefing date and comment section. The comment section is to be used to justify an employee's continued SCI access.

Upon completion of the review and recertification process, the list is to be returned to the SPM, FBIHQ. (See Part II, 26-10.2.6, of this manual and National Foreign Intelligence Program Manual, Part I, 8-2.10.6.)

(f) ROOMMATE BACKGROUND DATA PROGRAM: This is an investigation of all individuals (non-Bureau/nonmembers of the immediate family) with whom an employee resides or intends to reside for a period of 30 days or more. The purpose of this investigation is to assist the FBI in making a determination that an individual residing with an employee does not constitute a potential threat to the national security of the United States, or an imminent threat to the personal safety of an employee. (See MAOP, Part I, Section 20-25.)

(2) The above listing is REPRESENTATIVE of those personnel reinvestigations which will be conducted under the auspices of the FBI Security Program, and field time expended will be TURK'd to the 67E classification. There will be other employee reinvestigations which do not fall squarely within the listing above, and they will also be TURK'd to the 67E. An example of the latter would be excessive financial hardship of an employee.

(3) The other classifications in the FBI Security Program

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are 259, 260, and 261 and are explained in those sections of the MIOG, Part I.

(4) Any questions regarding policy and/or procedures under this classification should be directed to the SPM, Security Countermeasures Section, National Security Division, or members of the SPM's staff in the Personnel Security Unit.

EFFECTIVE: 04/10/96

67-18.1 Procedures for Specific Programs

EFFECTIVE: 12/10/91

67-18.1.1 Five-Year Reinvestigations (See MAOP, Part I, 20-26; MIOG, Introduction, 2-2.4.3; Part I, 67-18.)

The following investigative and recordkeeping instructions are designed to (1) make the most effective use of our limited personnel resources; (2) provide appropriate privacy to the data developed by the investigation; and (3) ensure the FBI is in compliance with National Security Directive 63, Department of Justice Order 2610.2A, and Federal Personnel Manual requirements for government employees with "Top Secret" security clearances.

(1) The SPM's staff will forward directly to the personal attention of the SAC, Legal Attache, Assistant Director in Charge (ADIC), or, in the case of FBIHQ, the Division Assistant Director (AD) or Inspector in Charge, a computerized listing of employees subject to a five-year reinvestigation. These individuals will be mandated to execute Form FD-814, entitled "Five-Year Reinvestigation Questionnaire." Within five years of the date of EOD and at least once every five years thereafter consistent with guidance furnished by the Security Programs Manager (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 could result in the termination of the employee's "Top Secret" security clearance.

(2) Upon receipt of the SPM's computerized listing of

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employees subject to five-year reinvestigations, the field division's investigation will be designated a "67E" matter using the Universal Case File Number of the FBIHQ file and thereafter opened and assigned to the Security Officer (SO), Security Countermeasures Program Manager (SCMPM), and/or other individual deemed appropriate to handle this responsibility. This individual must be one able and willing to afford these matters the extraordinary security and privacy warranted due to the sensitive nature of these investigations.

All information about the employee is to be maintained in the 67 Sub S personnel file and kept under the direct supervision and security of the SAC or ADIC. At FBIHQ, the 67 Sub S personnel file will be maintained in the Special File Room, Information Resources Division.

(3) | The SCMPM/SO should obtain a completed FD-814 from each designated employee. The SCMPM, SO, or other designated employee(s) will review the FD-814 with the employee to ensure completeness and accuracy. Forms with questions unanswered or not signed will be returned. |

(4) | The SO or other designated security-trained individual should conduct a Personnel Security Interview (PSI) to identify any areas of potential concern. The results of this PSI should be reported on an FD-302. During the PSI, the employee's FD-814 should be reviewed and the following additional information should be obtained:

(a) The names, addresses (both residence and business), and telephone numbers of three references and three associates who preferably are not FBI employees.

(b) Identify the name, location, and telephone number of employee's current supervisor.

(c) Current addresses and telephone numbers of former roommates should be obtained.

(d) Outside employment of employee.

(e) Alternate residences, such as vacation homes, where the employee might spend a substantial number of days during the calendar year.

(f) Full identifying data will be obtained concerning the other parent of each child born to the employee. This should include name, date of birth, current address, current degree of

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association, social security number (if available), and any other information available concerning this (these) individual(s).

(g) Include an in-depth discussion of the employee's financial and personal situation as it may impact on issues of trustworthiness.

(h) As an accommodation to employees who reside in neighborhoods where knowledge of FBI employment could be detrimental and/or whose neighbors are unaware of their employment, the PSI should include questions designed to elicit this information. Neighborhood investigations will be conducted unless a waiver is requested and received from the SPM.

(5) Each employee will be afforded a reintroduction to their responsibilities in handling sensitive and classified information by reviewing the appropriate briefing form(s). The employee should read and sign each form.

(6) In Headquarters Divisions, the original FD-814, PSI, and additional releases, as necessary, will be forwarded to the SPM, PSU, FBIHQ. The original notes for the PSI will also be forwarded for retention in the Sub S file. FBIHQ PSU personnel will set out leads as required.

(7) In those field offices covered by the Background Investigations Contract Services Unit (BICS), the original FD-814, PSI, results of office indices searches and criminal checks for employee and all individuals over the age of 16 residing with the employee (for field office personnel), and additional releases, as necessary, will be forwarded to the SPM, PSU, FBIHQ, within 30 days from the receipt of the opening communications. A copy of the documentation will also be retained in the employee's field Sub S file. FBIHQ personnel will set out leads as required. (See (12).)

(8) In those offices not covered by BICS, the SCMPM should assign senior, mature Agents in view of the fact that they will be conducting investigations regarding personnel assigned to their office. The sole purpose of the investigation is to assure the employee merits continued access to national security information. Therefore, the investigation will focus in the areas of the character and trustworthiness of the employee.

(a) The full-field reinvestigation will include the following:

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1. Neighborhood inquiry at any place of residence during the past five years (minimum of four neighbors per residence absent extenuating circumstances).

2. Interview of supervisors and co-workers at all places of employment (including FBI) during the period covered.

3. Interview of references, associates, and any roommates who resided with the employee during the period covered.

4. Law enforcement record checks in all jurisdictions of residence, employment, and alternate residences for the employee and all individuals over the age of 16 residing with the employee.

5. Verification of educational courses completed during the period covered.

6. Verification and documentation should be obtained for any court action.

7. Any other investigation deemed appropriate based upon information developed during the inquiry.

(b) Leads should be sent by the office of origin (OO) to lead field offices. A 67E file is to be opened and assigned. Results of investigation should be returned to the OO in sufficient time for inclusion in the final report which is to be submitted by Buded.

(c) The completed package, consisting of the complete FD-814, the PSI, briefing forms, and the original completed reinvestigation report, should be sent to FBIHQ, Attention: PSU.

(9) | In all cases, correspondence is to be sent in a sealed envelope and be directed to the "PERSONAL ATTENTION" of the employee's current SAC, ADIC, or to the PSU for all employees assigned to FBIHQ, so that suitable security will be afforded the transmittal of the investigative results. In those occasions where a lead is required to be sent to BICS, the correspondence is to be sent in a sealed envelope and directed to the "PERSONAL ATTENTION" of the BICS Unit, Northern Virginia Metropolitan Resident Agency. |

(10) | Adverse information is to be fully developed by the SCMPM, SO, or other designated security-trained individual. The results are to be recorded and furnished to the employee's SAC, ADIC,

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AD, or Inspector in Charge for consideration and immediate action, if warranted. Simultaneously, the developed information is to be forwarded to the FBIHQ, PSU, for review, further investigation, if necessary, and adjudication.

(11) Information acquired during this reinvestigation that would be considered inconsistent with the standards set forth in Executive Orders 10450, entitled "Security Requirements for Government Employment," and 12968 entitled "Access to Classified Information," requires a security adjudication by the SPM, FBIHQ. The purpose of the security adjudication is to determine the trustworthiness of the employee and whether or not the employee's access to classified or sensitive information should be continued.

(12) In those offices not covered by BICS, completed investigation, including the fully executed FD-814, is to be forwarded to the SPM, PSU, FBIHQ, within 90 days from the receipt of the opening communication. In those offices covered by BICS, the original FD-814, PSI, and other requested information, as indicated supra in 67-18.1.1(7), is to be forwarded to the SPM, PSU, FBIHQ, within 30 days from the receipt of the computer-generated listing.

(13) All communications concerning an employee's reinvestigation should be filed in the employee's "67 Sub S" file. (See MAOP, Part I, 20-4.1.)

EFFECTIVE: 04/10/96

67-18.1.2 Marriage Program (See MAOP, Part I, 20-2.5.1 (6).)

The Security Officer (SO) will review the FD-292, "Change in Marital Status" form, and the results of a field office records check to determine if a Personnel Security Interview (PSI) is required. The PSI is required when the FD-292 and/or the results of a field office records check indicates certain factors (set out below) are present. The following information describes factors under which a PSI should be conducted, who should conduct the PSI, areas to cover during the PSI, proper submission of results to FBIHQ, and how to capture time spent on the PSI for Time Utilization Recordkeeping (TURK) purposes.

(1) Role of Executive Order (EO) 10450 in Bureau Employee PSIs

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(a) EO 10450, entitled "Security Requirements for Government Employment," requires the government employment of or retention in employment of any individual to be clearly consistent with the interests of national security. It requires all federal employees to be reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States. It enumerates the following security factors which, depending on the relation of the government employment to the national security, must be considered as criteria in evaluating cases. The security criteria most often emerging with change in marital status cases are:

1. Any behavior, activities, or association which tend to show that the individual is not reliable or trustworthy.

2. Any deliberate misrepresentations, falsifications, or omission of material facts.

3. Any facts which furnish reason to believe that the individual may be subjected to coercion, influence, or pressure which may cause the person to act contrary to the best interests of national security.

4. Other criteria warranting consideration in evaluating cases, but arising less frequently, are enumerated in EO 10450, Section 8(a). (Each SO retains a copy of EO 10450.)

(b) The SPM, utilizing the minimum standards set forth in EO 10450, after reviewing the results of the investigation, adjudicates whether the employee remains reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States.

(2) Instructions for the Initiation and Conduct of PSI

(a) The processing field office, utilizing guidelines set forth, will review the FD-292 and initiate appropriate action for the PSI to be conducted.

(b) The SO of the processing field office will review the FD-292 and will initiate the PSI simultaneously with the initiation of the background investigation. The processing field office will advise the Personnel Security Unit, Security Countermeasures Section, National Security Division (NSD), by a notation at the bottom of the FD-388, the cover letter for the FD-292, that a PSI is required and must be conducted and reported by the same

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Bureau deadline.

(c) A PSI will be instituted whenever any of the following factors are present after a review of the FD-292:

1. The intended spouse is foreign born and does not have United States citizenship.

2. The employee may have possible contact with foreign nationals, as a result of the marriage (i.e., future in-laws are not United States citizens residing in or out of the United States).

3. The intended spouse has a criminal record.

4. The intended spouse is sought by law enforcement authorities in connection with an outstanding warrant.

5. The intended spouse has questionable associations.

(d) While the Special Agent in Charge (SAC) will have the discretion to designate the Special Agent (SA) to conduct the PSI, it is considered beneficial to utilize an FCI-experienced Agent when conducting PSIs when the Bureau has an investigative interest in the country of the intended spouse's origin.

(e) When the background of an employee's intended spouse or future in-laws indicates any connection (travel, residence, relatives, contacts, etc.) with a specified foreign country (see NFIP Manual, Introduction, 1-1.1), an FCI-experienced Agent should conduct an in-depth PSI and determine whether the employee would submit to a voluntary polygraph examination to resolve any remaining security concerns, should a substantial basis exist in accordance with existing FBI policy.

(f) In those cases where the concerns center around the criminal record of the employee's intended spouse, an outstanding open warrant(s) exists for the employee's intended spouse, or the intended spouse has dubious associations, the SO of the processing field office and/or other personnel designated by the SAC should conduct the PSI.

(g) Although the main thrust of the PSI should be developed through expertise of the interviewing personnel, the following points, at a minimum, and where applicable, must be

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addressed:

1. Personal contacts or associations developed with foreign nationals, as a result of employee's marriage.
2. Degree of association and any relevant background data regarding future in-laws and associates who are not United States citizens.
3. Intended spouse's immigration status and consideration for seeking United States citizenship.
4. Determine the employee's awareness of the criminal record of his/her intended spouse.
5. If the employee is aware of the criminal record of his/her intended spouse and this information was not provided on the FD-292 (Question 8 on the FD-292), determine why this information was not provided.
6. Determine if employee knows of any circumstances which could cause him/her to be subjected to coercion, influence, or pressure due to employee's marriage.
7. When the criminal record of the employee's intended spouse centers around illegal drug usage, possession, or distribution of illegal drugs, determine the employee's knowledge of his/her intended spouse's previous or current involvement with illegal drugs and provide details of employee's knowledge.
8. Determine if the employee is familiar with any of his/her intended spouse's associates who may have criminal records and ascertain to what extent he/she has contact with those associates.
9. Determine if the employee's intended spouse or any of the intended spouse's associates made any specific inquiries concerning the FBI duties or the type of information accessible to the employee.
10. Determine if the employee deliberately or inadvertently disclosed sensitive FBI information to the intended spouse or any of his/her associates.
11. The field office will ensure all outstanding warrant(s) are resolved as soon as possible, either by the employee or

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by notifying local law enforcement agencies concerning same.

12. Solicit an explanation from the employee concerning any delinquency in notifying FBIHQ of their marriage (see the MAOP, Part I, Section 20-2.5.1), especially when the delinquency is further aggravated by security concerns arising from the marriage.

13. An unsatisfactory explanation regarding the delinquent submission of Form FD-292 will be referred to the Administrative Summary Unit, Personnel Division, for appropriate administrative action.

14. Failure to execute Form FD-292 will be construed as insubordination and could result in both administrative action and the suspension of the employee's access to classified information until the matter is resolved.

15. In all cases, should a substantial basis exist in accordance with existing FBI policy, ascertain whether the employee will submit to a voluntary polygraph examination to dispel any remaining security concerns.

(h) Following the completion of the PSI, the SO and/or other personnel designated by the SAC, must afford the employee a security awareness briefing, specifically tailored to highlight the security concerns of his/her intended spouse's or his/her family's background, associations, or any other circumstances developed during the PSI and the investigation. This briefing should further remind the employee of his/her responsibility to safeguard national security information and to protect information obtained by him/her, as a result of his/her FBI employment. The employee should be reminded of his/her responsibility to report attempts by anyone to obtain information from him/her and of the criminal penalties for unauthorized disclosures.

(i) In all cases, the SO of the processing field office will review the executed FD-292 for completeness. This review should also identify any facts, as enumerated in EO 10450, which furnish reason to believe 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. The SO must also determine if the employee has access to Sensitive Compartmented Information (SCI) or is being considered for such access and note same in the communication containing the

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results of the PSI and the security awareness briefing. The SPM, in his/her capacity as the designated representative of the Director regarding SCI matters, will evaluate the eligibility of the employee for access to SCI in accordance with the Director of Central Intelligence Directive (DCID) No. 1/14, entitled "Minimum Personnel Security Standards and Procedures Governing Eligibility for Access to SCI." Simultaneously, the SPM will address the security issues bearing on the employee's continued trustworthiness and "Top Secret" security clearance. (Each SO retains a copy of DCID No. 1/14.)

(j) The results of the PSI, investigation and security awareness briefing will be transmitted immediately upon completion by electronic communication to FBIHQ, marked to the attention of the SPM. The caption should list: Official Bureau Name, Position, EOD, Division, Reinvestigation of FBI Personnel, Change in Marital Status.

(k) The time expended on the interview of the employee is to be captured for TURK purposes under the FBI Security Program, entitled "Reinvestigation of FBI Personnel," by utilization of classification 67E. The alpha designator (E) will be followed by the Universal Case File Number of the FBIHQ file. (See MIOG, Part I, Section 67-18(1)(a).)

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SECTION 69. CONTEMPT OF COURT

69-1 STATUTES

Title 18, USC, Sections 401, 402, 3285, 3691, 3692; Title 10, USC, Section 847; and Rule 42, Federal Rules of Criminal Procedure.

EFFECTIVE: 01/31/78

69-1.1 Section 401 (Power of Court)

EFFECTIVE: 01/31/78

69-1.1.1 Elements

- (1) A person misbehaves
- (2) In the presence of the court or so near thereto as to obstruct justice, or
- (3) An officer of the court
- (4) Misbehaves in an official transaction, or
- (5) A person having a duty to perform a writ, process, order, rule, decree, or command
- (6) Either disobeys or resists

EFFECTIVE: 01/31/78

69-1.2 Sections 402 (Contempts Constituting Crimes)

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EFFECTIVE: 01/31/78

69-1.2.1 Elements

- (1) Any person, corporation, or association having a duty under a writ, process, order, rule, decree, or command of a district court
- (2) Willfully disobeys by doing
- (3) An act or thing forbidden therein
- (4) Such act being a violation of Federal law or the law of the state in which committed.

EFFECTIVE: 01/31/78

69-1.3 Other Statutory Provisions Related to Contempt of Court

- (1) Section 3285 - No proceeding for criminal contempt under Section 402 (see above) for criminal contempt shall be instituted unless begun within one year from the date of the act complained of.
- (2) Sections 3691 and 3692 - These sections provide for the right of trial by jury in certain contempt cases.
- (3) Title 10, USC, Section 847 - Provides for prosecution of persons not subject to military law who have been in contempt of process of military courts.
- (4) Rule 42(a), Federal Rules of Criminal Procedure - Provides for summary punishment by the court for contempts committed in the presence of the judge or so near thereto as to obstruct justice. The judge must certify that he saw or heard the conduct constituting the contempt and that it was committed in the actual presence of the court. The order of contempt shall recite the facts and shall be signed by the judge and entered of record.
- (5) Rule 42(b), Federal Rules of Criminal Procedure - Provides for the prosecution of a criminal contempt charge with notice and hearing in all other criminal contempt cases where the conduct

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constituting the contempt was committed outside the presence of the court.

EFFECTIVE: 12/23/93

69-2 POLICY

(1) SAC may authorize investigation on request of USA or Federal judge, except in the following situations:

(a) Trial in which Bureau did not have primary jurisdiction or conduct original investigation.

(b) Hearing before another agency or congressional committee.

(c) Labor controversy or matter affecting national security.

(2) Advise the USA of all complaints and expeditiously provide full details of all complaints to FBIHQ.

(3) When trial is in progress:

(a) USA must assure that the judge has been informed and is agreeable to the investigation.

(b) Authority of USA and the judge is necessary for interviews of witnesses.

(c) Requests to interview witness in a pending trial should be relayed to FBIHQ for clearance by the Department of Justice. No action should be taken without specific FBIHQ authority.

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69-3 INVESTIGATIVE PROCEDURES

(1) Investigation of misbehavior on the part of an officer of the court in an official transaction will generally require:

(a) A determination of the official status of the accused.

(b) A description of the official transaction in which he was engaged.

(c) Interviews with witnesses who can testify to the improper conduct.

(2) In investigations involving disobedience or resistance to a writ, process, order, rule, decree, or command of a district court:

(a) Examine court records and other official documents to determine to whom the writ, process, etc., was directed.

(b) Determine the language of the document.

(c) Determine through official records and interviews the time and circumstances under which the order was entered, notice given, service obtained or resulted.

(d) Determine the status of the person, corporation, or association named in the order.

(e) Determine the time and nature of any act of disobedience.

(f) Determine through examination of Federal and State statutes and consultation with the USA whether the acts of disobedience complained of constitute a State or Federal crime.

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opinions rendered by the United States Attorney's Office should be confirmed in writing and copies of such documents forwarded to the substantive case office of origin.

(2) Results of the investigation and the prosecutive opinion should be reported to FBIHQ (Attention: Civil RICO Unit). Thereafter the office of origin for the contempt of court case should submit reports to FBIHQ in accordance with the reporting requirements of the substantive violation.

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SECTION 70. CRIMES ON GOVERNMENT RESERVATIONS

70-1 STATUTES

Title 18, USC, Sections 7 and 13

EFFECTIVE: 08/19/85

70-1.1 Section 7. Special Maritime and Territorial Jurisdiction
of the U.S. Defined

The term "special maritime and territorial jurisdiction of
the United States," as used in this title states in part as applies to
this section:

"Any lands reserved or acquired for the use of the United
States, and under the exclusive or concurrent jurisdiction thereof, or
any place purchased or otherwise acquired by the United States by
consent of the legislature of the State in which the same shall be,
for the erection of a fort, magazine, arsenal, dockyard, or other
needful building."

EFFECTIVE: 08/19/85

70-1.1.1 Section 7. Jurisdiction Over Crimes by or Against United
States Nationals In Place Outside the Jurisdiction of Any
Nation

"Any place outside the jurisdiction of any nation with
respect to an offense by or against a national of the United States."

EFFECTIVE: 08/19/85

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70-1.2 Section 13. Laws of States Adopted for Areas Within
Federal Jurisdiction

"Whoever within or upon any of the places now existing or hereafter reserved or acquired as provided in Section 7 of this title, is guilty of any act or omission which, although not made punishable by any enactment of Congress, would be punishable if committed or omitted within the jurisdiction of the State, Territory, Possession, or District in which such place is situated, by the laws thereof in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment."

EFFECTIVE: 08/19/85

70-2 PENALTIES

The following sections of Title 18, United States Code, provide penalties for the specified crimes when committed within the special maritime and territorial jurisdiction of the United States as defined above:

- Section 13. Laws of states adopted for areas within Federal jurisdiction
- Section 47. Hunting of wild horses by use of aircraft or motor vehicle on Federal reservation
- Section 81. Arson
- Section 113. Assault
- Section 114. Maiming
- Section 661. Theft
- Section 662. Receiving stolen property
- Section 1025. False pretenses on high seas and other waters
- Section 1111. Murder
- Section 1112. Manslaughter

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Section 1113. Attempt to commit murder or manslaughter

Section 1201. Kidnaping

Section 1363. Destroying or injuring buildings or
property

Section 2111. Robbery

| Section 2241. Aggravated sexual abuse

| Section 2242. Sexual abuse

| Section 2243. Sexual abuse of a minor or ward

| Section 2244. Abusive sexual contact|

EFFECTIVE: 08/22/89

70-3

JURISDICTION

(1) Mere ownership of land does not put the United States in a position different from that of an ordinary purchaser. In other words, if the Federal Government buys a piece of land without any special provision relative to jurisdiction thereover, it acquires only a proprietary interest, the extent of which is limited by the terms of the deed.

(2) Unless the state in which the particular property is located consents to the acquisition of jurisdiction or cedes jurisdiction over the property to the United States, the Federal Government does not have the right to investigate or punish crimes which may occur on the property. It is only when the state has parted with its jurisdiction that Congress becomes vested with the right to legislate concerning the property. This may be done by the states by a formal cession to the United States or by simple concession of acquisition of the land by the United States Government from the state.

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70-4 POLICY

(1) Investigation and prosecution of crimes committed by military personnel - See Part II, Section 18, of this manual pertaining to memoranda of agreements presently in effect between the Departments of Justice and Defense and the Departments of Justice and Transportation (Coast Guard). | (See MIOG, Part II, 18-3 & 18-4.) |

(2) The dangerous nature of investigations involving military personnel - The FBI receives requests from the military authorities for investigative assistance in connection with crimes committed by military personnel on Government reservations and other crimes constituting Federal violations within the FBI's investigative jurisdiction, such as theft of Government property. Generally, such crimes are a violation of Federal statute, as well as a violation of military law. Extreme caution should be used by Agents in the investigation of cases of this type and particular care should be used in apprehending of military personnel for the commission of offenses within the FBI's jurisdiction. This type of individual may be armed and the military offender could realize that under military law he/she may receive a severe penalty. In cases in which an offender is known to be dangerous or circumstances indicate the offender may be dangerous, authorized process should be secured through the office in whose territory the offense was committed prior to conducting an investigation designed to locate and interview dangerous military subjects.

(3) With regard to offenses occurring in U.S. post offices over which there is Federal jurisdiction, an agreement has been had with the postal authorities whereby duplication of investigative effort is avoided. Under the terms of this agreement, postal inspectors will have investigative jurisdiction over offenses committed in post office buildings for which the U.S. Postal Service is responsible, property used in the carriage of the mails, personal property of postal employees, and offenses committed therein by employees of the post office. Investigative jurisdiction over offenses committed in post office buildings other than those already enumerated is with the FBI.

(4) In handling complaints relative to minor crimes on Government reservations where there are no known aggravating or unusual circumstances, immediately present facts to USA for a prosecutive opinion. If USA will not consider Federal prosecution, conduct no investigation, advise complainant, and confirm conversations to USA and complainant in writing. Where appropriate, refer the matter to the law enforcement agency having policing

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jurisdiction, and also furnish this information to USA and complainant. Lesser violations, such as trespassing, petty thievery, drunkenness, disturbing the peace (including minor assaults), reckless driving, drunken driving, speeding, illegal cohabitation, and infractions of rules and regulations imposed by the administering agency, in the absence of aggravated circumstances, should be handled by the Federal agency having administrative and policing responsibilities over the reservation or by local authorities. Petty gambling offenses are generally considered as being in the same category and as such should be controlled by the responsible agency in its ordinary policing function of the reservation. The SAC is authorized to initiate an FBI investigation should a situation arise in which a series of petty offenses or other conditions create an aggravated situation and the case is reported by representatives of the Federal agency charged with the responsibility of policing the reservation or by the USA.

(5) By memorandum dated 8/12/77 and 6/20/77, the Department of Justice advised that violations of Title 21, USC, Section 844, Controlled Substance Act (CSA), occurring on military reservations and in national parks, should be referred to the Drug Enforcement Administration (DEA) for investigation. Complaints concerning CSA violations should be immediately referred to the DEA.

(6) Any drug activity originating on a Government reservation will be directed and managed under the Government Reservation Crimes Subprogram in coordination with the Organized Crime/Drug Operations Sections of the Criminal Investigative Division.

(a) Bureau investigations should be concentrated on and directed at major drug trafficking organizations and specific individual situations to determine the flow of money derived from these activities. Investigative strategy should include discussion with the appropriate prosecuting attorney in an effort to seize assets realized from these drug transactions.

(b) 

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(c) To ensure that there is no conflict between the FBI and DEA, prior to the initiation of any drug or primarily drug-related investigation, each field office is required to contact the local DEA office in order to determine:

1. If DEA currently has an ongoing

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investigation with regard to the subject(s) of the proposed FBI investigation;

2. Any intelligence information which DEA has regarding the subject(s), such as class violator or known drug associates; and

3. Any interest on the part of DEA to enter into a joint investigation with the FBI regarding the targeted subject(s) of the FBI investigation.

If DEA currently has an ongoing investigation regarding any of the proposed FBI subjects, FBI assistance should be offered to DEA and specific policy should be established regarding the specific role of the FBI in the investigation.

(d) Following contact with the DEA office, a teletype should be forwarded to FBIHQ, Attention: Interstate Theft/Government Reservation Crimes Unit, Criminal Investigative Division, setting forth the identities of all subjects and/or their organizational base, intelligence data from FBI and DEA records, realistic aims and objectives of the investigation, the nature of the investigation contemplated within the next 90 days and the fact that DEA has been contacted for not only intelligence information but for a decision as to what involvement or role it will have in the investigation. The purpose of this communication will be to seek, on a UACB basis, FBIHQ authority to initiate an investigation regarding the subject matter. Through this quality control, FBIHQ will be able to determine proper allocation of manpower, the quality of cases initiated by FBI field offices and that proper coordination and communication have been initiated with DEA.

(7) For administrative reporting requirements and procedures governing the loss and/or theft of personal property from FBI space, refer to MAOP, Part II, Section 6-7.5.

(8) Investigations Regarding Criminal Allegations Against Public Officials

(a) It is recognized that during the course of an investigation within this classification information is sometimes developed alleging that a Federal, state or local official is in violation of Federal law. If the focus of the investigation continues to be this substantive classification and/or Federal crimes committed by a person who merely happens to be a Federal, state or local official, "Corruption-Related Matter," should be added to the

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character of the case, and it will continue to be managed under the Violent Crimes and Major Offenders Program. If, however, the focus of the investigation shifts to the abuse of his/her position of trust by the Federal, state or local official in violation of Federal criminal law, a new "Corruption of Federal Public Officials" (58) or "Corruption of State and Local Public Officials" (194) matter should be opened within the White Collar Crimes Program.

(b) |Deleted|

(c) |Deleted|

(d) |Deleted|

(e) |Deleted|

EFFECTIVE: 09/16/94

70-5 VENUE

The venue in such cases is in the judicial district in which the situs of the offense is located.

EFFECTIVE: 11/20/90

70-6 INVESTIGATIVE PROCEDURE

(1) Among the places over which the Federal Government most frequently has either exclusive or concurrent jurisdiction under this classification to investigate major crimes are Army, Navy, Marine, Air Force, and Coast Guard reservations, forts, arsenals and armories, post buildings, Federal courthouses, Department of Veterans Affairs facilities, customhouse, and other buildings wherein business of the Federal Government is transacted, national parks, some Federal land, Federal roads and highways, and Federal penal institutions.

(2) While it is impractical to attempt to analyze and make investigative suggestions as to each of the many minor or major crimes on Government reservations and lands, jurisdiction over such crimes should be determined by the USA before the collection of evidence of the particular offense is begun.

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(3) Agents are frequently called upon to investigate homicides occurring on Government reservations; therefore, Agents handling homicide investigations should be thoroughly familiar with the procedures in arranging for autopsies. Valuable evidence may be discovered or possibly destroyed during an autopsy examination. Therefore, if at all possible, a Special Agent completely familiar with the circumstances surrounding the homicide should be present during the autopsy to provide pertinent facts to the coroner or pathologist and to ensure the proper preservation of the evidence.

EFFECTIVE: 11/20/90

70-7 TRIAL OF PETTY OFFENSES BY U.S. MAGISTRATES

In connection with the prosecution of offenses occurring on Government reservations, your attention is directed to Title 18, USC, Section 3401, authorizing the U.S. Magistrates to try petty offenses.

EFFECTIVE: 11/20/90

70-8 CHARACTER

Crime on Government Reservation, followed by a description of the crime; as, Crime on Government Reservation - Murder.

EFFECTIVE: 11/20/90

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SECTION 71. BILLS OF LADING ACT

71-1 STATUTE

Title 49, USC, Section 121

EFFECTIVE: 01/31/78

71-1.1 Elements

"Any person who, knowingly or with intent to defraud, falsely makes, alters, forges, counterfeits, prints or photographs any bill of lading purporting to represent goods received for shipment among the several States or with foreign nations, or with like intent utters or publishes as true and genuine any such falsely altered, forged, counterfeited, falsely printed or photographed bill of lading, knowing it to be falsely altered, forged, counterfeited, falsely printed or photographed, or aids in making, altering, forging, counterfeiting, printing or photographing, or uttering or publishing the same, or issues or aids in issuing or procuring the issue of, or negotiates or transfers for value a bill which contains a false statement as to the receipt of the goods, or as to any other matter, or who, with intent to defraud, violates, or fails to comply with, or aids in any violation of, or failure to comply with any provision of this chapter, shall . . ."

EFFECTIVE: 01/31/78

71-1.1.1 Other Provisions

Title 49, USC, Section 81, provides: "Bills of lading issued by any common carrier for the transportation of goods in any Territory of the United States, or the District of Columbia, or from a place in a State to a place in a foreign country, or from a place in one State to a place in another State, or from a place in one State to a place in the same State through another State or foreign country, shall be governed by this chapter."

Note that venue lies in the judicial district in which the

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violation occurred.

EFFECTIVE: 01/31/78

71-2 INVESTIGATIVE PROCEDURE

(1) Examine records of the common carrier to locate bills of lading involved in a particular shipment believed to be covered by a false or altered bill of lading.

(2) An examination of the records maintained by the consignee should be made to locate the particular bill in question. Complete information should be obtained regarding the shipment as contained in the records of the consignee.

(3) The records of the consignor of the articles or substance shipped under the bill of lading should be thoroughly examined to obtain all information concerning the shipment involved. The Agent should be alert to determine any discrepancies in the records of the consignee, consignor, and common carrier to ascertain if there is any variance in these bills of lading.

(4) Locate and interview the persons who prepared the goods or substances for shipment, ascertaining from them the content of the shipment so that it may be determined if there is any variance between the actual shipment made and the facts as they appear on the bill of lading.

(5) Locate and interview the persons at the point of ultimate destination of the shipment to testify as to the receipt of the shipment and as to the content.

(6) If more than one common carrier is used in the transportation of the goods, the complete route of the transportation should be determined and the appropriate records of each common carrier examined.

(7)



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[REDACTED] If there is any indication that the subject has attempted to evade the payment of Federal taxes, the appropriate office of the Treasury Department should be contacted to ascertain any pertinent information.

(8) The names of all individuals necessary to produce documentary evidence should be obtained, as well as their official capacities and exact addresses.

(9) Interview subject, obtaining from him/her a complete, detailed story of the particular shipment involved. During the course of this interview, an effort should also be made to determine if the subject has been involved in any other offenses. Subject should be closely questioned concerning the identity of any other individuals who may have aided or assisted him/her in committing the particular violation.

(10) During the course of this type of investigation, the Agent should be alert to the possibility of the existence of a conspiracy, and every effort should be made to ascertain the identity of all individuals who may be involved in the offense.

EFFECTIVE: 11/08/78

71-3 REPORT WRITING RULES

(1) Forward to FBIHQ copy of any prosecutive summary report prepared in this classification of investigation for the USA's Office, utilizing current Bureau guidelines for the preparation of such reports.

(2) No report need be forwarded under any other circumstances unless it is determined to be the most logical means to disseminate the results of investigation accumulated, or when it is decided that a report is the best means to disseminate such results to other Federal agencies through FBIHQ rather than via an LHM.

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||71-4| PENALTIES

A fine not exceeding \$5,000 or imprisonment not exceeding five years or both.

EFFECTIVE: 11/08/78

||71-5| CHARACTER - BILLS OF LADING ACT

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SECTION 72. OBSTRUCTION OF JUSTICE

72-1 STATUTES

Title 18, USC, Sections 1503 through 1515.

EFFECTIVE: 02/20/90

72-1.1 Section 1503 (Influencing or Injuring Officer or Juror
Generally)

EFFECTIVE: 02/20/90

72-1.1.1 Elements

(1) A person corruptly or by threat, force, threatening
letter or communication

(2) Endeavors to influence, intimidate, impede or injures
the person or property of

(3) A juror or other judicial officer

(4) Because of his/her discharging or having discharged
his/her duty or

(5) Otherwise influences, obstructs, impedes, or
endeavors to so hamper justice.

EFFECTIVE: 02/20/90

72-1.2 Section 1504 (Influencing Juror by Writing)

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72-1.2.1 Elements

- (1) An attempt to influence the action of
- (2) A juror upon any issue pending before the juror or
pertaining to his/her duties
- (3) By writing or sending him/her a written communication
which
- (4) Is in relation to such issue or matter.

EFFECTIVE: 02/20/90

72-1.3 Section 1509 (Obstruction of Court Orders)

EFFECTIVE: 02/20/90

72-1.3.1 Elements

- (1) Existence of a Federal court order, judgment, or
decree
- (2) Knowledge by the subject of the existence of such
order
- (3) Use of threats or force by the subject
- (4) For the purpose of preventing, obstructing, impeding,
or interfering with, or willfully attempting to interfere with
 - (a) The exercise of rights under the court order; or
 - (b) The performance of duties under the court order.

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72-1.4 Section 1510 (Obstruction of Criminal Investigations)

"A" (1) Willfully endeavor by means of bribery

"(2) To obstruct, delay, or prevent the communication of information

"(3) Relating to a violation of any criminal statute of the United States

"(4) By any person to a criminal investigator (defined in the statute as any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations of or prosecutions for violations of the criminal laws of the United States).

"B (1) Being an officer of a financial institution,

"(2) with intent to obstruct a judicial proceeding, directly or indirectly notifies any other person about the existence or contents of a subpoena for records (defined in the statute as a Federal grand jury subpoena for customer records that has been served relating to a violation of, or a conspiracy to violate Title 18, USC, Sections 215, 656, 657, 1005, 1006, 1007, 1014, or 1344; or Sections 1341 or 1343 affecting financial institution) of that financial institution, or information that has been furnished to the grand jury in response to that subpoena,

"(3) shall be fined under this title or imprisoned not more than five years, or both."

EFFECTIVE: 02/20/90

72-1.5 Section 1512(a) (Killing or Attempts to Kill Another Person)

EFFECTIVE: 02/20/90

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72-1.5.1 Elements

Whoever kills or attempts to kill another person, with intent to

(1) prevent the attendance or testimony of any person in an official proceeding;

(2) prevent the production of a record, document, or other object, in an official proceeding; or

(3) prevent the communication by any person to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release, pending judicial proceedings.

EFFECTIVE: 02/20/90

72-1.6 Section 1512(b) (Tampering with a Witness, Victim, or an Informant)

EFFECTIVE: 02/20/90

72-1.6.1 Elements

(1) Knowing use of intimidation or physical force, or threats, or attempts to do so, or engaging in misleading conduct with intent to

(2) Influence, delay or prevent the testimony of any person in an official proceeding; or

(3) Cause or induce any person to withhold testimony or other evidence from an official proceeding; alter, destroy, mutilate or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding; evade legal process summoning that person to appear as a witness or to produce a record, document, or other object in an official proceeding; or be absent from an official proceeding to which such person has been summoned by legal process; or

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(4) Hinder, delay or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole or release pending judicial proceedings.

EFFECTIVE: 02/20/90

72-1.7 Section 1512(c) (Tampering - Lesser Offense)

EFFECTIVE: 02/20/90

72-1.7.1 Elements

(1) Intentionally harassing another and thereby hindering, delaying, preventing, or dissuading any person from

(2) Attending or testifying in an official proceeding; or

(3) Reporting to a law enforcement officer or judge of the United States the commission or possible commission of a Federal offense or a violation of conditions of probation, parole or release pending judicial proceedings; or

(4) Arresting or seeking the arrest of another in connection with a Federal offense; or

(5) Causing a criminal prosecution or a parole or probation revocation proceeding to be sought or instituted or assisting in such prosecution or proceeding; or

(6) Any attempt to do the above.

EFFECTIVE: 02/20/90

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||72-1.7.2| Affirmative Defense

Defendant's conduct consisted solely of lawful activity and defendant's sole intention was to encourage, induce or cause the other person to testify truthfully.

EFFECTIVE: 07/26/89

||72-1.7.3| Elements Which Need Not Be Proved

(1) An official proceeding need not be pending or about to be instituted at the time of the offense; and

(2) The testimony, record, document, or other object need not be admissible in evidence or free of a claim of privilege.

EFFECTIVE: 07/26/89

||72-1.8| Section 1513 (Retaliating Against a Witness, Victim or Informant)

EFFECTIVE: 07/26/89

72-1.8.1 Elements

(1) Engaging in any conduct and thereby causing bodily injury to another or damage to the tangible property of another or threatening to do so with intent to retaliate against any person; |for|

(2) The attendance of a witness or party at an official proceeding or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

(3) Any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole or release pending judicial proceedings given by a person to a law enforcement officer; or

(4) Any attempt to do the above.

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EFFECTIVE: 09/13/93

||72-1.9| Section 1514 (Civil Action To Restrain Harassment of a
Victim or Witness)

(1) This Section provides for the court's issuing a temporary restraining order prohibiting harassment of a victim or witness in a Federal criminal case if the court finds from the facts shown in an affidavit or "verified complaint" that there are reasonable grounds to believe specific harassment "exists" or that an order is necessary to prevent a Section 1512 or Section 1513 offense other than "misleading conduct."

(2) Section 1514 also provides for the issuance of a long-term protective order valid for such period as the court determines, after a hearing, is necessary to prevent a Section 1512 or Section 1513 offense other than "misleading conduct." Long-term protective orders can be valid for up to three years. Temporary orders may extend only for ten days with one ten-day extension.

EFFECTIVE: 07/26/89

||72-1.10| Section 1515 (Definitions)

(1) Official proceeding means

(a) A proceeding before a judge or court of the United States, a United States Magistrate, a Bankruptcy Judge, or a Federal grand jury

(b) A proceeding before the Congress

(c) A proceeding before a Federal Government agency.

(2) Physical force means physical action against another.

(3) Misleading conduct means

(a) Knowingly making a false statement;

(b) Intentionally omitting information from a

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statement, and thereby causing a portion of the statement to be misleading or intentionally concealing a material fact, and thereby creating a false impression

(c) With intent to mislead, knowingly submitting or inviting reliance on a writing or recording that is false, forged, altered or otherwise lacking in authenticity;

(d) With intent to mislead, knowingly submitting or inviting reliance on a sample, specimen, map, photograph, boundary mark or other object that is misleading in a material respect; or

(e) Knowingly using a trick, scheme or device with intent to mislead.

(4) Law enforcement officer includes employees of the Federal Government authorized under law to engage in or supervise the prevention, detection, investigation or prosecution of an offense or serving as a probation or pretrial services officer.

(5) Bodily injury includes cuts, bruises, burns, physical pain, illness, impairment of mental facility, or "any other injury to the body, no matter how temporary."

(6) Chapter 73, Title 18, USC, Obstruction of Justice does not prohibit or punish the providing of lawful, bona fide, legal representation services in connection with or anticipation of an official proceeding.

EFFECTIVE: 07/26/89

||72-1.11| Other Related Obstruction Statutes Described in Title 18, USC,

(1) Section 1501 - Assault on process server.

(2) Section 1502 - Resistance to extradition agent.

(3) Section 1505 - Obstruction of proceedings before departments, agencies, and committees. (Specific FBIHQ authority required in all cases.)

(4) Section 1506 - Theft or alteration of record or process; false bail.

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(5) Section 1507 - Picketing or parading. (Specific FBIHQ authority required in all cases.)

(6) Section 1508 - Recording, listening to, or observing proceedings of grand or petit juries while deliberating or voting.

EFFECTIVE: 07/26/89

72-2 POLICY

EFFECTIVE: 07/26/89

72-2.1 Handling of Complaints

EFFECTIVE: 07/26/89

72-2.1.1 SAC May Authorize Investigation on Request of USA or Federal Judge in Following Situations:

(1) If obstruction arose from criminal case within the jurisdiction of any Federal agency other than Secret Service, Internal Revenue Service, Immigration and Naturalization Service, U.S. Customs Service, Drug Enforcement Administration, Bureau of Alcohol, Tobacco and Firearms, and U.S. Postal Service. If obstruction arose from case within jurisdiction of seven agencies mentioned, who have their own investigative staffs, it is the position of the FBI and the Department of Justice that obstruction investigation should be conducted by the other agency although coverage of leads in a distant area to assist other agency may be authorized by FBIHQ upon full justification.

(2) If obstruction involves either actual bodily harm or threat thereof to a Federal judge or Federal juror, regardless of case out of which allegation arose.

(3) If obstruction arose from civil case in Federal court in which neither U.S. Government nor any agency thereof is involved.

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EFFECTIVE: 07/26/89

72-2.1.2 Prior FBIHQ Authority is Required in Following Situations:

- (1) Trial in which original investigation conducted by any of the above mentioned agencies.
- (2) Proceedings before departments, agencies, and committees.
- (3) Labor controversy or other matter affecting national security.

EFFECTIVE: 07/26/89

72-2.1.3 Trial in Progress

The USA must assure that the judge has been informed of allegation and is agreeable to investigation.

EFFECTIVE: 07/26/89

72-2.1.4 Obstruction of Court Order Complaint

The Department of Justice has instructed USAs not to request FBI investigation or initiate prosecution of obstruction of court orders without departmental authority. Therefore, dependent upon the urgency of the situation, advise FBIHQ by telephone, teletype, airtel or special delivery letter and conduct no investigation without FBIHQ authority.

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72-2.2 Other Policy

(1) Full details of complaints must be furnished FBIHQ expeditiously together with action being taken or recommended. (Statutes affecting the area of obstruction of justice are designed to protect the dignity of the courts, and prosecutions in such cases often result in widespread public notice and editorial comment.)

(2) Although USA ordinarily advised of all complaints, if, in sound judgment of SAC, circumstances of complaint or facts developed through investigation make it inadvisable to consult USA or to follow course desired by him/her, advise FBIHQ and take no further action pending FBIHQ instructions.

(3) The Bureau has no statutory authority to afford "protection" to persons affected by the statutes. When a victim, witness, or informant fears physical harm, notify appropriate law enforcement agencies unless the facts of the case indicate such action is undesirable, and notify the person involved of the services available to him/her as set forth in the Federal Guidelines For Fair Treatment of Crime Victims and Witnesses in the Criminal Justice System, and discuss case with USA to seek his/her opinion concerning restraining orders as are provided for in Section 1514.

EFFECTIVE: 07/26/89

72-3 PENALTIES

(1) Section 1503 - \$5,000 fine and/or five years' imprisonment.

(2) Section 1504 - \$1,000 fine and/or six months' imprisonment.

(3) Section 1509 - \$1,000 fine and/or one year's imprisonment.

(4) Section 1510 - \$5,000 fine and/or five years' imprisonment.

(5) Section 1512(a):

(a) in case of a killing:

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1. murder in the first degree; shall suffer death unless the jury qualifies its verdict by adding thereto "without capital punishment," in which he/she shall be sentenced to imprisonment for life

2. murder in the second degree; shall be imprisoned for any term of years or for life

3. voluntary manslaughter; shall be imprisoned not more than ten years

4. involuntary manslaughter; shall be fined not more than \$1,000 or imprisoned not more than three years, or both

(b) in the case of an attempt; imprisonment for not more than twenty years.

(6) Section 1512(b) - \$250,000 fine and/or up to one year's imprisonment.

(7) Section 1512(c) - \$25,000 fine and/or up to one year's imprisonment.

(8) Section 1513 - \$250,000 fine and/or ten years' imprisonment.

EFFECTIVE: 07/26/89

72-4 SUGGESTED INVESTIGATIVE PROCEDURES

(1) Status of an individual as a person covered by the statutes may be established through introduction by competent witnesses of letters of appointment, official records of the court, subpoenas, summonses, jury panels, and similar documents. Such records can generally be located in the offices of Government agencies, clerks of court, U.S. Magistrates, and U.S. Marshals. The exact time when a person received appointment or was served with a subpoena or summons should be reported.

(2) If investigations involving witnesses or jurors indicate a possible perjury, necessary elements of perjury and subornation of perjury violations should be fully developed.

(3) Question victims for complete details. Threats or

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use of force may have been preceded by other acts by subject, such as conversations, gratuities, and advice extended to victim in a disguised effort to curry his/her favor.

(4) Obtain signed statements where possible from victim and witnesses, and USA should be advised of any reluctance to testify.

(5) In the event a threatening communication is directed to or received by a person other than the intended victim, the relationship of the recipient to the victim should be shown, since under statute a violation may exist even if the victim is not direct recipient of communication.

(6) Determine exact language of a threatening communication and all attending circumstances as it may be necessary to introduce evidence that a communication, although veiled, actually implies a threat. Follow instructions relative to transmittal of extortion letters to FBI Laboratory in the transmittal of letters constituting possible violations of obstruction of justice statutes.

(7) Determine the particular interest of subject in the outcome of a trial or other proceeding. Subject's relationship by blood or marriage to parties to a suit, his/her membership in an interested organization, or monetary considerations may explain his/her actions. Determination of identities of persons who stand to gain from the particular outcome of a proceeding may serve to identify an unknown subject.

EFFECTIVE: 07/26/89

72-5

CHARACTER

If no substantive violations investigated, character will be "Obstruction of Justice, Obstruction of Criminal Investigations, etc." When obstruction allegation generated in connection with substantive violation, add "Obstruction of Justice, Obstruction of Criminal Investigations, etc." to the character and do not open new case.

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SECTION 73. BACKGROUND INVESTIGATION - PARDON ATTORNEY'S OFFICE

73-1 GENERAL INSTRUCTIONS

These instructions are supplemented in part by instructions contained in Part II, Section 17 of this manual. Applicable portions of Part II, Section 17, will be incorporated into this Section as necessary in order to clarify those portions of Part II, Section 17, which pertain to this Section.

EFFECTIVE: 11/24/93

73-2 BASIS FOR INVESTIGATION

(1) The Bureau's authority to conduct Presidential pardon background investigations stems from the Attorney General's responsibility to advise the President in the exercise of his constitutional pardon power.

(a) The Rules Governing Petitions for Executive Clemency (as published in 28 Code of Federal Regulations) provide for the Attorney General to "... cause such investigation (for Executive clemency) to be made of the matter as (he/she) may deem necessary and appropriate, using the services of, or obtaining reports from, appropriate officials and agencies of the Government, including the Federal Bureau of Investigation ..."

(b) Upon receipt of requests from the Pardon Attorney, the Bureau is charged with the responsibility of investigating all petitions for Executive clemency, regardless of whether the conviction involved a violation within the Bureau's investigative jurisdiction.

(2) Petitions for commutation of sentence, including remission of fine, also require background investigations by the Bureau as requested by the Pardon Attorney, pursuant to the Rules Governing Petitions for Executive Clemency. However, such requests are rare and are generally limited in scope.

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EFFECTIVE: 11/24/93

73-3 | ELIGIBILITY FOR PARDON/COMMUTATION OF SENTENCE |

(1) | When a person is convicted in Federal court of a felony, he/she generally loses certain civil rights. The rights he/she loses and the procedure whereby he/she may regain them are governed by laws of the state where he/she resides. These lost rights generally are the right to vote, the right to sit as a juror, the right to bear/possess firearms, and the right to hold public office. Generally, an offender who has completed his/her sentence may not petition for a Presidential pardon until the conclusion of a waiting period of five to seven years (depending on the nature of the offense), following the date of his/her release from confinement or, if no confinement was ordered, following the date of conviction.

(a) Occasionally, the Pardon Attorney, for good cause shown, may grant a waiver of all or a portion of the waiting period to permit earlier consideration of a petition.

(b) While there is no appeal from a pardon decision, unsuccessful petitioners may be permitted to reapply for a pardon two years after the date of denial. In such cases, the Bureau may be requested to conduct a supplemental investigation to bring a prior inquiry up to date.

(2) | No petition for commutation of sentence, including remission of fine, should be filed if other forms of judicial or administrative relief are available, except upon a showing of exceptional circumstances. |

EFFECTIVE: 11/24/93

73-3.1 | Deleted |

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EFFECTIVE: 11/24/93

73-4 | OBJECTIVES OF INVESTIGATION

(1) The primary objective of the background investigation is to conduct a thorough, penetrating inquiry which will be useful in an assessment of the petitioner's suitability for a Presidential pardon/commutation of sentence. In general, the investigation should focus on a petitioner's post-conviction adjustment (whether he/she has become and is likely to remain a productive and law-abiding member of society) and acceptance of responsibility for his/her offense.

(2) The Bureau should make every reasonable effort to conduct an inquiry as discreetly as possible to ensure that the specific reason for the investigation is not disclosed to persons interviewed. Persons interviewed should generally be advised that the petitioner has applied for a Government benefit requiring a general background inquiry and that a criminal investigation is not being conducted. (See MIOG, Part I, 73-11.)

(3) Additional objectives are outlined in MIOG, Part II, Section 17-4.

EFFECTIVE: 11/24/93

73-4.1 | Deleted |

EFFECTIVE: 11/24/93

73-4.2 | Deleted |

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EFFECTIVE: 11/24/93

73-5 INITIATION OF INVESTIGATION

Background investigation requests are received at FBIHQ from the Pardon Attorney. Included in these requests are specific instructions from the Pardon Attorney, whether it be a limited inquiry or a full field investigation. The initial lead for the petitioner interview is generally set out in an electronic communication (EC) with a copy of the petition enclosed. All investigative leads as determined through the interview, along with a copy of the petition, should be set out by the interviewing office.

EFFECTIVE: 11/18/96

73-6 SCOPE OF INVESTIGATION

An applicant-type background investigation should be initiated into the petitioner's conduct and reputation upon receipt of the case from FBIHQ. The customary full-field background investigation should cover the entire period following the petitioner's release from prison. If the petitioner was not confined to prison, the investigation should cover the period following the date of conviction. When the petitioner has been the subject of a prior background investigation, the prior investigation will be brought up to date. In some cases, the Pardon Attorney may elect to conduct a limited inquiry (e.g., for a commutation of sentence petition), wherein specific instructions will be set out and forwarded to the appropriate field offices.

EFFECTIVE: 11/24/93

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| 73-7 | GENERAL INSTRUCTIONS

| Refer to MIOG, Part II, Section 17-5, for general
instructions pertaining to background investigations. |

EFFECTIVE: 11/24/93

|| 73-8 | INVESTIGATIVE GUIDELINES

EFFECTIVE: 11/24/93

| 73-8.1 | Deleted |

EFFECTIVE: 11/18/96

| 73-8.2 | Predication (See MIOG, Part I, | 73-8.4.) |

| A predication | (basis | for investigation) | is to | be
included | as the first paragraph of the "Details" section in the
investigative report of the submitting office. | Set forth the
predication as follows:

"This background investigation was predicated upon the receipt of a
Petition for Pardon After Completion of Sentence (or Commutation of
Sentence), executed by the petitioner on (date of the petition), and
subsequently forwarded to the FBI by the Office of the Pardon
Attorney."

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EFFECTIVE: 11/18/96

73-8.3 Interview of Petitioner (See MIOG, Part I, |73-8.4.)|

The interview of the petitioner should be conducted at the inception of the background investigation in order to obtain the required background information, and to develop additional areas for inquiry. The results should be reported on an FD-302. The office covering the petitioner's current residence will normally conduct the interview. The narrative of the FD-302 should be sufficiently detailed to indicate that each of the following items (except in commutation of sentence cases wherein the investigative scopes are generally limited) was completely and thoroughly addressed in the interview:

(1) Details of the petitioner's employment history and military service.

Obtain the details concerning the employment of the petitioner since his/her release from prison or conviction, if the petitioner served no time. Include dates of employment, location(s), position(s), name(s) of supervisor(s), etc. Further, determine whether the petitioner has ever been denied employment, dismissed from employment or resigned in lieu of dismissal.

(2) Places of residence.

Obtain the details concerning his/her residence(s) since release from prison or conviction, if the petitioner served no time. Include the name(s) of former/current neighbor(s) who knew petitioner during the past five years of residence and any of the petitioner's current cohabitant(s).

(3) Petitioner's version of the circumstances under which he/she was convicted.

The petitioner should be asked to describe the circumstances surrounding the commission of the offense in his/her own words. The petitioner should not be encouraged to merely restate the account provided in his/her petition or the account contained in the charges and specifications of the indictment or information. The petitioner may be advised that the Pardon Attorney generally takes into account all statements by a petitioner relating to his/her

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acceptance of responsibility, remorse and atonement in evaluating the merits of a pardon petition.

(4) Reason pardon (or commutation of sentence) is desired, including the petitioner's specific need for the same.

Obtain a statement of the specific purpose(s) for which a pardon is sought. If he/she has not already done so, the petitioner should be encouraged to furnish directly to the Pardon Attorney any documentary evidence, such as copies of applicable provisions of state constitutions, statutes or regulations and/or letters from appropriate officials of state administrative agencies, professional associations, licensing authorities or the like, indicating that a pardon will be helpful in accomplishing the purpose for which it is sought.

(5) Petitioner's involvement in community service, charitable or other meritorious activities.

Obtain any information that the petitioner may wish to volunteer regarding these activities. The provision of documentary evidence in this regard is desirable but not necessary.

(6) Information concerning the petitioner's present mode and standard of living.

Obtain information concerning any personal and business credit issues (if any), including but not limited to, repossessions, delinquent student loans, debts placed for collection, etc. Include details concerning any business interests which the petitioner may have.

(7) Any involvement in civil litigation, or in administrative or legislative proceedings of any kind, either as a plaintiff, defendant, respondent, witness, or party in interest.

Include information for the past ten years concerning liens, bankruptcies or lawsuits against the petitioner. Also, include information concerning any delinquent taxes.

(8) Any prior or subsequent criminal record, or any involvement in criminal matters as a suspect.

(9) Obtain specific information (name of school, dates and location) concerning all post-high school education of the petitioner, to include vocational training.

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(10) Obtain biographical data, to include the following:

(a) Marital status, to include details (date(s), place(s), name(s), current location(s)) of any divorce(s) whether occurring before or after the date of conviction, and the identity of ex-spouse(s).

(b) Names, complete dates and places of birth of the petitioner's spouse, parents, children, siblings, cohabitants, and other relatives who occupy the same residence as the petitioner. Also, determine if the petitioner is aware of anything in his/her immediate family's background of a criminal nature. If so, obtain details. If the petitioner's parents do not reside with him/her, obtain their names for birth verification purposes.

(c) If the petitioner indicates that he/she is foreign born, obtain details of his/her citizenship or immigration status (date/place naturalized or registered, naturalization certificate number, alien registration number, etc.). It is not necessary to obtain any details concerning the citizenship of petitioner's spouse or immigration status of petitioner's spouse, immediate relatives or any persons residing with the petitioner, unless specifically requested by FBIHQ. (See MIOG, Part I, 73-8.4.)

(11) Determine if the petitioner has possessed or carried a firearm since his/her conviction/release. Further, determine whether the petitioner has filed a federal or state application for restoration of firearms privileges. If so, determine if this request was granted, denied or withdrawn.

(12) Determine whether the petitioner has voted or registered to vote since the date of conviction/release.

(13) Determine whether the petitioner holds or has previously held any business or professional licenses.

(14) Obtain the details of any professional complaints or any nonjudicial disciplinary action against the petitioner since the date of conviction/release.

(15) Determine whether the petitioner has had any contact with representatives of foreign countries.

(16) Obtain the details of any psychiatric or psychological counseling, including the dates of counseling, and the name and address of each counseling facility and/or counselor,

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doctor, or other health care provider.

(17) Determine whether the petitioner has ever used, possessed, purchased, sold, or distributed illegal drugs, including marijuana, or abused either prescription drugs or alcohol. If so, obtain complete details, e.g., type and amount of drug or alcohol used, time frame and frequency of use. Also, determine whether or not the petitioner has ever participated in any drug/alcohol counseling or rehabilitation programs. If so, obtain details including the dates of counseling and the name and address of each counseling facility and/or counselor, doctor, or other medical care provider.

(18) Determine whether there are any other current or past circumstances known to the petitioner that could have a bearing on his/her suitability for an Executive clemency.

(19) Deleted

(20) Determine whether the petitioner has ever been the subject of an applicant-type/background investigation.

(21) If specifically requested by FBIHQ, obtain two sets of the petitioner's fingerprints. A field office will be requested to fingerprint the petitioner only when the Criminal Justice Information Services (CJIS) Division record check, which is conducted by FBIHQ, Special Inquiry and General Background Investigations Unit (SIGBIU), fails to locate an FBI number for the petitioner. This request will normally be made of the field office conducting the petitioner interview. After fingerprinting the petitioner, the field office is to promptly forward both sets to the SIGBIU in order that an FD-165 (Flash Notice) may be placed with the CJIS Division (an FD-165 must be placed in every pardon attorney investigation). The fingerprints may be submitted by routing slip. The routing slip must clearly set forth the Office of the Pardon Attorney case title and file number. It, with the fingerprints, are to be transmitted to SIGBIU using an opaque Bumail penalty envelope (imprinted O-7 information). The envelope is to be addressed to the attention of the SIGBIU Personnel Security Specialist (PSS) assigned the BI. The PSS's identity is set forth in all SIGBIU case-generated communications to the field. FBIHQ, SIGBIU, is responsible for the preparation, and submission to the CJIS Division, of the FD-165. Where appropriate (e.g., upon being advised of petitioner's death--by a field office or otherwise--that petitioner's pardon request has been granted or denied, or to discontinue the background investigation), FBIHQ, SIGBIU, is also responsible for having the

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FD-165 canceled by the CJIS Division. All FD-165s in pardon attorney cases will be canceled by the CJIS Division either if advised by the SIGBIU or automatically after five years, whichever occurs first. (See MIOG, Part II, 14-12.3.4, 14-15.5.1, and 14-15.5.3.)

(22) Deleted

EFFECTIVE: 11/18/96

73-8.4 Investigation

(1) Investigation is to be reported as noted in MIOG, Part I, 73-8.2, 73-8.3 and 73-8.4 (2) (a)-(s).

(2) The investigation is not limited to, but must include, the following information (if appropriate) which is to be included in the "Details" section of the investigative report under separate and appropriate headings as noted below:

(a) Predication (see MIOG, Part I, 73-8.2)

(b) Interview of Petitioner (see MIOG, Part I, 73-8.3)

(c) Court Records - Review court records concerning each federal conviction of the petitioner and include the following information:

1. Name under which the petitioner was convicted;
2. Date of sentence;
3. Sentence imposed;
4. Indictment or information number (specify which) and the U.S. District Court (specify district and location) in which the conviction was obtained;
5. Describe the nature of the charge and citation of the statute or public law violated (distinguish the charges and citations on which the petitioner was indicted from those

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on which he/she was convicted);

6. The nature of the petitioner's plea;

7. Brief summary of the facts surrounding commission of the offense;

8. If fines, restitution, assessments, costs or penalties were imposed, determine whether they were satisfied and the date(s) paid;

9. If community service was ordered, determine whether it was performed and the manner in which the service requirement was discharged.

(d) Probation and Supervised Release

Records/Interviews - The U.S. Probation Officer should be interviewed to determine the nature of the petitioner's adjustment under supervision, including a record of disciplinary infractions (if any), and the officer's comments and recommendation for or against a Presidential pardon. If access to probation files is denied, immediately notify FBIHQ. It is not necessary to obtain a copy of petitioner's presentence report, unless specifically requested by FBIHQ.

(e) Birth - Verify the petitioner's date and place of birth through records of the Bureau of Vital Statistics.

(f) Naturalization - Verify naturalization, derived citizenship, or immigration status of the petitioner only. It is not necessary to verify the naturalization, derived citizenship or immigration status of petitioner's spouse, close relatives or any persons residing with the petitioner, unless otherwise advised by FBIHQ. (See MIOG, Part I, 73-8.3 (10)(c).)

(g) Marital Status (See MIOG, Part II, 17-6.4.)

1. Verify all divorce(s) which has/have occurred since the date of the petitioner's conviction. Divorce(s) should be verified through a review of appropriate records, e.g., court records. Identify which party was the plaintiff and defendant as well as the grounds for, and date of, the divorce. All other pertinent information must be obtained, e.g., if the petitioner has complied/is complying with all court-ordered obligations on a timely basis (e.g., child or spousal support). If this information is not available through a review of appropriate records, efforts must be

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made to obtain it through an interview of the petitioner's attorney of record in the divorce proceeding or the attorney's representative. If this is unsuccessful, efforts must be made to obtain this information through the petitioner's ex-spouse(s). If the aforementioned efforts fail, then the petitioner is to be recontacted in an effort to obtain/verify the necessary information. |

2. |The results of each divorce verification, as reported, must clearly indicate whether or not the court imposed any financial obligations on the petitioner, e.g., child or spousal support, etc. If so, identify each and address whether or not the petitioner has complied/is complying with the obligation pursuant to the court's order in a timely manner. If no obligations were/have been imposed, so state.

3. Interview the ex-spouse(s) from petitioner's divorce(s) which occurred during the 15-year period immediately preceding the date of the FBIHQ communication initiating the investigation or since the date of the petitioner's conviction, whichever period of time is less. It is not necessary to interview the ex-spouse(s) of divorce(s) that occurred beyond this period of time, unless requested by FBIHQ or as otherwise deemed appropriate (e.g., see MIOG, Part I, 73-8.4 (g) 1., above).

4. If any question about the petitioner's current or previous marital status develops, attempt to verify through appropriate records. If not available, efforts are to be made to verify through other appropriate sources.

5. All unsuccessful efforts to obtain the necessary information regarding the petitioner's divorce(s) and/or questioned marital status must be clearly reported. |

|(h)| Education - Verify all post-high school education, including vocational training. Interview professors/instructors only if the education has occurred within the past three years.

|(i)| Neighborhood investigation - Conduct neighborhood inquiries at the petitioner's residences during the five years immediately preceding the date of the background investigation, regardless of the date of conviction/release. Interview|at least two neighbors, knowledgeable of the petitioner, for each residence where petitioner has resided for the last five years. If unsuccessful or not possible, a field office's investigative efforts and/or explanation must be set forth in the "Details" section of its

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| investigative report. | If rental property, interview the landlord or manager and review the rental records. Liberally quote remarks which reflect favorably or adversely on the petitioner's conduct and reputation. Singular remarks should contain the interviewee's definition or example(s) for illustration and clarification. A description of the petitioner's mode and standard of living also should be provided. Current cohabitants who are not related to the petitioner must be interviewed.

| (j) | Employment verification - | Verify all employments for the ten-year period preceding the date of the investigation or since the date of petitioner's conviction/release from prison, whichever is less. At a minimum, for each employment determine dates of employment, work record, general character of the petitioner, and reason for termination. |

1. A representative (supervisor or manager) of each employment should be interviewed, consistent with the ten-year criterion. | Additionally, at least one co-worker, knowledgeable of the petitioner, at each employment within the investigations, must be interviewed. If unsuccessful, a field office's investigative efforts and/or explanation must be set forth in the "Details" section of its investigative report. | When not possible, so state and include the reason(s).

2. Personnel records should be reviewed, if available, to determine whether the petitioner has made any false statements in obtaining a particular position, such as any questions concerning a criminal record. If false information is detected, do not under any circumstances advise the employer, but do document the information in the report. If personnel records are not available for review, so state and include the reason(s).

| (k) | Military records - All military service will be verified, regardless of the dates of service. Include dates of service; type of discharge, including a brief summary of facts surrounding discharge if separation occurred other than at the completion of the term of enlistment; decorations awarded, if any; a brief summary of the facts surrounding court-martial proceedings, if any, to include a brief description of offense, sentence imposed and the dates and actions approving or modifying the sentence by the convening and reviewing authorities.

| (l) | Reference interviews - Attached to every petition are character affidavits signed by references (sometimes referred to as character affiants). All references must be

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interviewed for particulars concerning the petitioner's conduct, character, and associates, and to determine their exact opinions and the opportunities they have had for forming such opinions concerning the petitioner. References also should be asked about the petitioner's community and/or charitable activities.

| (m) | Credit/Tax records - Credit inquiries will be conducted at FBIHQ and leads will be sent to appropriate offices to verify the status of specific accounts or to verify bankruptcies, tax liens or other information disclosed in a credit record.

1. Check for tax liens (state and local) when there is questionable financial status as directed by FBIHQ.

2. |Deleted|

| (n) | Law Enforcement Records - FBI|field offices|and appropriate local|and state|law enforcement agencies|covering|all communities where petitioner has resided, been educated or been employed, since his/her conviction/release|from prison, must|be checked for any records on the petitioner. Field office indices checks on petitioner's cohabitants and close relatives (18 years or older) must be conducted by the field office covering where the cohabitants or close relatives reside. Local and state law enforcement agency records checks are not to be conducted on petitioner's cohabitants and close relatives, unless specifically requested by FBIHQ.|

1. Obtain a complete account of the petitioner's criminal history record both prior to and subsequent to the federal offense for which an Executive clemency is sought, including traffic offenses that resulted in an arrest or criminal charge, such as driving under the influence.

2. For each violation, obtain the date of the incident; description of the offense charged; name and location of law enforcement authority involved; and the date, location, and sentence or other disposition.

3. |FBIHQ, SIGBIU, will check FBIHQ records, including criminal history records concerning the petitioner (name and fingerprints checks) and all close relatives/cohabitants (name check only) who are at least 18 years of age.|

| (o) | U.S. Attorney's Office - Check records of the U.S. Attorney's Office wherever the petitioner has resided, been

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educated or been employed within the scope of the investigation.

1. Determine whether official records reflect any pending/closed criminal or civil proceedings (judicial or administrative) unrelated to the offense for which the Executive clemency is being sought.

2. In the event the petitioner was involved in a federal criminal investigation which did not result in prosecution, or was the subject of a government forfeiture or other proceeding, a report of the details and disposition of the matter should be furnished.

3. If a particular U.S. Attorney's office chooses to report such information directly to the Office of the Pardon Attorney, so state in the report.

| (p) | Licensing agencies - Check appropriate regulatory or licensing agencies where the petitioner has indicated he/she holds or has held a professional license, such as real estate, medical, accounting, etc. Determine the petitioner's current standing.

| (q) | Firearms status - |At the outset of the investigation, FBIHQ, SIGBIU, will request the Bureau of Alcohol, Tobacco and Firearms (BATF) Headquarters to check its records regarding the petitioner. Pursuant to this request, BATF Headquarters will provide FBIHQ, SIGBIU, with all pertinent information concerning the petitioner located in BATF Headquarters, and field office, files. |

1. |Deleted|

2. |Field offices covering petitioner's residences since the date of his/her conviction/release from prison are to conduct a check of the appropriate state agency(s) to determine if the petitioner has applied for state relief from firearms disabilities or has violated state firearms prohibitions. If so, obtain complete details of each application or violation, including the disposition. |

3. |Deleted|

4. |Deleted|

| (r) | Voter registration - Determine the bylaws of the

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state election board regarding convicted felons and voting privileges. Check voter registration records to determine whether the petitioner has registered to vote since conviction/release, if applicable.

| (s) | Miscellaneous checks - Refer to MIOG, Part II, Section 17-6 (and all its subtopics), for other record checks which may be applicable to | pardon attorney investigations. |

| (3) | All interviews of individuals knowledgeable of the petitioner | are to | include comments concerning the petitioner's character, associates, reputation, loyalty to the United States, bias, financial solvency, any alcohol abuse, any prescription drug abuse, | and any use, possession, purchase, selling or distribution of illegal drugs, including marijuana, | and a general recommendation statement (do not solicit a statement for a pardon recommendation unless the interviewee has indicated prior knowledge of the petition).

EFFECTIVE: 11/18/96

| 73-9 | DISCONTINUING INVESTIGATIONS |

- | (1) | Deleted |
- | (2) | Deleted |
- | (3) | Deleted |
- | (4) | Deleted |
- | (5) | Discontinuing investigations

(a) Derogatory information - If, during the course of the investigation, a field office develops derogatory information (e.g., the omission or falsification of material facts in the pardon petition or other types of applications, or the arrest of the petitioner subsequent to submission of the petition), the field office is to immediately advise FBIHQ, SIGBIU, by telephone, to be followed within one work day by the facsimiling of FD-302(s), insert(s) and/or other documents containing the information. (See MIOG, Part II, 17-5.1.)

1. Upon receipt of the "facsimiled information"

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from the field office, SIGBIU will immediately consult with the Office of the Pardon Attorney and determine whether or not the investigation will be continued.

2. The field office submitting the above information is to hold further investigation in abeyance until otherwise advised by FBIHQ, SIGBIU.

3. SIGBIU will advise all other offices with outstanding investigation to hold their investigation in abeyance pending SIGBIU's receipt of a determination by the Office of the Pardon Attorney whether to continue the investigation.

4. Upon receipt of the Office of the Pardon Attorney's determination, SIGBIU will promptly advise appropriate field offices whether or not to continue the investigation.

a. If the investigation is discontinued, field offices are to promptly submit an investigative report reflecting all investigation conducted. SIGBIU will provide the Office of the Pardon Attorney with the results of all investigation conducted.

b. If the investigation is to be continued, field offices are to complete, and submit to FBIHQ, SIGBIU, their part of the investigation by the established Bureau deadline.

(b) Death of petitioner - If, during the course of the investigation or thereafter, a field office determines that the petitioner has died, the field office is to immediately advise FBIHQ, SIGBIU, by telephone, to be followed within one work day by the facsimiling of FD-302(s), insert(s) and/or other documents (e.g., copy of death certificate and/or obituary) containing the information which verifies the petitioner's death.

1. Upon receipt of the "facsimiled information" from the field office, SIGBIU will immediately advise the Office of the Pardon Attorney.

2. The field office submitting the above information is to promptly submit an investigative report reflecting the results of any investigation conducted, including that concerning petitioner's death.

3. If petitioner's death occurs during the course of an ongoing investigation, SIGBIU will advise all other

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field offices with outstanding investigation to discontinue their investigation. Those offices are to promptly submit an investigative report reflecting all investigation conducted.

4. SIGBIU will provide the Office of the Pardon Attorney with the results of all investigation conducted.

(6) | Deleted |

EFFECTIVE: 11/18/96

73-10 DEADLINES

(1) | Each background investigation conducted by the FBI, including those conducted at the request of the Office of the Pardon Attorney, has a deadline known as Bureau deadline or BUDED. The BUDED is the date the complete investigation must be received at FBIHQ (in the applicable FBIHQ unit). The BUDED is established by FBIHQ and cannot be changed without FBIHQ authority. The BUDED is to be set forth in each intra-Bureau communication in accordance with FBI policy, whether generated by FBIHQ or the field. |

| (2) | Refer to MIOG, Part II, | 17-3.5, and MAOP, Part II, 10-10.3, for additional information regarding deadlines. |

EFFECTIVE: 11/18/96

73-11 PRIVACY ACT - REQUIREMENTS

When applicable, all individuals from whom information is being sought in pardon background investigations must be apprised, not only of the purpose of the investigation (see 73-4(2)) and the uses to be made of the information, but also the provisions of the Privacy Act regarding access to records and the allowance for confidentiality as described in Part I, Section 190-7 of this manual. |

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EFFECTIVE: 11/24/93

||73-12| CHARACTER - BACKGROUND INVESTIGATION - PARDON ATTORNEY'S
OFFICE

EFFECTIVE: 11/24/93

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SECTION 74. PERJURY

74-1 STATUTES

Title 18, USC, Sections 1621 (perjury generally), 1622 (subornation of perjury), and 1623 (false declaration before grand jury or court).

EFFECTIVE: 01/31/78

74-1.1 Section 1621 (Perjury Generally)

EFFECTIVE: 01/31/78

74-1.1.1 Elements

- (1) The accused was under oath before a competent tribunal.
- (2) He willfully made a false statement, knowing same to be false.

EFFECTIVE: 01/31/78

74-1.2 Section 1622 (Subornation of Perjury)

EFFECTIVE: 01/31/78

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74-1.2.1 Elements

- (1) The false witness, or person suborned, committed perjury.
- (2) The accused influenced or persuaded the false witness to commit such perjury.
- (3) The accused knew such statements to be false.
- (4) The accused knew the false witness knew the statements to be false.

EFFECTIVE: 01/31/78

74-1.3 Section 1623 (False Declaration Before Grand Jury or Court)

EFFECTIVE: 01/31/78

74-1.3.1 Elements

- (1) The accused was under oath in a proceeding before or ancillary to any court or Grand Jury of the United States.
- (2) He knowingly made a false material declaration; or he made or used any other information, including any book, paper, document, record, or recording, or other material, knowing same to contain any false material declaration.

EFFECTIVE: 01/31/78

74-2 POLICY

EFFECTIVE: 01/31/78

74-2.1 Handling of Complaints

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EFFECTIVE: 01/31/78

74-2.1.1 SAC may Authorize Investigation on Request of USA or
Federal Judge in Following Situations:

(1) If perjury arose from criminal case within jurisdiction of any Federal agency other than Secret Service, Internal Revenue Service, Immigration and Naturalization Service, U.S. Customs Service, Drug Enforcement Administration, Bureau of Alcohol, Tobacco and Firearms, and U.S. Postal Service. If perjury arose from case within jurisdiction of seven agencies mentioned, who have their own investigative staffs, it is the position of the Bureau and the Department of Justice that perjury investigation should be conducted by the other agency although coverage of leads in a distant area to assist other agency may be authorized by FBIHQ upon full justification.

(2) If USA requests investigation of perjury arising from an alleged false statement by a defendant to obtain Government-paid legal representation under Criminal Justice Act of 1964, if such violation is separable from a substantive case handled by another Federal agency.

(3) If perjury arose from civil case in Federal court in which neither U.S. Government nor any agency thereof is involved.

EFFECTIVE: 01/31/78

74-2.1.2 Prior FBIHQ Authority is Required Where Offense Arose
From:

(1) Trial in which original investigation conducted by any of above-mentioned agencies.

(2) Proceedings before departments, agencies, and committees.

(3) Proceedings incidental to court action (affidavits, depositions, etc.). This includes all cases not previously mentioned.

(4) Statements by a defendant to the court to obtain Government-paid legal representation under provisions of Criminal Justice Act of 1964, if perjury is not separable from substantive case handled by one of the above-mentioned agencies.

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EFFECTIVE: 01/31/78

74-2.1.3 If Trial is in Progress:

The USA must assure that the judge has been informed of allegation and is agreeable to investigation.

EFFECTIVE: 01/31/78

74-2.1.4 Other Policy

(1) Full details of complaints must be furnished FBIHQ expeditiously with action being taken or recommended.

(2) Exact text of perjured statement should be set forth in details of report as well as whether the false statement was given on direct examination or cross-examination.

EFFECTIVE: 01/31/78

74-3 PENALTIES

(1) Section 1621 - \$2,000 fine and/or five years' imprisonment.

(2) Section 1622 - \$2,000 fine and/or five years' imprisonment.

(3) Section 1623 - \$10,000 fine and/or five years' imprisonment.

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74-4 INVESTIGATIVE PROCEDURES

(1) Was accused under oath?

(a) Ascertain identity and official status of person who administered oath.

(b) Determine type of tribunal.

(c) Determine whether oath was authorized by a law of the U.S.

(2) Willfulness of false statement.

(a) Willfully means with design and with some degree of deliberation.

(b) If the statement involved is written, obtain original if possible; if oral, obtain transcript of testimony; or in absence of transcript, interview witnesses who can establish content or exact phraseology of the statement.

(3) Materiality of false statement.

(a) Ascertain nature and purpose of the proceedings and all available facts showing the connection between the false statement and the matter under inquiry.

(b) If the statement has no direct bearing on the proceedings, ascertain all facts which would indicate that the false statement was directly relevant, in that it affected the credibility of witnesses or bolstered or the testimony of the witnesses on any material point.

EFFECTIVE: 01/31/78

74-5 CHARACTER

If no substantive violation investigated, character will be "Perjury." When perjury allegation generated in connection with substantive violation, add "Perjury" to the character and do not open new case.

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SECTION 75. BONDSMEN AND SURETIES

75-1 STATUTES

Title 18, USC, Section 1506, paragraph 2, provides that whoever acknowledges, or procures to be acknowledged in any court of the U. S., any recognizance, bail or judgment, in the name of any other person not privy or consenting to the same, shall be fined not more than \$5,000 or imprisoned not more than 5 years, or both.

Prosecutions are usually instituted under the perjury statute (T 18, Sections 1631, 1622). Occasionally the conspiracy statute may be used (T 18, Section 371) and USA may consider using Title 18, Sections 494 and 1001.

EFFECTIVE: 01/31/78

75-2 ELEMENTS

See manual section on perjury.

EFFECTIVE: 01/31/78

75-3 POLICY

Bureau investigates fraudulent criminal bail bonds in all classes of violations of the Federal criminal statutes. Fraudulent bail bonds involve material misrepresentations and should not be confused with forfeited bail bonds (not investigated by Bureau) which involve forfeiture of the bond based on failure of principal to comply with terms of contract. Cases involving habitual or professional bondsmen should receive prompt and thorough attention. Bureau does not investigate immigration bonds furnished in regard to control and regulation of admission and deportation of aliens.

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75-4 INVESTIGATIVE PROCEDURE

(1) Affidavits of justification which are part of a bail bond include information, such as sureties' financial status, and misrepresentations therein are usually the basis for perjury and conspiracy prosecutions.

(2) A false statement, under oath, made by a person justifying as a surety, or a false statement made in testimony taken before a U. S. Magistrate or other committing magistrate (made by a person justifying as surety on a criminal bail bond), is perjury.

(3) Fraudulent bonds

Following are suggested leads which may vary depending on allegation in each case:

(a) Examine court records. After becoming acquainted with the rules of the court, examine case file in office of clerk of court in which bond is filed and obtain:

Names and addresses of sureties,

Name of principal, that is, the defendant,

Principal amount of bond, as well as docket and/or case number assigned to the bond by official taking the same and the clerk of court,

Listing and description of the property claimed by sureties, including legal and generally known description of the property,

Statements made concerning value of such property, whether encumbrances thereon were listed, and whether or not the surety had qualified on other bonds, and, if so, the amount, date and character of the case in connection with which the prior bonds were furnished,

Name and address of official before whom the bond was executed,

The nature of the charge in connection with which the bond was furnished,

Date bond executed.

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(b) Interview court official. He should be questioned regarding taking of the bond to determine whether the sureties were placed under oath, and whether he, the committing magistrate, made any record of such affirmation. Determine whether sureties were questioned and whether they gave any testimony with regard to representations made in the bond. In cases involving "straw bail" the committing magistrate should be questioned concerning evidence produced by the sureties to show ownership of the property listed in the justification of the bond. Sureties are frequently required to produce tax receipts, warranty deeds, and/or other records evidencing ownership of property. Any defect in such evidence noticed by the committing magistrate should be carefully noted and investigated.

(c) Interview principal and intermediary. Interview the principal and the person who made arrangements for obtaining the surety to ascertain the circumstances under which the bonds were executed by the subjects. Ascertain whether the principal was acquainted with the surety prior to execution of the bond; whether the surety solicited the business; or whether the surety was recommended by a third party and, if so, the identity of such person.

(d) Check title to property. Where it is indicated that surety does not have title to property pledged, determine whether surety was the record owner of such property at the time bond was executed. Search records of the registrar of deeds for full details of ownership. Actual consideration, which is sometimes disclosed by internal revenue tax stamps, should be ascertained, if possible.

If no deed to the property listed can be found on record in the office of the registrar of deeds for the county, interview the grantor, whose name usually will be disclosed in the justification of the bond, to determine whether such person deeded the property to the surety and to obtain all details regarding transfer of the property, such as consideration paid, whether the grantor delivered the deed to the surety. Property in question should be visited to secure a description thereof and to note whether property is occupied and in particular whether it is occupied by a person other than the surety. The real owner of the property involved at time the bond was executed should always be interviewed and his testimony obtained.

(e) Check assessed and market value of property. Possible sources are tax records, neighboring property owners, contractors who made recent improvements, local real estate dealers,

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etc.

(f) Check prior liens. The office of the clerk of the recorder of deeds can provide appropriate index record books from which may be obtained a record of mortgages, tax liens, special assessments, labor liens, judgments, etc., outstanding against the property at the time the bond was executed.

(g) Determine if property pledged on other bonds which were still outstanding in state or Federal courts at time bond which is under investigation was executed.

(h) Interview surety. This may determine whether subject has good, unrecorded title to property listed in bond and will obtain his explanation for statements in affidavit.

(i) Check authorization of agent of surety company when bond furnished by surety company. Determine exact status of agent for company at time bond executed.

EFFECTIVE: 01/31/78

75-5

VENUE

In district wherein material false statements are made.

EFFECTIVE: 01/31/78

75-6

CHARACTER - BONDSMEN AND SURETIES

EFFECTIVE: 01/31/78

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SECTION 76. ESCAPED FEDERAL PRISONERS,
ESCAPE AND RESCUE, ET AL.;
PROBATION VIOLATORS, ET AL.;
PAROLE VIOLATORS AND MANDATORY RELEASE
VIOLATORS

76-1 ESCAPED FEDERAL PRISONERS, ESCAPE AND RESCUE

EFFECTIVE: 09/20/89

76-1.1 Background

The Escape and Rescue Statute (ERS), Title 18, USC, Sections 751-757, was enacted on 9/1/48. By MOU, effective 10/1/79, the U.S. Marshals Service (USMS) was given investigative and apprehension responsibility for violations of the ERS. By Department of Justice (DOJ) directive concerning the "Policy on Fugitive Apprehension in FBI and DEA Cases," dated 8/11/88, the USMS was given the responsibility of apprehending Federal escapees regardless of the nature of the Federal offense for which the prisoner was held, but does not specify that the USMS had investigative responsibility as set forth in the 1979 MOU. This matter was clarified by DOJ on 12/11/91. DOJ ruled that the FBI would maintain primary investigative jurisdiction over conspiracy to violate the ERS pertaining to any person(s) who rescues, instigates or assists in the escape or planned escape of a Federal prisoner from custody of an institution or officer. A field office wanting to conduct a fugitive investigation only must secure the specific approval of FBI Headquarters and obtain the concurrence of USMS. This can be effected through the Fugitive/Government Reservation Crimes Unit, Criminal Investigative Division.

EFFECTIVE: 09/07/93

76-1.2 Principal Statutes and Penalties

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EFFECTIVE: 09/20/89

76-1.2.1 Section 751. Prisoners Escaping or Attempting to Escape
From Custody of an Institution or Officer

"(a) Whoever escapes or attempts to escape from the custody of the Attorney General or his authorized representative, or from any institution or facility in which he is confined by direction of the Attorney General, or from any custody under or by virtue of any process issued under the laws of the United States by any court, judge, or magistrate, or from the custody of an officer or employee of the United States pursuant to lawful arrest, shall, if the custody or confinement is by virtue of an arrest on a charge of felony, or conviction of any offense, be fined not more than \$5,000 or imprisoned not more than five years, or both; or if the custody or confinement is for extradition or by virtue of an arrest or charge of or for a misdemeanor, and prior to conviction, be fined not more than \$1,000 or imprisoned not more than one year, or both.

"(b) Whoever escapes or attempts to escape from the custody of the Attorney General or his authorized representative, or from any institution or facility in which he is confined by direction of the Attorney General, or from any custody under or by virtue of any process issued under the laws of the United States by any court, judge, or magistrate, or from the custody of an officer or employee of the United States pursuant to lawful arrest, shall, if the custody or confinement is by virtue of a lawful arrest for a violation of any law of the United States not punishable by death or life imprisonment and committed before such person's eighteenth birthday, and as to whom the Attorney General has not specifically directed the institution of criminal proceedings, or by virtue of a commitment as a juvenile delinquent under section 5034 of this title, be fined not more than \$1,000 or imprisoned not more than one year or both. Nothing herein contained shall be construed to affect the discretionary authority vested in the Attorney General pursuant to section 5032 of this title."

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76-1.2.2 Section 752. Rescuing, Instigating or Assisting Escape

"(a) Whoever rescues or attempts to rescue or instigates, aids or assists the escape, or attempt to escape, of any person arrested upon a warrant or other process issued under any law of the United States, or committed to the custody of the Attorney General or to any institution or facility by his direction, shall, if the custody or confinement is by virtue of an arrest on a charge of felony, or conviction of any offense, be fined not more than \$5,000 or imprisoned not more than five years, or both; or, if the custody or confinement is for extradition or by virtue of an arrest or charge of or for a misdemeanor, and prior to conviction, be fined not more than \$1,000 or imprisoned not more than one year, or both.

"(b) Whoever rescues or attempts to rescue or instigates, aids, or assists the escape or attempted escape of any person in the custody of the Attorney General or his authorized representative, or of any person arrested upon a warrant or other process issued under any law of the United States or from any institution or facility in which he is confined by direction of the Attorney General, shall, if the custody or confinement is by virtue of a lawful arrest for a violation of any law of the United States not punishable by death or life imprisonment and committed before such person's eighteenth birthday, and as to whom the Attorney General has not specifically directed the institution of criminal proceedings, or by virtue of a commitment as a juvenile delinquent under Section 5034 of this title, be fined not more than \$1,000 or imprisoned not more than one year, or both."

EFFECTIVE: 09/20/89

76-1.2.3 Section 753. Rescue to Prevent Execution

"Whoever, by force, sets at liberty or rescues any person found guilty in any court of the United States of any capital crime, while going to execution or during execution, shall be fined not more than \$25,000 or imprisoned not more than twenty-five years, or both."

EFFECTIVE: 07/28/87

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76-1.2.4 Section 754. Rescue of Body of Executed Offender

"Whoever, by force, rescues or attempts to rescue, from the custody of any marshal or his officers, the dead body of an executed offender, while it is being conveyed to a place of dissection as provided by Section 3567 of this title, or by force rescues or attempts to rescue such body from the place where it has been deposited for dissection in pursuance of said Section 3567, shall be fined not more than \$100 or imprisoned not more than one year, or both."

EFFECTIVE: 07/28/87

76-1.2.5 Section 755. Officer or Other Person Permitting Escape

"Whoever, having in his custody any prisoner by virtue of process issued under the laws of the United States by any court, judge, or commissioner, voluntarily suffers such prisoner to escape, shall be fined not more than \$2,000 or imprisoned not more than two years, or both; or if he negligently suffers such person to escape, he shall be fined not more than \$500 or imprisoned not more than one year, or both."

EFFECTIVE: 07/28/87

76-1.2.6 Section 756. Internee of Belligerent Nation

"Whoever, within the jurisdiction of the United States, aids or entices any person belonging to the armed forces of a belligerent nation or faction who is interned in the United States in accordance with the law of nations, to escape or attempt to escape from the jurisdiction of the United States or from the limits of internment prescribed, shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

EFFECTIVE: 07/28/87

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76-1.2.7 Section 757. Prisoners of War or Enemy Aliens

"Whoever procures the escape of any prisoner of war held by the United States or any of its allies, or the escape of any person apprehended or interned as an enemy alien by the United States or any of its allies, or advises, connives at, aids, or assists in such escape, or aids, relieves, transports, harbors, conceals, shelters, protects, holds correspondence with, gives intelligence to, or otherwise assists any such prisoner of war or enemy alien, after his escape from custody, knowing him to be such prisoner of war or enemy alien, or attempts to commit or conspires to commit any of the above acts, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

"The provisions of this section shall be in addition to and not in substitution for any other provision of law."

EFFECTIVE: 07/28/87

76-1.2.8 Section 1072. Harboring or Concealing an Escaped Prisoner

"Whoever willfully harbors or conceals any prisoner after his escape from the custody of the Attorney General or from a Federal penal or correctional institution, shall be imprisoned not more than three years."

EFFECTIVE: 09/20/89

76-1.2.9 Miscellaneous Statutes

Title 18, USC, Sections 1791 and 1792, which deal with the Bureau's substantive 90 classification, Irregularities in Federal Penal Institutions, should be considered, if appropriate, in connection with violations of the sections enumerated above. (See Part I, Section 90 of this manual.)

EFFECTIVE: 09/20/89

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76-1.2.10 Violations Subsequent to Escape

If subsequent Federal violations occur during or after an escape, the FBI shall investigate these separate violations. In these cases, the FBI and the USMS shall coordinate their investigations in an effort to effect the escapee's apprehension at the earliest date.

EFFECTIVE: 09/20/89

76-1.3 FBI Jurisdiction

EFFECTIVE: 09/20/89

76-1.3.1 General (See MIOG, Part I, 76-1.3.10(5).)

(1) By Department of Justice ruling 12/11/91, primary investigative jurisdiction pertaining to conspiracy to violate the ERS was given to the FBI. Accordingly, the USMS, effective 12/11/91, has investigative and apprehension responsibility only over those subjects who actually escape from the custody of an institution or an officer. Any investigation concerning conspiracy to escape should be initiated under Bureau classification 90, Irregularities in Federal Penal Institutions (IFPI).

(2) If an escaped Federal prisoner (EFP) subject, within the primary jurisdiction of the USMS also becomes an FBI substantive fugitive, of course, the FBI will seek his/her apprehension under the substantive case, but "OO" must advise the U.S. Marshal (USM) in the district holding the warrant of its fugitive involvement and notify the USM's office promptly upon apprehension. This notification will, of course, not change the existing procedure of advising the USM in the district where the subject is located.

(3) Should an EFP within the responsibility of the USMS become a suspect/subject in an FBI substantive case and "OO" desires to actively seek the subject's apprehension under the ongoing substantive matter, this may be done, provided the USMS is notified and the fugitive aspects of the case are an FBI-USMS coordinated effort. Of course, when the fugitive is apprehended or eliminated as a suspect/subject in the substantive case which no longer demands FBI fugitive involvement, the appropriate USM must be notified.

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(4) If any subject of an existing USMS responsibility EFP matter is wanted as a fugitive in an FBI substantive case, the existing "76" case should be consolidated and handled as a dual character substantive case.

(5) If for some reason it should become imperative for an office (OO) to initiate a "76" (EFP) fugitive investigation, involving a non-FBI case, advise FBIHQ on a UACB basis of the facts demanding FBI involvement.

EFFECTIVE: 09/07/93

76-1.3.2 Prosecution

Investigative jurisdiction and responsibility for conspiracy to violate the ERS rests with the FBI effective 12/11/91. In these matters, it is the FBI's responsibility to secure a prosecutive opinion from the USA and prepare reports suitable for prosecutive use.

EFFECTIVE: 09/07/93

76-1.3.3 Obtaining Process

(1) A prisoner who escapes is an automatic fugitive. No process whatsoever is necessary in cases involving escapes after convictions and sentencing.

(2) Inasmuch as removal proceedings may be necessary in those cases involving escapes before conviction and sentencing, a new warrant should be obtained on the original substantive offense if the offense was within the Bureau's primary jurisdiction.

(3) In those cases in which the original offense was not within the Bureau's primary jurisdiction, the USA should be promptly contacted so that a warrant may be obtained under section 751.

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EFFECTIVE: 09/10/79

76-1.3.4 Declination of Prosecution or Dismissal of Process

If the USA declines prosecution of the escapee for EFP or later dismisses the outstanding EFP process while the escapee is in fugitive status, the fugitive investigation should continue. Whether prosecution under the Escape and Rescue Act is anticipated has no bearing on the responsibility to locate Federal escapees since the major objective is to return them to Federal custody to complete their sentence or face the original pending Federal charge.

EFFECTIVE: 09/10/79

76-1.3.5 Escapees from Residential Treatment Centers, Furloughs, and Extended Limits of Confinement

Those prisoners assigned to residential treatment centers, granted furloughs, and/or extension of limits of confinement by the Attorney General, as set out in Title 18, USC, Section 4802, are in escape status within the Escape and Rescue Act when they fail to return to their place of assignment or from furlough as provided by the instructions given them and fall within the USMS's jurisdiction.

EFFECTIVE: 09/10/79

76-1.3.6 INS Escapees

Aliens who escape while in the custody of the U.S. Immigration and Naturalization Service, while being held administratively pending deportation proceedings or on the basis of a warrant of deportation, rather than a substantive Federal offense such as illegal entry or smuggling, are not subject to prosecution under the Escape and Rescue Act and are to be sought for by INS.

EFFECTIVE: 09/10/79

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76-1.3.7 State Prisoners in Federal Custody

(1) Title 18, USC, Section 5003, authorized the Attorney General to contract with officials of a state for the custody of a state prisoner convicted in a state court.

(2) A prisoner committed to the custody of the Attorney General under this section who escapes or attempts to escape violates Title 18, USC, Section 751, and falls within the USMS's jurisdiction.

EFFECTIVE: 09/10/79

76-1.3.8 Military Prisoners

Prisoners convicted and sentenced by a military court-martial are subject to prosecution for EFP and fall within the USMS's jurisdiction if the following conditions exist:

(1) The prisoner was committed to the custody of the Attorney General by the terms of the court-martial sentence. When these conditions exist, the prisoner comes into the constructive custody of the Attorney General at the time sentence is rendered and thereby becomes subject to prosecution for EFP if he/she escapes or attempts to escape.

(2) The prisoner is committed to a place of detention operated by the armed service by the terms of the court-martial but is subsequently transferred to the custody of the Attorney General. When these facts exist the prisoner must actually come into the physical custody of the Attorney General or one of Attorney General's authorized representatives and then escape or attempt to escape before this act can be applied.

EFFECTIVE: 09/10/79

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76-1.3.9 Escapes From Local Custody Where a Federal Detainer has been Filed or the Subject has been Federally Sentenced Concurrently or Consecutively to the State Offense

(1) When a subject in state custody has been charged federally with an offense under the FBI's jurisdiction and the Federal detainer has been filed but the Federal warrant has not been executed and the subject escapes from local custody, |subject| is a Bureau fugitive under the substantive Bureau offense and should be located and apprehended on the basis of the original warrant charging |subject| with the Bureau offense.

(2) When a subject has been convicted of a state offense and while in state custody the Federal warrant has been executed and the subject is convicted of a Bureau or non-Bureau Federal offense and sentenced concurrently rather than consecutively to the state offense and escapes from local custody, |subject| is an EFP under the Escape and Rescue Act and should be located and apprehended |by the USMS. |

(3) When a subject in state custody has been charged federally with an offense not under the FBI's jurisdiction and Federal detainer has been filed and the subject escapes from local custody, |subject| is not an EFP or Bureau fugitive. The office covering the place of escape may institute a fugitive investigation under the Fugitive Felon Act if requested by the local authorities.

(4) When a subject has been convicted of a state offense and while in state custody the subject is convicted for a Bureau or non-Bureau Federal offense but has not yet been sentenced federally or has been federally sentenced consecutively rather than concurrently and the subject escapes from local custody, |subject| is not an EFP or Bureau fugitive. The office covering the place of escape may institute a fugitive investigation under the Fugitive Felon Act if requested by the local authorities.

(5) The above examples should be distinguished from the situation in which a subject is arrested by the FBI or another Federal agency and is temporarily lodged in a state facility pending his/her appearance before the U.S. Magistrate. If the subject escapes from this state facility, he/she is an EFP and since he/she escaped prior to conviction, a new warrant should be obtained on the original process if the offense was within the Bureau's primary jurisdiction. In these instances the case should be worked out of the substantive matter and EFP added to the character. The fugitive aspects should be coordinated with the USMS and EFP prosecution, by no means, overlooked. In those cases in which the offense was not within the

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| Bureau's primary jurisdiction, the USMS should handle. |

EFFECTIVE: 09/10/79

76-1.3.10 Escapes From Civil Confinement

(1) The Comprehensive Crime Control Act of 1984 (CCCA of 84) was enacted into law on 10/12/84. This Act was responsible for a significant number of changes in the Federal criminal justice system including escapes from Federal civil confinement in EFP matters.

(2) Chapter X, Part L, of the CCCA of 84, entitled "Escape From Custody Resulting From Civil Commitment," amends the Recalcitrant Witness Statute, Title 28, USC, Section 1826, by adding Subsection (c). Subsection (c) covers an escape by an individual who has been civilly confined for refusing to testify before a Federal court or grand jury pursuant to Section 1826. Subsection (c) also covers the escape by an individual following a verdict of not guilty only by reason of insanity and subsequent confinement pursuant to the civil commitment statute, Title 18, USC, Section 4243, added by Chapter IV of the CCCA of 84, entitled "Insanity Defense Reform Act of 1984." In addition, Subsection (c) also covers attempted escapes by individuals confined in the above situations and individuals who aid or assist in such escapes or attempted escapes. Violators are subject to imprisonment for a maximum of three years and a fine of up to \$10,000.

(3) It should be noted that under prior law, persons who escaped from confinement resulting from a civil contempt order under Section 1826 could not be prosecuted since the Escaped Federal Prisoners Statute, Title 18, USC, Section 751, was limited to escapes from custody or confinement by virtue of an arrest or conviction. Section 1826 (c) was passed to remedy this situation.

(4) Subsection 1826 (c) applies from the moment the verdict of not guilty only by reason of insanity is announced until the subject is released after a subsequent court hearing under Section 4243 (c), or is unconditionally released by Federal authorities, or until a state authority takes custody of him/her. Furthermore, Subsection 1826 (c) does not require that the above-mentioned escapes occur while the individual was held under actual guard or direct physical restraint; therefore, custody may be minimal or constructive.

(5) Investigative jurisdiction between the FBI and the

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USMS over Subsection 1826 (c) escapes and subsequent criminal activity by the subjects is identical to the respective jurisdictions dictated by the Department of Justice ruling pertaining to EFP matters as set forth in 76-1.3.1.

EFFECTIVE: 09/07/93

76-1.4 Notification Concerning Escapes and Apprehensions

EFFECTIVE: 09/20/89

76-1.4.1 Bureau of Prisons

The Bureau of Prisons (BOP) facilities should notify the nearest FBI office and USMS office and furnish the details of each escape. The FBI should be notified of escape conspiracy information which becomes known to the BOP.

EFFECTIVE: 09/07/93

76-1.4.2 Bureau Office

(1) In liaison contacts ensure that all escapes involving conspiracy or another FBI violation are promptly reported to the appropriate FBI office so that substantive investigation and FBI-USMS coordinated fugitive inquiry can be initiated.

(2) FBIHQ should be promptly notified by teletype in those instances involving a major mass escape or the escape of a criminal having considerable notoriety of interest to the FBI.

(3) Upon the location of apprehension of the EFP, the USM of the district where located or apprehended should be immediately notified and requested to take custody.

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EFFECTIVE: 09/07/93

76-1.5 Investigative Procedures

(1) Investigation should be given preferred and expeditious attention as soon as the escape is reported in order to promptly apprehend the escapee before he/she is able to leave the general area where the escape was effected.

(2) A definite, prearranged counterescape plan should be formulated concerning roadblocks, terrain search, notification to local police agencies and other investigative steps which, if logical and appropriate, can be immediately utilized.

(3) The prison official reporting the escape should be interviewed regarding the complete details of the escape. This information should be recorded on an FD-302 as possible testimony in the event the escapee is later prosecuted for EFP.

(4) An Agent should promptly examine the subject's prison records to obtain any additional information of lead value.

(5) The office of origin should promptly request the office covering the territory in which the escapee was convicted to review appropriate records and set out the necessary leads in an effort to apprehend the subject.

(6) When reports concerning missing prisoners are received, close liaison must be maintained so that if it proves to be an escape, investigation can be immediately instituted.

(7) Upon the escapee's location or apprehension he/she should be interviewed in detail regarding his/her escape to ensure successful prosecution.

EFFECTIVE: 09/20/89

76-1.6 Office of Origin

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EFFECTIVE: 07/11/85

76-1.6.1 General Rule

(1) The office of origin shall be that office covering the place of the escape, attempted escape, or other offense.

(2) Once an escaped Federal prisoner has been apprehended the office of origin must promptly notify the correctional institution from which the subject escaped.

EFFECTIVE: 07/11/85

76-1.6.2 Exception Case

When a prisoner is released on furlough from a facility in one territory to voluntarily report for permanent transfer to a facility in another territory and prisoner fails to report as required (escapes), the Department has held that venue for EFP prosecution is where the subject was required and failed to report. Therefore, the office covering this location will act as the office of origin in directing the fugitive investigation and will also present the EFP violation for prosecutive opinion. (Only when investigation specifically authorized by FBIHQ.)

EFFECTIVE: 07/11/85

76-1.7 Venue

Prosecution shall be in the district in which the escape, attempted escape, or other offense was committed.

EFFECTIVE: 11/08/78

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76-1.8 Reporting Procedures (See MIOG, Part I, 25-10, 76-2.9,
76-3.13, 88-12, 115-7 & Part II, 21-29.)

(1) No communication need be submitted to FBIHQ at the outset of a routine nonfugitive investigation handled under the Escape and Rescue Statute; however, should good judgment dictate that FBIHQ and/or the Bureau of Prisons Headquarters be advised of such inquiry, a teletype or airtel, together with LHM (if dissemination desired), should be submitted to FBIHQ.

(2) If the subject of an escaped Federal prisoner or Escape and Rescue matter is placed in a fugitive status, two copies of an FD-65 should be promptly forwarded to FBIHQ, and one copy submitted directly to the Savannah Information Technology Center (SITC), by the office of origin. Upon the fugitive's apprehension or location, the locating office must promptly notify FBIHQ by teletype (at least ROUTINE in precedence), followed by Form FD-515 entry into the Integrated Statistical Reporting and Analysis Application (ISRAA). The office of origin must ensure that all auxiliary offices are notified by teletype to discontinue.

(3) One copy of a Prosecutive Report should be submitted to FBIHQ upon the authorization of prosecution by the USA, or when a specific request for such report is made by the USA or FBIHQ.

(4) In reporting the results of prosecutive action following the submission of a Prosecutive Report, while Form R-84 (if applicable) is to be forwarded to FBIHQ, a separate letter (airtel with LHM if dissemination desired) should also be submitted detailing the final disposition of each subject. The required letter should note that Form FD-515 has been entered into the ISRAA.

EFFECTIVE: 10/11/94

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||76-1.9| Character

(1) Escaped Federal Prisoner, applies to all escapes and attempted escapes under Section 751.

(2) Escape and Rescue, applies to all other cases under Sections 752, 755, 756, and 757.

(3) Escaped Federal Prisoner - Harboring, applies to cases under Section 1072.

(4) Irregularities in Federal Penal Institutions, applies to all violations of Sections 1791 and 1792 which arise from investigations of the sections enumerated above.

EFFECTIVE: 11/08/78

76-2 PROBATION VIOLATORS

EFFECTIVE: 09/20/89

76-2.1 Background

By Department of Justice directive dated 8/11/88, the U.S. Marshals Service (USMS) under Title 18, USC, Sections 3651-3656, was given the responsibility for the apprehension of all Federal probation violators (PBV). With the specific approval of FBIHQ and the concurrence of the USMS, an office may conduct such an inquiry.

EFFECTIVE: 09/20/89

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76-2.2 Principal Statute - Section 3651. Suspension of Sentence
and Probation

"Upon entering a judgment of conviction of any offense not punishable by death or life imprisonment, any court having jurisdiction to try offenses against the United States when satisfied that the ends of justice and the best interest of the public as well as the defendant will be served thereby, may suspend the imposition or execution of sentence and place the defendant on probation for such period and upon such terms and conditions as the court deems best.

"Upon entering a judgment of conviction of any offense not punishable by death or life imprisonment, if the maximum punishment provided for such offense is more than six months, any court having jurisdiction to try offenses against the United States, when satisfied that the ends of justice and the best interest of the public as well as the defendant will be served thereby, may impose a sentence in excess of six months and provide that the defendant be confined in a jail-type institution for a period not exceeding six months and that the execution of the remainder of the sentence be suspended and the defendant placed on probation for such period and upon such terms and conditions as the court deems best.

"Probation may be granted whether the offense is punishable by fine or imprisonment or both. If an offense is punishable by both fine and imprisonment, the court may impose a fine and place the defendant on probation as to imprisonment. Probation may be limited to one or more counts or indictments, but, in the absence of express limitations, shall extend to the entire sentence and judgment.

"The court may revoke or modify any condition of probation or may change the period of probation. The period of probation, together with any extension thereof, shall not exceed five years.

"While on probation and among the conditions thereof, the defendant may be required to pay a fine in one or several sums; and may be required to make restitution or reparation to aggrieved parties for actual damages or loss caused by the offense for which conviction was had; and may be required to provide for the support of any persons, for whose support he is legally responsible.

"The defendant's liability for any fine or other punishment imposed as to which probation is granted, shall be fully discharged by the fulfillment of the terms and conditions of probation."

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EFFECTIVE: 09/20/89

76-2.3 Definition

For Bureau purposes, a probation violator fugitive is a subject for whom a probation violator (bench) warrant was issued by a U.S. District Court and whose location is unknown at the time the warrant is issued.

EFFECTIVE: 09/20/89

76-2.4 Requests for Assistance

(1) Investigation should not be initiated by an office. If assistance is requested, any such requests should, after 8/11/88, be referred to the USMS. Specific FBIHQ approval must be obtained and USMS concurrence and very unusual circumstances must exist for FBI involvement without a substantive violation.

(2) If, after 8/11/88, a new PBV subject, within the primary jurisdiction of the USMS also becomes an FBI substantive fugitive, of course, we will seek his/her apprehension under the substantive case, but "OO" must advise the USM in the district holding the warrant of its fugitive involvement and notify USM's office promptly upon apprehension. This notification will, of course, not change the existing procedure of advising the USM in the district where the subject is located.

(3) Should, after 8/11/88, a PBV within the responsibility of the USMS become a suspect in an FBI substantive case and "OO" desires to actively seek the subject's apprehension under the ongoing substantive matter, this may be done provided the USMS is notified and the fugitive aspects of the case are an FBI-USMS coordinated effort. Of course, when the fugitive is apprehended or eliminated as a suspect in the substantive case which no longer demands FBI fugitive involvement, the appropriate USM must be notified.

(4) If any subject of an existing USMS responsibility PBV matter is wanted as a fugitive in an FBI substantive case, the existing "76" case should be consolidated and handled as a dual character substantive case.

(5) If for some reason it should become imperative for an "OO"

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to initiate a "76" (PBV) fugitive investigation, involving a non-FBI case, advise FBIHQ on a UACB basis of the facts demanding FBI involvement.

EFFECTIVE: 09/20/89

76-2.5 Preliminary Investigation

In addition to the usual fugitive investigation, the following sources should be contacted at the outset of the investigation to obtain information of lead value.

(1) The U.S. Probation Officer to whom the subject was placed under supervision.

(2) The USM to whom the warrant was forwarded.

EFFECTIVE: 09/20/89

76-2.6 Apprehension or Location

(1) When a probation violator is apprehended violator should be turned over to the nearest USM. If located in custody, the USM should be advised of violator's location.

(2) In addition, the nearest U.S. Probation Officer should be notified of the subject's apprehension or location.

EFFECTIVE: 09/20/89

76-2.7 Prosecution

Probation violation is a nonprosecutable offense. When apprehended, the court may revoke the probation and require the subject to serve the original sentence imposed, or any lesser sentence, and if imposition of sentence was suspended, may impose any sentence which might originally have been imposed.

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EFFECTIVE: 09/20/89

76-2.8 Office of Origin

The office of origin shall be that office in whose territory the probation violator warrant was issued for the subject.

EFFECTIVE: 09/10/79

76-2.9 Reporting Procedures (See MIOG, Part I, 25-10, 76-1.8, 76-3.13, 88-12, 115-7 & Part II, 21-29.)

(1) Upon initiating a probation violator investigation, two copies of an FD-65 must be promptly forwarded to FBIHQ, and one copy submitted directly to the Savannah Information Technology Center (SITC), by the office of origin. Upon the fugitive's apprehension or location, the locating office must promptly notify FBIHQ by teletype (at least ROUTINE in precedence), followed by Form FD-515 entry into the Integrated Statistical Reporting and Analysis Application (ISRAA). The office of origin must ensure that all auxiliary offices are notified by teletype to discontinue.

(2) As a general rule, Prosecutive Reports are not required in probation violator cases and, therefore, are not to be submitted to FBIHQ unless a specific request is made for same.

EFFECTIVE: 10/11/94

76-2.10 Character

Probation Violator (PBV). (The original substantive offense should not be included in the character.)

EFFECTIVE: 09/10/79

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76-3 PAROLE VIOLATORS AND MANDATORY RELEASE VIOLATORS

EFFECTIVE: 09/20/89

76-3.1 Background

By Department of Justice directive dated 8/11/88, the U.S. Marshals Service (USMS) was given the responsibility for apprehending all parole violators (PV), Title 18, USC, Sections 4202-4207, and 5037, and mandatory release violators (MRV), Title 18, USC, Sections 4161-4166, when referred for assistance by the U.S. Parole Commission (USPC). With the specific approval of FBIHQ and the concurrence of the USMS and USPC, an office may conduct such an inquiry.

EFFECTIVE: 09/20/89

76-3.2 Principal Statutes

EFFECTIVE: 09/20/89

76-3.2.1 Section 4202. Adult Prisoners Eligible for Parole

"A Federal prisoner, other than a juvenile delinquent or a committed youth offender, wherever confined and serving a definite term or terms of over one hundred and eighty days, whose record shows that he has observed the rules of the institution in which he is confined, may be released on parole after serving one-third of such term or terms or after serving fifteen years of a life sentence or of a sentence of over forty-five years."

EFFECTIVE: 09/20/89

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76-3.2.2 Section 5017. Release of Youth Offenders

"(a) The Division may at any time after reasonable notice to the Director release conditionally under supervision a committed youth offender. When, in the judgment of the Director, a committed youth offender should be released conditionally under supervision he shall so report and recommend to the Division.

"(b) The Division may discharge a committed youth offender unconditionally at the expiration of one year from the date of conditional release.

"(c) A youth offender committed under Section 5010 (b) of this chapter shall be released conditionally under supervision on or before the expiration of four years from the date of his conviction and shall be discharged unconditionally on or before six years from the date of his conviction.

"(d) A youth offender committed under Section 5010 (c) of this chapter shall be released conditionally under supervision not later than two years before the expiration of the term imposed by the court. He may be discharged unconditionally at the expiration of not less than one year from the date of his conditional release. He shall be discharged unconditionally on or before the expiration of the maximum sentence imposed, computed uninterruptedly from the date of conviction."

EFFECTIVE: 09/20/89

76-3.2.3 Section 5037. Parole of Juvenile Delinquents

A juvenile delinquent who has been committed and who, by his/her conduct, has given sufficient evidence that he/she has reformed, may be released on parole at any time under such conditions and regulations as the USPC deems proper if it shall appear to the satisfaction of such Commission that there is reasonable probability that the juvenile will remain at liberty without violating the law.

EFFECTIVE: 09/20/89

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76-3.2.4 Section 4164. Mandatory Released Prisoner Treated as Parolee

A prisoner having served his/her term or terms less good time deductions shall, upon release, be deemed as if released on parole until the expiration of the maximum term or terms for which he/she was sentenced less one hundred and eighty days.

EFFECTIVE: 09/10/79

76-3.3 Definition

A parole or mandatory release violator fugitive is a subject for whom a parole or mandatory release violator warrant has been issued by the USPC. No other process is necessary and these warrants are valid anywhere in the United States or its territories.

EFFECTIVE: 09/10/79

76-3.4 Distinction Between Parole and Mandatory Release

EFFECTIVE: 09/10/79

76-3.4.1 Parole

Parole of adult prisoners, youth offenders, and juvenile delinquents is within the discretion of the USPC as provided in Sections 4202, 5017, and 5037 respectively.

EFFECTIVE: 09/10/79

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76-3.4.2 Mandatory Release

(1) Mandatory release is not within the discretion of the USPC. If not paroled, prisoners have a legal right to be mandatorily released either conditionally or unconditionally, when they have served their sentence with "good time" and "industrial good time" deducted, provided their conduct has been satisfactory.

(2) The amount of "good time" and "industrial good time" a prisoner may acquire is statutory and dependent upon the length of his/her sentence.

(3) Section 4161 provides the rate of five days "good time" per month for prisoners sentenced from six months to one year, six days per month on sentences of one to three years, and so on up to the maximum allowance of ten days per month if the sentence is ten years or more.

(4) Section 4162 provides for up to three additional days per month of "industrial good time" for actual employment while incarcerated the first year and up to, but not to exceed, five days per month for any succeeding year of incarceration.

(5) If the "good time" and "industrial good time" earned is more than 180 days, he/she is conditionally released for this period of "good time" and "industrial good time" earned less 180 days.

(6) A conditional release places the individual under the supervision of a U.S. Probation Officer. If he/she violates the conditions while under supervision, a mandatory release violator's warrant can be issued for his/her arrest.

(7) If the "good time" and "industrial good time" earned is 180 days or less, the prisoner is unconditionally released after he/she has served his/her sentence less "good time" and "industrial good time" earned.

(8) An unconditional release does not place the individual under the supervision of the USPC, therefore, a mandatory release violator's warrant cannot be subsequently issued.

EFFECTIVE: 09/20/89

76-3.5 Deleted

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EFFECTIVE: 09/20/89

76-3.6) Requests for Assistance

(1) All parole violator and mandatory release violator warrants are issued by the regional offices of the USPC. Any request for FBI assistance received from the U.S. Probation Officer should be referred to the USMS after 8/11/88. Specific FBIHQ approval, USMS and USPC concurrence, and very unusual circumstances must exist for FBI involvement without a substantive violation.

(2) If, after 8/11/88, a new PV or MRV subject within the primary jurisdiction of the USMS also becomes an FBI substantive fugitive, of course, we will seek his/her apprehension under the substantive case, but "OO" must advise the USM in the district holding the warrant of its fugitive involvement and notify USM's office promptly upon apprehension. This notification will, of course, not change the existing procedure of advising the USM in the district where the subject is located.

(3) Should, after 8/11/88, a PV or MRV within the responsibility of the USMS become a suspect in an FBI substantive case and "OO" desires to actively seek the subject's apprehension under the ongoing substantive matter, this may be done provided the USMS is notified and the fugitive aspects of the case are an FBI-USMS coordinated effort. Of course, when the fugitive is apprehended or eliminated as a suspect in the substantive case which no longer demands FBI fugitive involvement, the appropriate USM must be notified.

(4) If any subject of an existing USMS responsibility PV or MRV matter is wanted as a fugitive in an FBI substantive case, the existing "76" (PV or MRV) case should be consolidated and handled as a dual character substantive case.

(5) If for some reason it should become imperative for an "OO" to initiate a "76" (PV or MRV) fugitive investigation involving a non-FBI case, advise FBIHQ on a UACB basis of the facts demanding FBI involvement.

EFFECTIVE: 09/20/89

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76-3.7 U.S. Parole Commission Structure

(1) Through the Parole Commission and Reorganization Act of 5-14-74, the U.S. Board of Parole became known as the U.S. Parole Commission.

(2) |Deleted|

(3) Starting in May, 1974, its headquarters in Washington, D.C., was abolished and they instituted a policy of decentralization and regionalization through the creation of five regions with headquarter regional offices established as follows:

Philadelphia	Northeast
Atlanta	Southeast
Dallas	South Central
Kansas City	North Central
San Francisco	Western

(4) |Deleted|

EFFECTIVE: 09/10/79

76-3.8 Preliminary Investigation

In addition to the usual fugitive investigation the following sources should be contacted at the outset of the investigation to obtain information of lead value.

(1) The U.S. Probation Officer to whom the subject was paroled or released for supervision.

(2) The USM to whom the warrant was forwarded by the USPC.

EFFECTIVE: 09/10/79

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76-3.9 Apprehension or Location

(1) When a parole or mandatory release violator is apprehended he/she should be turned over to the nearest USM. If located in custody, the USM should be advised of violator's location.

(2) In addition, the nearest U.S. Probation Officer should be notified of the subject's apprehension or location.

EFFECTIVE: 08/21/87

76-3.10 Prosecution

Parole and mandatory release violations are nonprosecutable offenses. When apprehended, the USPC may modify the terms and conditions of the parole or revoke the parole and require the prisoner to serve all or any part of the remainder of the original sentence.

EFFECTIVE: 08/21/87

76-3.11 Youth Offender Subjects

(1) Though the Federal Youth Corrections Act (FYCA) was repealed by the Comprehensive Crime Control Act of 1984, Public Law 98-473, effective 10/12/84, individuals under the age of 22 being sentenced before that date upon a guilty plea or conviction were eligible for special sentencing conditions under the FYCA.

(2) Prior to 8-1-77, an individual sentenced under the FYCA, who was released prior to his/her sentence termination date and subsequently declared a parole or mandatory release violator, could only be sought as a fugitive until his/her sentence termination date.

(3) If the subject avoided apprehension until subject's sentence termination date, the warrant was withdrawn by the USPC and the fugitive investigation was discontinued.

(4) This policy was based on the USPC regulation that a youth offender's sentence continues to run from the date of sentencing and the issuance of a parole or mandatory release violator's warrant does not toll the sentence termination date.

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(5) As of 8-1-77, a new regulation of the USPC now provides that the issuance of a parole or mandatory release violator's warrant tolls the sentence termination date of the youth offender if he/she is charged with absconding from supervision or is in escape status.

(6) Based on this regulation, the fugitive investigation for a youth offender should not be discontinued upon his/her sentence termination date if he/she has been charged with absconding from supervision or is in escape status.

(7) For those youth offenders who are declared parole or mandatory release violators and not so charged or in escape status, the warrant will be withdrawn by the USPC upon his/her sentence termination date and the Bureau's fugitive investigation will be discontinued at that time.

EFFECTIVE: 08/21/87

76-3.12 Narcotic Addict Rehabilitation Act (NARA)

The identical USPC regulations, investigative procedures, and Bureau policy that apply to youth offenders, handled under the FYCA, as set forth in Section 76-3.11, also apply to narcotic addicts, handled under NARA, who are committed under Section 4253, for an indeterminate period of time not to exceed ten years, and are conditionally released under supervision under Section 4254.

EFFECTIVE: 09/10/79

76-3.13 Reporting Procedures | (See MIOG, Part I, 25-10, 76-1.8,
76-2.9, 88-12, 115-7 & Part II, 21-29.) |

(1) Upon initiating a parole or mandatory release violator investigation referred to the field, no initial FD-65 or other communication need be submitted to FBIHQ. Upon the fugitive's apprehension or location, the locating office must promptly notify FBIHQ by teletype (at least ROUTINE in precedence), followed by Form FD-515|entry into the Integrated Statistical Reporting and Analysis Application (ISRAA).| The office of origin must ensure that all auxiliary offices are notified by teletype to discontinue.

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(2) As a general rule, Prosecutive Reports are not required in parole and mandatory release violator cases and, therefore, are not to be submitted to FBIHQ unless a specific request is made for same.

EFFECTIVE: 11/01/93

76-3.14 Character

Parole Violator (PV) or Mandatory Release Violator (MRV). (The original offense for which the subject was sentenced should not be carried in the character.)

EFFECTIVE: 09/10/79

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SECTION 77. BACKGROUND INVESTIGATION - PRESIDENTIAL APPOINTMENT WITH SENATE CONFIRMATION; - U.S. COURTS; - DEPARTMENT OF JUSTICE; - U.S. ATTORNEY'S OFFICE STAFF; - U.S. ATTORNEY'S OFFICE; - DEPARTMENT OF JUSTICE - REIMBURSABLE; BACKGROUND REINVESTIGATION - DEPARTMENT OF JUSTICE

77-1 GENERAL INSTRUCTIONS

These instructions supplement those outlined in Part II, Section 17 of this manual and pertain to the following subclassifications and positions:

EFFECTIVE: 07/02/93

77-1.1 77A: Background Investigation - Presidential Appointment with Senate Confirmation - Nonreimbursable (See MAOP, Part II, 3-1.1, 3-1.2 and 10-23; MIOG, Part I, 77-3, Part II, 17-2; Correspondence Guide-Field, 1-17.)

- (1) Supreme Court Justice
- (2) U.S. Court of Appeals Judge
- (3) U.S. District Court Judge
- (4) Court of International Trade Judge
- (5) U.S. Claims Court Judge
- (6) Court of Military Appeals Judge
- (7) Court of Veteran Appeals Judge
- (8) Attorney General of the U.S.
- (9) Director, FBI
- (10) Administrator/Deputy Administrator, DEA

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- (11) Deputy Attorney General
- (12) Assistant Attorney General
- (13) U.S. Marshal
- (14) U.S. Attorney
- (15) Department of Justice Executive
- (16) Unspecified Position
- (17) Other

EFFECTIVE: 12/01/93

77-1.2

77B: Background Investigation - U.S. Courts - 15 Year
Scope (or since the candidate's 18th birthday, whichever
is less) - Reimbursable (See MAOP, Part II, 3-1.1, 3-1.2
and 10-23; MIOG, Part I, 77-3, Part II, 17-2, 17-2.1;
Correspondence Guide-Field, 1-17.)

- (1) U.S. Magistrate Judge
- (2) U.S. Bankruptcy Court Judge
- (3) U.S. Bankruptcy Trustee
- (4) U.S. Bankruptcy Administrator
- (5) U.S. Circuit Court Executive
- (6) U.S. District Court Executive

The above investigations are conducted for the
Administrative Office of the U.S. Courts.

EFFECTIVE: 12/20/96

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77-1.3 77C: Background Investigation - U.S. Courts - 10
Year Scope (or since the candidate's 18th birthday,
whichever is less) - Reimbursable (See MAOP, Part II,
3-1.1, 3-1.2 and 10-23; MIOG, Part I, 77-3, Part II, 17-2,
17-2.1; Correspondence Guide-Field, 1-17.)

(1) U.S. Probation Officer

(2) U.S. Pretrial Services Officer

(3) U.S. Public Defender

(4) Independent Counsel Staff (does NOT include the
position of Independent Counsel)

(5) Other

EFFECTIVE: 12/20/96

77-1.4 Deleted

EFFECTIVE: 12/20/96

77-1.5 77E: Background Investigation - Department of Justice -
Nonreimbursable (See MAOP, Part II, 3-1.1, 3-1.2 and
10-23; MIOG, Part I, 77-3, Part II, 17-2; Correspondence
Guide-Field, 1-17.)

(1) Foreign Intelligence Surveillance Court (FISC) Judge
(See MIOG, Part II, 23-9.5)

(2) Schedule C (Political Appointment)

(3) Departmental Attorney

(4) Departmental Staff

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- (5) Honor Recruit Attorney
- (6) Paralegal Assistant/Specialist
- (7) Executive Office Staff

EFFECTIVE: 12/01/93

77-1.6 | 77F: | Background Investigation - U.S. Attorney's
Office | (Staff) - Reimbursable | (See MAOP, Part II, 3-1.1,
3-1.2 and 10-23; MIOG, Part I, 77-3, 77-4.3, Part II,
17-2, 17-2.1; | Correspondence Guide-Field, 1-17.)

| U.S. Attorney's Office Staff (Field) |

EFFECTIVE: 12/01/93

77-1.7 | Deleted |

EFFECTIVE: 01/03/97

77-1.8 | 77H: | Background Investigation - U.S. Attorney's Office
(Attorney) | - Reimbursable (See MAOP, Part II,
3-1.1, 3-1.2 and 10-23; MIOG, Part I, 77-3, | 77-4.3, | Part
II, | 17-2, 17-2.1; | Correspondence Guide-Field, 1-17.)

- (1) | Assistant U.S. Attorney |
- (2) | Special Attorney |
- (3) | Cross Designated Attorney |

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EFFECTIVE: 12/01/93

77-1.9 | 77I: | Background | Investigation | - Department of
Justice - Reimbursable (See MAOP, Part II, 3-1.1,
3-1.2 and 10-23; MIOG, Part II, | 17-2, 17-2.1; |
Correspondence Guide-Field, 1-17.)

- (1) | U.S. Trustee |
- (2) | Assistant U.S. Trustee |
- (3) | Chapter 13 Trustee |
- (4) | Administrative Law/Immigration Judge |
- (5) | Other |

EFFECTIVE: 12/01/93

77-1.10 | 77J: | Background Reinvestigation - Department of
Justice - | 10 | Year - Reimbursable (See MAOP, Part II,
3-1.1, 3-1.2 and 10-23; MIOG, Part I, 77-3, 77-4.11, Part
II, 17-2, | 17-2.1, | 17-6.8; Correspondence Guide-Field,
1-17.)

- (1) DOJ | Executive |
- (2) DOJ | Attorney |
- (3) Field | Attorney |
- (4) DOJ Staff
- (5) Field Staff

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EFFECTIVE: 12/01/93

77-1.11 | 77K: | Background Reinvestigation - Department of
Justice - | 7 | Year - Reimbursable (See MAOP, Part II, 3-1.1,
3-1.2 and 10-23; MIOG, Part I, 77-3, 77-4.11, Part II,
17-2, | 17-2.1, | 17-6.8; Correspondence Guide-Field, 1-17.)

- (1) DOJ | Executive |
- (2) DOJ | Attorney |
- (3) Field | Attorney |
- (4) DOJ Staff
- (5) Field Staff

EFFECTIVE: 12/01/93

| 77-1.12 77L: | Background Reinvestigation - Department of Justice -
5 Year - Reimbursable (See MAOP, Part II, 3-1.1, 3-1.2 and
10-23; MIOG, Part I, 77-3, | 77-4.11, | Part II,
17-2, | 17-2.1, 17-6.8; | Correspondence Guide-Field, 1-17.)

- (1) DOJ Executive
- (2) DOJ Attorney
- (3) Field Attorney
- (4) DOJ Staff
- (5) Field Staff

EFFECTIVE: 12/01/93

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77-1.13 77M: Background Reinvestigation - Department of Justice -
3 Year - Reimbursable (See MAOP, Part II, 3-1.1, 3-1.2 and
10-23; MIOG, Part I, 77-3, 77-4.11, Part II, 17-2, 17-2.1,
17-6.8; Correspondence Guide-Field, 1-17.)

- (1) DOJ Executive
- (2) DOJ Attorney
- (3) Field Attorney
- (4) DOJ Staff
- (5) Field Staff

EFFECTIVE: 12/01/93

77-2 INITIATION OF INVESTIGATION

(1) Completed SF-86 (Questionnaire for Sensitive Positions) forms are received from the referral agencies in most cases. These forms are reviewed by FBIHQ personnel for conformance and completeness. Obvious deficiencies are identified and appropriate leads set forth to resolve inconsistent and/or incomplete information, in addition to routine investigative leads. The initial investigative leads are set by FBIHQ, using the SF-86 as a guide. Any additional leads discovered by the field during investigation should be set out expeditiously (see Part II, Section 17-3.7 of this manual). Individuals conducting investigations should be familiar with Part II, Sections 17 and 23-6 of this manual and Part II, Section 10-13.3 of the Manual of Administrative Operations and Procedures.

(a) For most Presidential appointments (77A cases), the completed SF-86 is not received from the referral agency. The SF-86, Supplement to SF-86, Supplemental Instructions for Completing SF-86, and two copies of the U.S. Department of Justice Tax Check Waiver are sent directly to the candidate from FBIHQ. It is the responsibility of the field to gather these forms during the initial candidate interview and expeditiously forward the original documents, along with fingerprint cards and a copy of the candidate interview (on FD-302), to FBIHQ so appropriate leads may be set forth. In order to ensure prompt handling of the candidate's forms, the initial interview

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of the candidate should be conducted within five (5) working days after receipt of instructions from FBIHQ.

(b) Further, the field is responsible for setting out leads regarding information disclosed by the candidate during his/her initial interview which does not appear on the SF-86.

(2) Investigations in these categories are usually ordered by teletype or airtel and must be given preferential and expeditious attention.

EFFECTIVE: 07/02/93

77-3 SCOPES OF INVESTIGATION (See MIOG, Part I, 77-1.1 through 77-1.13.)

Investigations in these categories should include all investigation required in Part II, Section 17 of this manual, unless otherwise noted. The type of BI will be set out in the opening communication by subclassification. The scopes of investigation for 77 subclassifications are as follows:

- (1) 77A - Covers the candidate's adult life, since age 18.
- (2) 77B - Covers the past 15 years of the candidate's life or since age 18, whichever is less, but in no case less than two (2) years.
- (3) 77C - Covers the past 10 years of the candidate's life or since age 18, whichever is less, but in no case less than two (2) years.
- (4) Deleted
- (5) 77E - Covers the past 10 years of the candidate's life or to age 18, whichever is less, but in no case less than two (2) years.
- (6) 77F - Covers the past 10 years of the candidate's life or to age 18, whichever is less, but in no case less than two (2) years.

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(7) | Deleted |

(8) 77H - Covers the past 10 years of the candidate's life, or to age 18, whichever is less.

(9) 77I - Covers the past 10 years of the candidate's life, or to age 18, whichever is less.

(10) 77J - Covers the past 10 years of the employee's life.

(11) 77K - Covers the past seven (7) years of the employee's life.

(12) 77L - Covers the past five (5) years of the employee's life.

(13) 77M - Covers the past three (3) years of the employee's life.

EFFECTIVE: 01/03/97

| 77-3.1 | Revised and renumbered as 77-4.3 |

EFFECTIVE: 07/02/93

| 77-3.2 | Revised and renumbered as 77-4.4 |

EFFECTIVE: 07/02/93

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| 77-3.3 | Revised and renumbered as 77-4.5 |

EFFECTIVE: 07/02/93

| 77-3.4 | Revised and renumbered as 77-4.2 |

EFFECTIVE: 07/02/93

| 77-4 | ADDITIONAL INVESTIGATIVE GUIDELINES

| In addition to investigation required in Part II, Section
17 of this manual, the following investigation must be conducted:

EFFECTIVE: 07/02/93

| 77-4.1 | Issues/Derogatory Information Developed

| During any BI, regardless of the scope of investigation
and/or the questions, issues or derogatory information developed
should be fully investigated and brought to a logical conclusion.
This includes a candidate's admission of illegal or unusual activity
prior to the scope of the BI. |

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||77-4.2| Qualifications

| In all cases concerning Federal judgeships (including U.S. Bankruptcy and U.S. Magistrate Judges), other Presidential appointments and attorney positions, ascertain the overall qualifications of the candidates, as well as character, loyalty, reputation, etc. Specific comments from each person interviewed should be set forth in the report. In cases concerning U.S. Bankruptcy Judge and U.S. Trustee positions, also obtain comments concerning the candidate's experience in bankruptcy matters.

EFFECTIVE: 07/02/93

|77-4.3 Prescreening Reports| (See MIOG, Part I, 77-1.6 & 77-1.8, Part II, 17-2, 17-2.1.)|

Candidates under consideration for field positions in the U.S. Attorneys' Offices (77Fs and 77Hs) undergo a prescreening process in most cases. Contact should be made with the U.S. Attorney's Office where the candidate will serve in order to review the prescreening report and interview the Administrative Officer to obtain any information of interest to our investigation.

EFFECTIVE: 12/01/93

||77-4.4| Bar Membership/Certified Public Accountant (CPA) Status

| If the candidate is an attorney or CPA, determine if he/she is licensed to practice in every state where the candidate has lived or worked since completing his/her professional education. Check grievance committee records in any state where the candidate is or has been licensed. It is not necessary to verify membership in voluntary associations such as the American Bar Association. When verifying that the candidate is licensed to practice, the following statement must appear: "The above-named agency is the licensing agency for attorneys (or CPAs) in the State (or Commonwealth) of (state name)."

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EFFECTIVE: 07/02/93

77-4.5 Judicial and Other Positions Requiring Senate
Confirmation (See MIOG, Part I, 77-4.6 and 77-4.9.)

Captioned positions require a more in-depth investigation which must encompass the following in addition to investigative instructions set out in Part II, Section 17 of this manual:

| (1) | Verify the candidate's ownership of all real estate, and check deed(s) for any covenants regarding race, religion, etc.

| (2) | Check records of county clerk (or equivalent) to determine if personal, tax or mechanical liens exist. If so, fully explain. Do not contact Internal Revenue Service for any details regarding federal tax liens, as this is done by the referral agencies.

| (3) | When applicable, determine the candidate's professional reputation, legal ability, types of cases handled, trial experience, courtroom demeanor, reputation for fairness, temperament, bias or prejudice against any group, and ability to weigh conflicting testimony and make factual determinations through:

(a) Interviews of six (6) attorneys who are acquainted with the candidate, to include three (3) attorneys with whom the candidate associates and three (3) who have opposed, or have appeared before, the candidate in court;

(b) Interviews of three (3) federal, state and local judges familiar with the candidate; and

(c) Interviews of the chief federal judge and the U.S. Attorney in the district where the candidate will serve, if appointed.

| (4) | Interview the candidate's personal physician regarding the candidate's health (Senate confirmation cases only).

| (5) | Identify all organizations to which the candidate belongs or has belonged, including private and social clubs. Obtain information from an official about the membership policy of the

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organization with regard to race, religion, sex, etc. Ensure the possibility of de facto discrimination is explored. If the organization has/had a discriminatory membership policy, determine whether the candidate participated in changing or attempting to change the policy.

| (6) | Interview local and state chairpersons of both major political parties (Senate confirmation cases only).

| (7) | Interview local religious and labor leaders in the candidate's geographic area, only when instructed to do so by FBIHQ.

| (8) | Interview leaders of prominent minority/civil rights groups such as the NAACP, National Urban League, NOW or others that are active in the candidate's geographic area. Identify the position held by the interviewee within the organization.

| (9) | Interview three (3) local, state and/or federal law enforcement officials in the district where the candidate will serve, if appointed. Agents are encouraged to interview representatives of agencies other than the FBI. (See MAOP, Part I, Section 1-15.3(5).)

| (10) | Review files of appropriate federal regulatory agency if the candidate is or was employed in a regulated business (e.g., banking, brokerage firm, etc.).

| (11) | Review any articles written by, or speeches made by the candidate for indications of bias or prejudice regarding race, color, religion, gender, etc. (Ensure that the text of any articles or speeches that indicate, or could be construed to indicate, bias are enclosed with the report.)

| (12) | In those cases requiring Senate confirmation, Washington Metropolitan Field Office will interview the U.S. Senators from the state where the candidate will serve and will review U.S. Secret Service and, if appropriate, Office of Inspector General (Investigations) and Public Integrity Section, DOJ files. If past/current DOJ employee, also review Office of Professional Responsibility and personnel files as appropriate.

| (13) | Review records of the state judicial review committee/board, if candidate is/was a city or state judge. Also, review county/state election commission files, if the judge was elected to the position.

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EFFECTIVE: 06/04/96

77-4.6 U.S. Attorney/U.S. Marshal Update BIs

(1) An understanding has been established with the Department of Justice (DOJ) concerning the BIs of U.S. Attorneys and U.S. Marshals who are being considered for reappointment to their current positions, and who have been the subjects of previous FBI BIs as outlined in 77-4.5.

(2) The update BIs should be limited to specific areas identified as follows:

(a) Credit and arrest checks concerning the candidate;

(b) U.S. Attorney's Office record checks concerning the candidate;

(c) Interviews of neighbors at employee's present residence and other residences since the previous investigation, last five (5) years only;

(d) Interviews of the chief Federal judge and two (2) other Federal judges, and the clerk of the court in the candidate's district;

(e) Interview of the U.S. Attorney in the candidate's district (U.S. Marshal candidates);

(f) Interviews of the candidate's listed references and associates;

(g) Interviews of at least three (3) officials of Federal agencies;

(h) Interviews of at least three (3) local police chiefs and sheriffs in the candidate's district;

(i) Check of appropriate DOJ records (Office of Professional Responsibility, Office of the Assistant Inspector General for Investigations, Public Integrity Section and Official Personnel

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File);

(j) State bar and grievance checks (U.S. Attorney candidates); and

(k) FBI record checks concerning the candidate, close relatives and cohabitants.

EFFECTIVE: 07/02/93

77-4.7 U.S. Trustee and Other Trustee Positions

These positions also require a more in-depth investigation which must encompass the following in addition to investigative instructions set out in Part II, Section 17 of this manual:

(1) When applicable, determine the candidate's professional reputation, legal ability, types of cases handled, trial experience, courtroom demeanor, reputation for fairness, temperament, bias (against social classes of citizens, members of any group - religious, ethnic or racial), etc., through the following:

(a) Interviews of three (3) creditor representatives (a creditor representative is an individual, usually an attorney, who represents a creditor's interest at a bankruptcy hearing) who have knowledge of the candidate;

(b) Interviews of two (2) bankruptcy judges before whom the candidate has appeared and/or who have knowledge of the candidate;

(c) Interview of the Chief U.S. Bankruptcy Judge of the district in which the candidate would serve, if appointed.

(2) Review files of appropriate federal regulatory agency if the candidate is or was employed in a regulated business (i.e., banking, brokerage firm, etc.).

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77-4.8 Administrative Law/Immigration Judge Positions

The Executive Office for Immigration Review is responsible for the administration and interpretation of the immigration laws. The Administrative Law and Immigration Judges act independently in their decision-making capacity, and their decisions are administratively final unless appealed or certified to the Board of Immigration Appeals. These quasi-judicial positions also require a more in-depth investigation which must encompass the following in addition to investigative instructions set out in Part II, Section 17 of this manual:

(1) When applicable, determine the candidate's professional reputation, legal ability, types of cases handled, trial experience, courtroom demeanor, reputation for fairness, temperament, bias (against social classes of citizens, members of any group - religious, ethnic or racial), etc., through:

(a) Interview of the Chief Administrative Hearing Officer (Administrative Law Judge candidates only);

(b) Interview of the Chief Immigration Judge (Immigration Judge candidates only); and

(c) Interviews of three (3) developed sources (individuals not provided by the candidate) who have, to the extent practical, knowledge of the candidate's professional reputation, etc.

EFFECTIVE: 06/04/96

77-4.9 U.S. Bankruptcy and U.S. Magistrate Judge Positions

U.S. Bankruptcy and U.S. Magistrate Judge positions do not require Senate confirmation; however, they are judicial positions and require a more in-depth investigation. In addition to investigative instructions set out in Part II, Section 17 of this manual, investigation as set out in 77-4.5 of this section should be conducted in these BIs, unless otherwise indicated.

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EFFECTIVE: 07/02/93

77-4.10 FISC and Other Special Tribunal Judge Positions

(1) The scope of the reinvestigation of a Federal judge under consideration for an appointment to a Special Tribunal is limited to specific areas identified as follows:

(a) Credit and arrest checks concerning the candidate;

(b) Interviews of the neighbors at the candidate's present residence and other residences since the previous investigation, last five (5) years only;

(c) Verification of state bar membership and check grievance records;

(d) Interviews of the chief Federal judge and three (3) other Federal judges (district and appellate) in the candidate's district;

(e) Interviews of three (3) attorneys in private practice who have appeared before the candidate or who have knowledge of the candidate;

(f) Interviews of the U.S. Attorney and the U.S. Marshal in the candidate's district;

(g) Interview of the representative of any social club or organization in which the candidate holds membership to determine if the organization has/had a discriminatory membership policy;

(h) Review of appropriate records at the Administrative Office of the U.S. Courts and the Public Integrity Section, DOJ; and

(i) FBI record checks concerning the candidate, close relatives and cohabitants.

(2) This BI is not an appraisal of the candidate's performance as a Federal judge; therefore, comments regarding judicial

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qualifications should not be elicited. This BI should seek to obtain comments concerning the candidate's character, associates, reputation, loyalty, discretion, personal demeanor, illegal drug use, prescription drug/alcohol abuse, financial responsibility, and bias. As procedure dictates in any BI, should unfavorable information be developed during the course of the investigation, additional investigation will be conducted as necessary to resolve any issues developed.

EFFECTIVE: 07/02/93

77-4.11 Background Reinvestigation for DOJ Positions (77J-M) (See MIOG, Part I, 77-1.10 through 77-1.13, Part II, 17-6.8.)

In addition to investigative instructions set out in Part II, Section 17 of this manual, ensure the investigation includes at least three (3) developed sources (individuals not provided by the employee) who have, to the extent practical, social knowledge of candidate. Developed sources may include other associates, co-workers (peers/support employees), etc. Also, review the Official Personnel File and other appropriate files at DOJ, and interview supervisor(s) and co-workers within the scope of the BI.

EFFECTIVE: 12/01/93

77-5 INTERVIEW OF CANDIDATE/EMPLOYEE

Each candidate/employee must be interviewed. During the interview, he/she should be provided with the following information:

(1) The FBI will be conducting a BI to develop information which others will consider in determining suitability for employment, appointment or reappointment.

(2) The FBI does not participate in such decisions and makes no recommendations pertaining thereto.

(3) The FBI is not restricted in the BI only to information solicited by the SF-86 or any other form submitted.

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All items in Part II, Section 17-3.2 and 17-5.6 of this manual must be covered during the interview.

EFFECTIVE: 07/02/93

||77-6| REPORTING RESULTS OF INVESTIGATION

(1) All investigation must be submitted in investigative report format. This is to include unsuccessful attempts to locate individuals for interview and any investigative results previously set out in airtel or teletype. All investigation in these matters is for other Government agencies and can only be forwarded by report. Each interview must contain statements regarding financial responsibility and whether or not the interviewee is aware of any past/present illegal drug use or prescription drug/alcohol abuse by the candidate.

(2) Reports should be organized to follow in general the sequence presented in Part II, Section 17-6 of this manual. All categories of interviews (i.e., neighborhood, employment, education) must be preceded by headings. Additionally, block headings should separate each residence and employment and should include the name of employing firm/residence address, city/state, and dates of employment or residence as indicated by candidate on the SF-86. If a discrepancy is found in dates during the investigation, the field office should underline the dates obtained during the investigation. This will indicate to FBIHQ that the discrepancy is not the result of a typographical error. Lengthy reports (more than 25 pages) should include a table of contents. If an interview would logically fall under several headings (i.e., a reference who is also a neighbor), report the interview fully under one heading and cross-reference under any other appropriate headings.

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||77-7| POLITICAL|AFFILIATION|

(1) Nonessential references to a candidate's affiliation with any political party should be omitted.

(2) Essential references to political affiliation should be included. An essential reference is one which suggests a possible inclination on the part of the candidate to use the position he or she is seeking for personal political benefit or one which would reflect on the candidate's ability to perform his or her duties fairly without regard to political affiliation or influence. Also, previous candidacy for or occupancy of public office or office in a political party, or personal or political association with an occupant of public or party office would be essential.

EFFECTIVE: 07/02/93

||77-8| REQUEST FOR INVESTIGATION OR NAME CHECK FROM FEDERAL
JUDGE|(See MAOP, Part II, 9-4.2.2(2).|

Investigations are conducted only at the specific request of referral agencies and can only be initiated by FBIHQ. Any request by a Federal judge for a BI should be respectfully forwarded to FBIHQ for referral to the Administrative Office of the U.S. Courts. At the request of a Federal judge, the names of persons being considered for court positions can be searched through field office indices and pertinent information furnished to the judge. Care should be exercised in order to fully protect any informant, technique or source.

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||77-9| STATUS INQUIRIES

If any outside inquiries are received concerning the status of a BI, no comment should be made concerning the progress or completion of the investigation. The caller should be politely referred to the agency requesting the BI for a determination of the BI status.

EFFECTIVE: 07/02/93

||77-10| PRIVACY ACT (PA) REQUIREMENTS

(1) When interviewing individuals under this classification for information concerning themselves or their activities, the interviewing Agent must follow the procedures described in Part I, 190-5 (2) and (3) of this manual.

(2) When interviewing an individual to elicit information concerning someone else (thereby classifying that individual as a source of information), the interviewing Agent must follow the procedure relating to promises of confidentiality as described in Part I, 190-7 of this manual. When the interviewee requests confidentiality under the PA, the level of confidentiality must be clearly set forth in the document recording the results of the interview. Refer to Part II, Section 17-5.4 of this manual for additional instructions.

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77-11

CHARACTER - BACKGROUND INVESTIGATION - PRESIDENTIAL
APPOINTMENT WITH SENATE CONFIRMATION; - U.S. COURTS;
DEPARTMENT OF JUSTICE; - U.S. ATTORNEY'S OFFICE STAFF;
- U.S. ATTORNEY'S OFFICE;
- DEPARTMENT OF JUSTICE - REIMBURSABLE; BACKGROUND
REINVESTIGATION - DEPARTMENT OF JUSTICE

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SECTION 78. ILLEGAL USE OF GOVERNMENT TRANSPORTATION REQUESTS

78-1 STATUTES

The principal Federal statutes under which the illegal use of Government transportation requests may be prosecuted are found in Title 18, USC, Sections 287, 495, 508, 641, 1001 and 1002. Of these sections of the U.S. Code, the only one relating solely to Government transportation requests is Section 508, which is quoted as follows:

EFFECTIVE: 01/31/78

78-1.1 Section 508

"Whoever falsely makes, forges, or counterfeits in whole or in part, any form or request in similitude of the form or request provided by the Government for requesting a common carrier to furnish transportation on account of the United States or any department or agency thereof, or knowingly alters any form or request provided by the Government for requesting a common carrier to furnish transportation on account of the United States or any department or agency thereof; or

"Whoever knowingly passes, utters, publishes, or sells, or attempts to pass, utter, publish, or sell, any such false, forged, counterfeited, or altered form of request--

"Shall be fined not more than \$5,000 or imprisoned not more than ten years, or both."

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78-2 POLICY

(1) As noted above, Section 508 is the only section relating solely to the counterfeiting or illegal use of Government transportation requests. Sections 287 and 495 relate to false claims generally while Sections 1001 and 1002 relate to false entries or false papers to defraud the U.S. Section 641 is the section dealing generally with the theft or embezzlement of Government property. The illegal use of Government transportation requests might be prosecuted under any of those sections.

(2) In the majority of cases under this violation, USAs have authorized prosecution under the provisions of Title 18, USC, Section 508. This is called to your attention because Section 3056, Title 18, specifically states that the Secretary of the Treasury is authorized to direct and use the U.S. Secret Service to detect, arrest, and deliver into custody any person violating any of the provisions of Section 508.

(3) U.S. Secret Service has exclusive jurisdiction in cases involving a violation of Section 508; accordingly, where information is received indicating a violation of that section, particularly the counterfeiting of Government transportation requests, such information should be submitted by the respective field offices to the nearest representative of the U.S. Secret Service.

EFFECTIVE: 01/31/78

78-3 MISCELLANEOUS

(1) In any case in which Government transportation requests issued to Bureau employees are reported stolen or lost, such investigations should proceed expeditiously.

(2) In the event the investigation is based upon the theory of an Impersonation violation or the Theft of Government Property, it should be conducted in conformity with the suggestions outlined in the pertinent sections of this manual.

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78-4

CHARACTER - ILLEGAL USE OF GOVERNMENT TRANSPORTATION
REQUESTS

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SECTION 79. MISSING PERSONS

79-1 | CRIMINAL JUSTICE INFORMATION SERVICES (CJIS) DIVISION
(FORMERLY THE IDENTIFICATION DIVISION) | MISSING PERSON
PROGRAM

EFFECTIVE: 12/02/94

79-1.1 Background Information

(1) From 1933 to 1980, the FBI Identification Division (now CJIS) operated a Missing Person Program. Under that Program, the Division's files were searched and missing person notices established at the request of immediate family members or officials acting in their behalf, e.g., law enforcement authorities, Members of Congress, lawyers, and insurance companies. The Program was discontinued in 1980 because of its greatly diminished utility and value resulting from privacy legislation, and because of the availability of missing person-type services in the National Crime Information Center (NCIC).

(2) On October 12, 1982, the President signed into law the Missing Children Act (MCA) which amends Title 28, USC, Section 534, to require the Attorney General to acquire and exchange information to assist federal, state, and local officials in the identification of unidentified deceased individuals and in the location of missing persons (including an unemancipated person as defined by laws of the state of residence of such person). In order to bring the FBI in compliance with the provisions of the Act, certain policies are explained in detail in Part II, Sections 14 and 16 of this manual.

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79-1.2 Action to be Taken in Missing Person Matters | (See MAOP,
Part II, 7-3.2.) |

This matter is considered a noninvestigative matter; therefore, no missing person case should be opened or assigned. If a written or oral request is received, the administrative procedures should be followed, and information on any record entered should be maintained in a 79-0 administrative control file. These procedures are set forth in Part II, 16-16 of this manual. Also, see Part II Section 14, for the |Criminal Justice Information Services| Division policy regarding the handling of fingerprint cards for missing persons and unidentified deceased persons. | (See MIOG, Part II, 14-10.6.) |

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SECTION 80. PUBLIC AFFAIRS MATTERS

80-1 PUBLIC AFFAIRS MATTERS

In field offices, the FBI's public affairs matters are handled under this classification and involve contacts by the FBI with the general public, federal and state agencies, the Armed Forces, corporations, the news media and numerous other outside organizations. These contacts generally relate to matters of interest to the FBI, and pertain to nonsubstantive topics. Contacts with the news media may be recorded under this classification. The following is a list of examples of public relations matters:

- Liaison With Armed Forces
- Contact With Law Enforcement Officials
- Laboratory Matters-Public Relations
- Research Material-Public Relations
- Human Interest Items
- Field Office Open House
- Radio Scripts
- Television Scripts
- Law Enforcement Committees
- News Media Relations
- News Media Contacts
- Media Relations Representative
- Fugitive Publicity
- Radio and Television Broadcasts-Fugitive Matters
- Speeches

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Radio and Television Appearances

Press Conferences

Manuscripts for Speaking Engagements

For additional assistance regarding public affairs
| matters, see MAOP, Part II, Section 5 (Press and Publicity).

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SECTION 83. CLAIMS COURT

83-1 BACKGROUND

(1) Court of Claims of United States was authorized by Act of Congress, approved February 24, 1855. It is a court established under the laws of the United States where plaintiffs may present claims for damages caused by United States, its officers, or its agents arising from:

(a) The Constitution, any Act of Congress, or any regulation of an Executive Department.

(b) Any express or implied contract with the United States.

(2) On April 2, 1982; the Federal Courts Improvement Act of 1982 was signed into law. The Act established a new intermediate Federal Appellate Court known as the U.S. Court of Appeals for the Federal Circuit which combined the Court of Claims and the Court of Customs and Patent Appeals into a single appellate court. The Act also created the U.S. Claims Court which inherited the trial jurisdiction of the Court of Claims. The Act became effective on October 1, 1982.

(3) In cases where amount claimed does not exceed \$10,000, United States district courts have concurrent jurisdiction with Claims Court.

EFFECTIVE: 07/12/84

83-1.2 Procedure for Instituting Suit

(1) Suits in Claims Court are instituted by filing a printed petition, verified by affidavit of plaintiff, his/her agent or attorney.

(2) The petition must contain following basic information:

(a) Title of action including full Christian and

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surnames of all plaintiffs

(b) Plain statement of facts, giving date and place, free from argumentative or impertinent matters

(c) Any action taken on the claim by Congress or any department of Government

(d) Any assignment or transfer of claim or any part thereof, and, if so, when and upon what consideration

(e) Plaintiff is justly entitled to recover amount claimed after allowing all just credits and offsets

(f) A clear citation of any Act of Congress, regulation of an Executive Department or Agency, contract, treaty or patent upon which the suit is based

EFFECTIVE: 07/12/84

83-1.3 Hearings

(1) Evidence is presented by plaintiff and defendant at hearings presided over by a judge of the court. The judge rules upon materiality, relevance, or admissibility of evidence offered and form of questions asked.

(2) In cases investigated by Bureau, Agent conducting investigation is oftentimes called as witness for defendant.

(3) Upon conclusion of testimony for both plaintiff and defendant, counsel for each submits to the judge a written request that certain facts be found for his/her client. This request is based on oral testimony and documentary data admitted in evidence at the hearing.

EFFECTIVE: 07/12/84

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||83-1.4| Argument Before the Court

On designated date of trial calendar both parties in suit, through respective counsel, present to the court oral arguments as to merits of their case.

EFFECTIVE: 07/12/84

||83-1.5| Decision of the Court

Court renders decision in printed form which contains:

- (1) Findings of fact
- (2) Discussion of law as to said findings of fact
- (3) Amount of recovery found for plaintiff or basis for dismissal of action

EFFECTIVE: 07/12/84

||83-1.6| Appeal

Appeals in any cases in Claims Court are taken by petition of either party to the U.S. Court of Appeals for the Federal Circuit.

EFFECTIVE: 07/12/84

83-2 INVESTIGATIVE PROCEDURE

(1) Requests for investigation of cases pending in Claims Court are received from Assistant Attorney General in charge of Civil Division of Department. General requests include:

(a) Complete investigation of books and records of plaintiff

(b) Auxiliary examination of records of Government departments and agencies

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(2) Specific requests include:

(a) Locating and interviewing certain witnesses

(b) Locating of certain records

(c) Ascertaining of certain basic information with reference to some particular feature of case at issue

(3) Investigation of books and records of plaintiff requires that Agent assigned to investigation study case as reflected by petition of plaintiff and plan a logical and substantial defense to each proposition advanced by plaintiff.

(4) Record of payments made by Government to plaintiff, as reflected by files of General Accounting Office, Washington, D.C., will be secured by Washington|Metropolitan|Field Office upon request of investigating office.

(5) Cases involving alleged extra costs due to delay on part of Government in construction contracts frequently require a determination of following factors: actual period of delay, allocation of overhead to delay period, and variance in labor rates. Progress reports submitted by plaintiff to representative of Government on a construction contract may show date on which construction work began to taper off or actually ceased and actual period of delay can be thereby fixed. Cause of delay and responsibility for it may be fixed by review of correspondence between plaintiff and Government and from information secured in course of interviews with prospective witnesses employed on construction work in question. Allocation of overhead to delay period is usually possible in cases in which contractor has maintained adequate accounting records. In absence of adequate accounting records, Agent must make equitable and practical survey of facts in question and present them in his/her report so basis may be available for their determination. Claims involving alleged variance in labor rates may be verified by reference to rates in force on Government contracts in various localities in which rates have been authorized by U.S. Department of Labor under Title 40, USC, Section 276a. This type case requires careful investigation because terms of contract as to labor conditions are set forth in proposals incidental to advertising for bids for contract in question. Plaintiffs frequently seek to maintain their own construction organization and allege labor available in the locality was not capable of performing required construction work. Records of U.S. Employment Service, if available, may be of material

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assistance in determining adequacy of plaintiff's allegations.

EFFECTIVE: 10/16/90

83-3 REPORTING PROCEDURE

To set forth the results of investigation, particularly in involved and complicated accounting-type cases, in a complete and orderly manner which will materially aid in the defense of the case, the investigation should be carefully planned. The following outline is set forth for guidance in planning investigations of this nature:

(1) Predication - A brief resume of investigative request from Civil Division should be included in the first paragraph of the details of the first report of office of origin.

(2) Scope and extent of investigation - Outline your investigative and audit plans so that you will be able to fully inform the attorney in charge of defense of case as to the ground covered.

(3) History of plaintiff company - Where necessary and pertinent, obtain data pertaining to plaintiff company from commercial credit reporting agencies.

(4) Statement of Government contract - Determine essential pertinent details of contract in question. It is pointed out that plaintiff frequently includes in its petition only such portions of a contract that support its allegations and omits any reference to portions of a contract favorable to defendant. Fully identify contract by number and date.

(5) Claim of plaintiff - Determine essential details of plaintiff's claim, such as: date filed, claim number, allegations contained in claim, and special features of claim.

(6) Facts at issue in case - Determine the main features of both plaintiff's and defendant's case so that Government attorney may be informed of contested facts therein. This could be broken down as follows: plaintiff's position, defendant's position, facts subject to determination by court, and special features.

(7) Facts disclosed by investigation -

(a) Accounting investigation - Ordinarily the

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results of the accounting investigation will be shown in a summary schedule or schedules comparing item by item the results of the audit conducted with plaintiff's claim, setting forth any differences noted and exceptions made. Be prepared to narratively explain these differences in detail for the benefit of the attorney who will be handling the defense.

(b) Facts secured from interview with prospective witnesses

(c) Data secured from other sources

(8) Conclusion - Be prepared to present a brief, concise summary schedule of the audit results, together with a brief summary of any other information developed which is not susceptible of verification by accounting analysis but which may be of value to the Government attorney defending this suit.

EFFECTIVE: 10/16/90

83-3.1 Locating and Interviewing Witnesses

Investigations for purpose of locating and interviewing witnesses are frequently requested by Civil Division of Department. Agent should consider advisability of securing signed statements and/or making complete notes. Agent should secure sufficient background of case in question so he/she may refresh memory of person interviewed who, due to lapse of time and absence of official record, may plead ignorance as to details of transactions inquired of.

EFFECTIVE: 07/12/84

83-4 ACCOUNTING WORKING PAPERS

Copies of all accounting working papers and schedules prepared should be made and forwarded to FBIHQ as an enclosure to the accounting report for transmittal to Civil Division. When a closing report is received from Washington|Metropolitan|Field Office, original working papers should then be forwarded to FBIHQ by cover LHM for transmittal to Civil Division for completion of their file.

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EFFECTIVE: 10/16/90

83-5 OFFICE OF ORIGIN

FBIHQ will designate office of origin which is to remain origin until case is closed. The office of origin, upon completion of its investigation, is to submit a letter to FBIHQ with a copy to the Washington|Metropolitan|Field Office instructing that Washington|Metropolitan|Field Office follow Claims Court docket until a final decision has been rendered. Included in the letter should be a brief background of the case and the amount involved in the suit. The office of origin file is to be placed in a "pending inactive" status. Washington|Metropolitan|Field Office, acting as auxiliary office, is to follow all cases on a monthly basis and advise origin and FBIHQ when a decision is rendered by the court.

EFFECTIVE: 10/16/90

83-6 PRIVACY ACT - REQUIREMENTS

(1) When interviewing anyone in the above classification, in order to solicit information about himself/herself or his/her own activities, the interviewing Agent must follow the procedures described in Part I, 190-5, subparagraphs (2) and (3), of this manual.

(2) When interviewing an individual to solicit information concerning someone other than the interviewee (thereby classifying that individual as a source of information) the interviewing Agent must follow the procedure relating to promises of confidentiality as described in Part I, 190-7, of this manual.

EFFECTIVE: 10/16/90

83-7 CHARACTER - CLAIMS COURT

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SECTION 86. FRAUD AGAINST THE GOVERNMENT - SMALL BUSINESS
ADMINISTRATION | (SEE MIOG, PART I, SECTION 46.) |

86-1 BACKGROUND

| The 86 classification was eliminated and reclassified in
Fiscal Year 1996 as 46C (Fraud Against the Government - Small
Business Administration). See MIOG, Part I, Section 46. |

EFFECTIVE: 07/31/97

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SECTION 87. INTERSTATE TRANSPORTATION OF STOLEN PROPERTY

87-1 STATUTES AND JURISDICTION | (See MIOG, Part I, 7-4.15,
192-5(3), 264-2.5.5.) |

Title 18, USC, Sections | 668, | 2311 (in part), 2314, and
2315; | 2318, 3294. |

EFFECTIVE: 11/03/94

87-1.1 | Section 668 - Theft of Major Artwork

"(a) Definitions

" 'museum' means an organized and permanent
institution, the activities of which affect interstate or foreign
commerce, that--

"(A) is situated in the United States;

"(B) is established for an essentially educational or
aesthetic purpose;

"(C) has a professional staff; and

"(D) owns, utilizes, and cares for tangible objects
that are exhibited to the public on a regular schedule.

" 'object of cultural heritage' means an object that
is--

"(A) over 100 years old and worth in excess of
\$5,000; or

"(B) worth at least \$100,000.

"(b) Offenses

"(1) steals or obtains by fraud from the care,
custody, or control of a museum any object of cultural heritage; or

"(2) knowing that an object of cultural heritage has
been stolen or obtained by fraud, if in fact the object was stolen or
obtained from the care, custody, or control of a museum (whether or
not that fact is known to the person), receives, conceals, exhibits,
or disposes of the object, shall be fined under this title, imprisoned
not more than 10 years, or both." |

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EFFECTIVE: 11/03/94

87-1.1.1 Definitions

". . . 'Money' means the legal tender of the United States or of any foreign country, or any counterfeit thereof; . . .

"'Securities' includes any note, stock certificate, bond, debenture, check, draft, warrant, traveler's check, letter of credit, warehouse receipt, negotiable bill of lading, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate; valid or blank motor vehicle titles; certificate of interest in property, tangible or intangible; instrument or document or writing evidencing ownership of goods, wares, and merchandise, or transferring or assigning any right, title, or interest in or to goods, wares, and merchandise; or, in general, any instrument commonly known as a 'security', or any certificate of interest or participation in, temporary or interim certificate for, receipt for, warrant, or right to subscribe to or purchase any of the foregoing, or any forged, counterfeited, or spurious representation of any of the foregoing;

"'Tax stamp' includes any tax stamp, tax token, tax meter imprint, or any other form of evidence of an obligation running to a State, or evidence of the discharge thereof;

"'Value' means the face, par, or market value, whichever is the greatest, and the aggregate value of all goods, wares, and merchandise, securities, and money referred to in a single indictment shall constitute the value thereof."

The Department has stated that "goods, wares, and merchandise" are sufficiently broad to cover all property not embraced by the words "lands, tenements, and hereditaments." Therefore, this section of the statute covers any and all property of whatever nature, which is subject to larceny.

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||87-1.2| Section 2311

EFFECTIVE: 11/03/94

||87-1.2.1| Definitions |(See MIOG, Part I, 26-1.8.)|

". . . 'Money' means the legal tender of the United States or of any foreign country, or any counterfeit thereof;

"'Securities' includes any note, stock certificate, bond, debenture, check, draft, warrant, traveler's check, letter of credit, warehouse receipt, negotiable bill of lading, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate; valid or blank motor vehicle titles; certificate of interest in property, tangible or intangible; instrument or document or writing evidencing ownership of goods, wares, and merchandise, or transferring or assigning any right, title, or interest in or to goods, wares, and merchandise; or, in general, any instrument commonly known as a 'security', or any certificate of interest or participation in, temporary or interim certificate for, receipt for, warrant, or right to subscribe to or purchase any of the foregoing, or any forged, counterfeited, or spurious representation of any of the foregoing;

"'Tax stamp' includes any tax stamp, tax token, tax meter imprint, or any other form of evidence of an obligation running to a State, or evidence of the discharge thereof;

"'Value' means the face, par, or market value, whichever is the greatest, and the aggregate value of all goods, wares, and merchandise, securities, and money referred to in a single indictment shall constitute the value thereof."

The Department has stated that "goods, wares, and merchandise" are sufficiently broad to cover all property not embraced by the words "lands, tenements, and hereditaments." Therefore, this section of the statute covers any and all property of whatever nature, which is subject to larceny.

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EFFECTIVE: 11/03/94

||87-1.3| Section 2314 - Transportation of Stolen Goods, Securities,
Moneys, Fraudulent State Tax Stamps, or Articles Used in
Counterfeiting |(See MIOG, Part I, 264-2.5.5.)|

"Whoever transports in interstate or foreign commerce any goods, wares, merchandise, securities or money, of the value of \$5,000 or more, knowing the same to have been stolen, converted or taken by fraud; or

"Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transports or causes to be transported or induces any person to travel in, or to be transported in interstate commerce in the execution or concealment of a scheme or artifice to defraud that person of money or property having a value of \$5,000 or more; or

"Whoever, with the unlawful or fraudulent intent, transports in interstate or foreign commerce any falsely made, forged, altered, or counterfeited securities or tax stamps, knowing the same to have been falsely made, forged, altered, or counterfeited; or

"Whoever, with unlawful or fraudulent intent, transports in interstate or foreign commerce any traveler's check bearing a forged countersignature; or

"Whoever, with unlawful or fraudulent intent, transports in interstate or foreign commerce, any tool, implement, or thing used or fitted to be used in falsely making, forging, altering, or counterfeiting any security, or tax stamps, or any part thereof-

"Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

"This section shall not apply to any falsely made, forged, altered, counterfeited or spurious representation of an obligation or other security of the United States, or of an obligation, bond, certificate, security, treasury note, bill, promise to pay or bank note issued by any foreign government or by a bank or corporation of

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any foreign country." (Handled by Secret Service as a violation of Title 18, USC, Section 480.)

EFFECTIVE: 11/03/94

| 87-1.3.1 | Moved to 87-1.4.1 |

EFFECTIVE: 07/25/96

||87-1.4| Section 2315 - Sale or Receipt of Stolen Goods,
Securities, Moneys, or Fraudulent State Tax Stamps

"Whoever receives, possesses, conceals, stores, barter, sells, or disposes of any goods, wares, or merchandise, securities, or money of the value of \$5,000 or more, or pledges or accepts as security for a loan any goods, wares, or merchandise, or securities, of the value of \$500 or more, which have crossed a state or United States boundary after being stolen, unlawfully converted, or taken, knowing the same to have been stolen, unlawfully converted, or taken; or

"Whoever receives, possesses, conceals, stores, barter, sells, or disposes of any falsely made, forged, altered, or counterfeited securities or tax stamps, or pledges or accepts as security for a loan any falsely made, forged, altered, or counterfeited securities or tax stamps, which have crossed a state or United States boundary after being stolen, unlawfully converted, or taken, knowing the same to have been so falsely made, forged, altered, or counterfeited; or

"Whoever receives in interstate or foreign commerce, or conceals, stores, barter, sells, or disposes of, any tool, implement, or thing used or intended to be used in falsely making, forging, altering, or counterfeiting any security or tax stamp, or any part thereof, moving as, or which is a part of, or which constitutes interstate or foreign commerce, knowing that the same is fitted to be used, or has been used, in falsely making, forging, altering, or

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counterfeiting any security or tax stamp, or any part thereof --

"Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both."

EFFECTIVE: 11/03/94

| 87-1.4.1 | Securities Excluded From Section 2315

"This section shall not apply to any falsely made, forged, altered, counterfeited, or spurious representation of an obligation or other security of the United States or of an obligation, bond, certificate, security, treasury note, bill, promise to pay, or bank note, issued by any foreign government or by a bank or corporation of any foreign country." (Handled by Secret Service as a violation of Title 18, USC, Section 480).

EFFECTIVE: 11/03/94

| 87-1.5 | Section 3294

"No person shall be prosecuted, tried, or punished for a violation of or conspiracy to violate Section 668 unless the indictment is returned or the information is filed within 20 years after the commission of the offense."

EFFECTIVE: 11/03/94

| 87-1.5.1 | Moved to 87-1.7.1 |

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EFFECTIVE: 07/25/96

||87-1.6| Jurisdiction of Other Federal Agencies

The interstate or foreign transportation of falsely made, etc., securities which are obligations of the U. S., foreign governments, or foreign corporations are exempt from the provisions of this statute by an exception in the statute itself. This exception is to avoid a conflict of jurisdiction with the Secret Service, U. S. Treasury Department. U. S. Postal Service money orders, money, and government obligations which are falsely made, etc., are not the subject of a violation of this statute. If information is developed of fraudulent interstate transactions in the sale of securities, the facts should be forwarded to the Securities and Exchange Commission as a possible violation of Title 15, USC, Section 77q.

EFFECTIVE: 11/03/94

||87-1.7| Other Provisions Concerning Sections 2314 and 2315

EFFECTIVE: 11/03/94

||87-1.7.1| Statute Language "Cause to be Transported"

Note: While the language "cause to be transported" does not appear in all paragraphs of Section 2314 and in Section 2315, it is observed that Section 2 of Title 18 covers as principals those persons "causing or procuring."

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||87-1.8| Section 2318 - Transportation, Sale, or Receipt of
Phonograph Records Bearing Forged or Counterfeit Labels
|(See MIOG, Part I, 87-4.2.1.)|

"Whoever knowingly and with fraudulent intent transports, causes to be transported, receives, sells, or offers for sale in interstate or foreign commerce any phonograph record, disk, wire, tape, film, or other article on which sounds are recorded, to which or upon which is stamped, pasted, or affixed any forged or counterfeited label, knowing the label to have been falsely made, forged, or counterfeited, shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

EFFECTIVE: 11/03/94

||87-1.9| Conspiracy to Violate Sections 2314, 2315, or 2318

Conspiracies to violate Title 18, USC, Sections 2314, 2315, and 2318, must be prosecuted under the general conspiracy section (Title 18, USC, Section 371).

EFFECTIVE: 11/03/94

87-2 ELEMENTS OF PROOF

EFFECTIVE: 01/31/78

87-2.1 Transportation Elements

EFFECTIVE: 01/31/78

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87-2.1.1 Stolen Property Transportation

- (1) Property is stolen, converted, or taken by fraud.
- (2) Such property, valued at \$5,000 or more, is transported in interstate or foreign commerce.
- (3) The transporter must have knowledge such property had been stolen, converted, or taken by fraud. Pursuant to Title 18, USC, Section 21, the element of guilty knowledge may also be established by proof that the defendant believed that the property had been stolen, converted, or taken by fraud, after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12).

(4) It is not necessary for the actual thief or embezzler to perform the transportation. It is only necessary that the person transporting the property knew it to be stolen or taken in any of the ways specifically prohibited.

(5) Where several transportations of less than \$5,000 in value are used to establish the jurisdictional limit, the Department has stated sporadic transactions are not to be grouped, but only a series of transactions closely associated or a continuing course of conduct should be considered.

EFFECTIVE: 10/23/95

87-2.1.2 Transporting Persons

- (1) Scheme is to obtain money or property by false or fraudulent pretenses.
- (2) Such property is valued at \$5,000 or more.
- (3) Persons are transported, caused to be transported, or induced to travel in or be transported interstate as a result of false representations.
- (4) The travel is in execution or concealment of the scheme.

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EFFECTIVE: 01/31/78

87-2.1.3 Transporting Counterfeit Securities, Tax Stamps, or Sound Recording Labels

(1) Falsely made, forged, altered, or counterfeited securities or tax stamps, or traveler's checks with forged countersignature, or forged or counterfeited labels on sound recordings are transported in interstate or foreign commerce.

(2) With unlawful or fraudulent intent

(3) The person transporting such spurious securities, tax stamps, or labels on sound recordings knew the same to have been falsely made, forged, altered, or counterfeited. Pursuant to Title 18, USC, Section 21, the element of guilty knowledge may also be established by proof that the defendant believed that the spurious securities, tax stamps, or labels on sound recordings had been falsely made, forged, altered, or counterfeited, after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12).

EFFECTIVE: 10/23/95

87-2.1.4 Transporting Tools or Paraphernalia Used In Counterfeiting Securities or Tax Stamps

(1) That any tool, implement, or thing used or fitted to be used in falsely making, forging, altering, or counterfeiting any security, tax stamp, or part thereof is transported in interstate or foreign commerce.

(2) The transporter must have an unlawful or fraudulent intent.

EFFECTIVE: 01/31/78

87-2.2 Receiving Elements

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EFFECTIVE: 07/28/87

87-2.2.1 Receiving Stolen Property

- (1) Property is stolen, unlawfully converted, or taken.
- (2) The property so taken in the amount of \$5,000 or more is transported in interstate or foreign commerce.
- (3) The person receiving, possessing, concealing, storing, bartering, selling, or disposing of the property in the amount of \$5,000 or more, knew it to have been stolen, unlawfully converted, or taken. Pursuant to Title 18, USC, Section 21, the element of guilty knowledge may also be established by proof that the defendant believed that such property had been stolen, unlawfully converted, or taken, after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12).
- (4) The person receiving, etc., same did so after the property had crossed a state or United States boundary.

EFFECTIVE: 10/23/95

87-2.2.2 Receiving Counterfeit Securities, Tax Stamps, or Sound Recording Labels

- (1) The falsely made, forged, altered, or counterfeited items crossed a state or United States boundary.
- (2) The person receiving, etc., same did so after the items had crossed a state or United States boundary.
- (3) The receiver knew items to be falsely made, etc. Pursuant to Title 18, USC, Section 21, the element of guilty knowledge may also be established by proof that the defendant believed that such items were falsely made, etc., after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12).

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EFFECTIVE: 10/23/95

87-2.2.3 Receiving Tools or Paraphernalia Used in Counterfeiting
Securities or Tax Stamps

(1) The tools, etc., used or intended to be used in making falsely made, etc., items were moving as, a part of, or constituted interstate or foreign commerce.

(2) The person receiving same did so while they were so moving.

(3) The receiver, etc., knew the tools, etc., were fitted to be used or had been used in falsely making, etc., any security, tax stamp, or any part thereof.

EFFECTIVE: 07/28/87

87-2.3 Pledging Elements

EFFECTIVE: 07/28/87

87-2.3.1 Pledging Stolen Property

(1) Property valued at \$500 or more is stolen, unlawfully converted, or taken.

(2) Such property has crossed a state or United States boundary.

(3) It is pledged or accepted as a security for a loan by one knowing it to have been stolen, unlawfully converted, etc. Pursuant to Title 18, USC, Section 21, the element of guilty knowledge may also be established by proof that the defendant believed that such property had been stolen, unlawfully converted, etc., after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12). |

(4) The pledging or acceptance of such property as security for a loan was done after it had crossed a state or United

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States boundary.

EFFECTIVE: 10/23/95

87-2.3.2 Pledging Counterfeited Securities or Tax Stamps

(1) Falsely made, forged, altered, or counterfeited items are transported across a state or United States boundary.

(2) The person pledging or accepting as security for a loan such falsely made, etc., items knew them to be falsely made, etc. Pursuant to Title 18, USC, Section 21, the element of guilty knowledge may also be established by proof that the defendant believed that such items were falsely made, etc., after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12).

(3) The pledging or acceptance of such items is done after they have crossed a state or United States boundary.

EFFECTIVE: 10/23/95

87-3 POLICY

EFFECTIVE: 07/28/87

87-3.1 Stolen Property Cases (Includes Property Taken By Fraud or Converted)

EFFECTIVE: 07/28/87

87-3.1.1 Valuation of Stolen Property

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EFFECTIVE: 07/28/87

87-3.1.2 Major Theft Cases

(1) A major theft case is one in which the value of the stolen property exceeds \$50,000.

Transportation of goods, wares, merchandise, securities or money - It is important to determine early in the investigation the value of the property taken. In regard to tangible property, such as clothing, jewelry, automobiles, rare paintings, manufactured articles, etc., the actual value is sought. In the case of articles having no ready market value, such as antiques, the owner's testimony of what he/she paid for the stolen articles, together with an expert appraiser's evaluation, would be very strong evidence of their value. In the case of such items as household goods, their value for jurisdictional purposes is not what they would bring at a secondhand sale but what they are worth to their owner; i.e., original cost less depreciation. In the case of securities, the statute provides the value is the face, par, or market value, whichever is the highest. In the case of merchandise which has not reached the consumer, the courts have held the retail value of such goods is its value for jurisdictional purposes.

(2) When a major theft occurs, immediately institute active investigation

(a) Mere liaison contact with local authorities is not sufficient.

(b) Develop details of the theft, any suspects, and description of stolen property.

(c) Assign sufficient manpower to run out all immediate leads in both office of origin and auxiliary offices expeditiously.

(3) Teletypes in major theft cases

(a) Send to FBIHQ and logical field offices.

(b) Include details of theft, descriptions of stolen property and suspects, results of crime scene search; investigation being taken by your office (and local authorities, if applicable);

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identifying data concerning victim for Bureau indices search, and results of your indices search regarding victim; and leads for auxiliary offices.

(c) Submit initial teletype summary including contemplated investigation as soon as circumstances of theft are ascertained. Within one week after the initial teletype submit a cover airtel with LHM summary to FBIHQ and your surrounding offices including but not limited to, complete description of stolen property and investigation conducted, unless instructed to the contrary by FBIHQ. This LHM summary should be suitable for dissemination and should not include informant information or describe sensitive investigative techniques.

EFFECTIVE: 07/28/87

87-3.1.3 Other Stolen Property Cases (Under \$50,000 in Value)

(1) In any case where circumstances indicate stolen property (valued over \$5,000) may travel interstate or where organized crime figures are involved, prepare appropriate communication to interested offices.

(2) Promptly obtain description of stolen property and its value.

(3) Do not institute investigation unless it is reasonable that stolen property will travel in interstate commerce.

(4) In any case where public interest and publicity may be great, advise FBIHQ expeditiously by teletype of details.

EFFECTIVE: 11/18/83

87-3.2 Fraudulent Check Cases

EFFECTIVE: 11/18/83

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87-3.2.1 Quality Case Concept

(1)

(2)

ba

EFFECTIVE: 11/18/83

87-3.2.2 Department of Justice Prosecutive Policy

(1) The Department advises that Section 2314 is not applicable to bad check cases where subject uses true name or an alias by which subject is commonly known.

(2) The Department takes view that local authorities have primary responsibility for prosecuting bad check cases, even when such cases clearly fall within the technical scope of the statute.

(3) Generally, prosecution limited to following circumstances:

(a) The state prevented from successful prosecution because the defendant, evidence, or witnesses are beyond the state's borders.

(b) The subject passed such checks in numerous jurisdictions.

(c) Subject's offenses either do not constitute violations under the applicable state's statutes or are inadequately punishable by such state laws in light of the frequency and scope of the defendant's activities.

(d) The bad check charges are to be brought in conjunction with other Federal charges; e.g., impersonation of a Federal official.

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EFFECTIVE: 03/23/92

87-3.3 Conspiracy to Violate ITSP Statute

The Department has advised conspiracies to violate the ITSP statute are violative of Federal laws even where the theft of property has not actually occurred. When information is received indicating a conspiracy to commit a theft or robbery of \$5,000 or more and transport the proceeds in interstate commerce, immediately discuss facts with USA for determination as to whether investigation should be initiated. In each such instance following discussion with USA, advise FBIHQ of full facts.

EFFECTIVE: 03/23/92

87-3.4 Heavy Equipment Cases

(1) For investigative purposes, heavy equipment will include truck tractors, trailers, off-highway vehicles, construction equipment, and farm equipment. Investigative policies and procedures concerning these thefts will be similar to those pertaining to Interstate Transportation of Stolen Motor Vehicles. (See Part I, Sections 26-2 and 26-4 of this manual.)

(2) One of the significant differences between ITSMV and heavy equipment investigations is that certificates of title are not required for off-highway vehicles, construction equipment, or farm equipment. Ownership can normally be established by means of a trace through the manufacturer.

EFFECTIVE: 03/23/92

87-4 INVESTIGATIVE PROCEDURES

EFFECTIVE: 03/23/92

87-4.1 Stolen Property Cases

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EFFECTIVE: 03/23/92

87-4.1.1 Investigative Steps

(1) Ensure that appropriate crime scene search has been conducted for latent fingerprints and other evidence, and that neighborhood investigation is completed.

(2) |Deleted|

EFFECTIVE: 03/23/92

87-4.1.2 In Major Cases

If a major theft, institute investigation under policy requirements for such cases (see 87-3.1.2). Notify FBIHQ by telephone or teletype of any case in which public interest will be great and press inquiries may be received at FBIHQ.

EFFECTIVE: 03/23/92

87-4.2 Transportation of Falsely Made, Forged, Altered, or Counterfeited Securities, Tax Stamps, or Labels on Sound Recordings

EFFECTIVE: 10/26/87

87-4.2.1 Establish That Security Covered By the Statute

The Agent should first determine if the item in question is covered by the statutes. Section 2311 specifically defines numerous documents as securities. Valid or blank automobile certificates of title, bills of sale, and whiskey warehouse receipts are samples of securities which may be altered, forged, or counterfeited in cases coming to the Bureau's attention.

(For additional information, see Part I, Section 26-1, of this manual.) The Agent should obtain the item transported or as accurate a

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description of same as possible. The Agent must remember that it is not necessary to establish such falsely made, etc., items have been previously stolen or embezzled or that they had any value. Section 2318 dealing with labels on sound recordings applies to all presently known methods of recording sound waves according to the Department of Justice. The Department has also advised that it is immaterial whether the bogus label is attached to a genuine recording.

EFFECTIVE: 10/26/87

87-4.2.2 Odometer Turn-Back Cases

Altered or reset odometers on motor vehicles are made unlawful by Title 15, USC, Sections 1981-1991 (Odometer Requirements), which prior to the passing of Public Law 94-364 (Motor Vehicle Information and Cost Savings Act Amendments of 1976) on July 14, 1976, carried no criminal penalties. The purpose of this statute is to prohibit tampering with odometers on motor vehicles and to establish certain safeguards for the protection of purchasers with respect to the sale of motor vehicles having altered or reset odometers. Title 15, USC, Sections 1981-1991, is directed at an area of crime involving consumer fraud affecting purchasers of previously owned automobiles.

EFFECTIVE: 10/26/87

87-4.2.3 Statutes

Title 15, USC, Sections 1983-1988; Title 18, USC, Sections 2314 and 1343.

EFFECTIVE: 10/26/87

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87-4.2.4 Title 15, USC

(1) Section 1983. Unlawful devices causing odometer to register mileage other than true mileage driven. No person shall advertise for sale, sell, use, or install or cause to be installed, any device which causes an odometer to register any mileage other than the true mileage driven. For purposes of this section, the true mileage driven is that mileage driven by the vehicle as registered by the odometer within the manufacturer's designed tolerance.

(2) Section 1984. Unlawful change of mileage indicated on odometer. No person shall disconnect, reset, or alter, or cause to be disconnected, reset, or altered, the odometer of any motor vehicle with intent to change the number of miles indicated thereon.

(3) Section 1985. Unlawful operation of motor vehicle with knowledge of disconnected or nonfunctional odometer prohibited. No person shall, with intent to defraud, operate a motor vehicle on any street or highway knowing that the odometer of such vehicle is disconnected or nonfunctional.

(4) Section 1986. Conspiracy to violate odometer requirements.

(5) Section 1987. Lawful service, repair, or replacement of odometer; adjustment of mileage and notice of adjustment; failure to adjust mileage or affix notice of adjustment and removal or alteration of notice with fraudulent intent prohibited.

"Nothing in this subchapter shall prevent the service, repair, or replacement of an odometer, provided the mileage indicated thereon remains the same as before the service, repair, or replacement. Where the odometer is incapable of registering the same mileage as before such service, repair, or replacement, the odometer shall be adjusted to read zero and a notice in writing shall be attached to the left door frame of the vehicle by the owner or his agent specifying the mileage prior to repair or replacement of the odometer and the date on which it was repaired or replaced. Any removal or alteration of such notice so affixed shall be unlawful."

EFFECTIVE: 10/26/87

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87-4.2.5 Title 18, USC, Sections 2314 and 1343

(1) Section 2314. Transportation of Stolen Goods, Securities, Moneys, Fraudulent State Tax Stamps, or Articles Used in Counterfeiting.

(2) Section 1343. Fraud by Wire. ITSP and FBW Statutes have been used successfully in widespread odometer turn-back operations. The interstate transportation of falsely made securities is a violation of Title 18, USC, Section 2314, when the certificate of title of an automobile, a security, has the automobile mileage falsely reported on it and the security is transported interstate. Title 18, USC, Section 2314, also prohibits anyone from knowingly transporting in interstate commerce money, in the amount of \$5,000 or more, that has been taken by fraud. The value of certain used cars may exceed \$5,000 and further the combined value of cars with odometer turn-backs sold interstate by an automobile dealer could easily exceed \$5,000 and that such a dealer could be involved in a conspiracy to violate Section 2314. Violations of the FBW and the Mail Fraud Statutes may exist when purchase arrangements for cars with odometer turn-backs are made by interstate wire communications or when a dealer advertises such cars for sale over radio or television, or when the mails are used to transmit certificates of title bearing false information.

EFFECTIVE: 07/18/86

87-4.2.6 Definitions

(1) The term "dealer" means any person who has sold five or more motor vehicles in the past twelve months to purchasers who in good faith purchase such vehicles for purposes other than resale.

(2) The term "distributor" means any person who has sold five or more vehicles in the past twelve months for resale.

EFFECTIVE: 07/18/86

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87-4.2.7 Policy and Investigative Procedure

(1) If it is determined that the case does not involve widespread ring type activity in odometer tampering, then care should be exercised in expending investigative manpower.

(2) Close liaison should be maintained with the USA with regard to these investigations.

(3) Upon receipt of allegation that a certain car dealer or dealers is/are involved in odometer turn-backs certain records may be essential in corroborating the allegation.

(a) The State Motor Vehicle Administration may be very beneficial in advising investigators as to the type of records required by the State that would aid in tracing ownerships and verifying the mileage at the time the vehicle was sold and at the time it was subsequently resold.

(b) Consideration should also be given to subpoenaing sales records maintained by the target used car dealer(s).

(4) Interviews of previous and present owners will aid in verifying the documented mileage regarding a particular vehicle.

EFFECTIVE: 07/23/90

87-4.2.8 Title 15, USC, Section 1990(c)

Title 15, USC, Section 1990(c) sets forth the criminal penalties (misdemeanors) for violations of Title 15, USC, Sections 1981-1991 and reads as follows:

(1) Any person who knowingly and willfully commits any act or causes to be done any act that violates any provision of this subchapter knowingly and willfully omits to do any act or causes to be omitted any act that is required by any such provision shall be fined not more than \$50,000 or imprisoned not more than three years, or both.

(2) Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any of the acts or practices constituting in whole or in part a violation of any section of this title shall be subject to penalties

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under this section without regard to any penalties to which that corporation may be subject under subsection (a).

EFFECTIVE: 07/23/90

87-4.2.9 Investigative Classification

The investigative classification is 87 and the alpha subdivision will be either "B" or "C," depending upon the total amount of money involved.

EFFECTIVE: 07/23/90

87-4.3 Implements Used in the Manufacture of Falsely Made, etc., Securities or Tax Stamps

The Agent in this violation must be alert to establishing that the transporter knew that the implements had been used or were fitted to be used for this purpose and the transportation was coupled with a fraudulent intent.

EFFECTIVE: 07/28/87

87-4.4 Receiving Violations

(1) Under Section 2314 and part of Section 2315 dealing with tools, etc., used in counterfeiting securities or tax stamps, first establish that the items covered have actually moved from one state or the District of Columbia to another state or foreign jurisdiction or vice versa.

Under Section 2315 (with the exception of that portion relating to tools, etc., used in counterfeiting securities or tax stamps), once stolen or fraudulently obtained property crosses a state line or United States boundary, federal jurisdiction attaches to such property and remains until such property loses its stolen or fraudulently obtained character.

(2) The receiver must be shown to have knowledge that such property has been stolen, unlawfully converted, or taken. It is

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not necessary to show that the receiver had knowledge of the previous interstate or foreign transportation. Also it is necessary to prove that the receiver obtained at least \$5,000 worth of the stolen, etc., property.

(3) With regard to establishing guilty knowledge on the part of the receiver, etc., attention is directed to the Theft From Interstate Shipment section of this manual which discusses the circumstantial evidence to be sought (Part I, Section 15-3.2). To violate the receiving section relating to falsely made, etc., securities or tax stamps, the knowledge to be shown is that the items were falsely made, etc., or that the tools, etc., had been used or were to be used in making falsely made, etc., items. [Pursuant to Title 18, USC, Section 21, the element of guilty knowledge may also be established by proof that the defendant believed that such items were stolen, falsely made, etc., after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12).]

EFFECTIVE: 10/23/95

87-4.5 Pledging Violations

The Agent must prove that the property pledged has an actual value of at least \$500 and the amount it is pledged for is not the basis of jurisdiction. The pledgor and pledgee are both guilty of a violation if the property is valued at \$500 or more and has actually moved interstate if they had knowledge that it had been stolen or embezzled.

EFFECTIVE: 07/28/87

87-4.6 Check Cases

Check cases should be scrutinized with particular care at inception to implement the quality case concept and to reduce the volume of submissions to Laboratory; submissions should be limited to only relevant items in matters with a potential for Federal prosecution.

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EFFECTIVE: 07/28/87

87-4.6.1 Ascertain the Facts Surrounding the Passing of the Check

Ordinarily, the following factors should be considered in this regard:

(1) Specifically determine whether the check was written or endorsed in the presence of the person cashing it. If this is not determined, a subsequent conclusion by the FBI Laboratory that the check was written by a known individual does not prove that the writer negotiated it. In many instances, persons other than the writers of fraudulent checks negotiate them. This is particularly true in ring cases.

(2) Determine the date and hour the check was negotiated. Reliance should not be placed upon the date of the check because many checks are negotiated on other dates. In the elimination of suspects, it may be essential to know the exact time that the check was negotiated.

(3) Any credentials used by the passer purportedly establishing his/her identity should be accurately described.

(4) Ascertain the names of all witnesses who saw or talked to the individual passing the fraudulent check.

(5) Secure the modus operandi used by the check passer, along with the subject of his/her conversation. The method of transportation being used by the passer may prove of value in locating him/her.

EFFECTIVE: 07/28/87

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87-4.6.2 Contact Local Police

After complete information has been obtained from the individual reporting a bad check to the field office, a reasonable inquiry should be made with the check squad of the local police department or some other agency cognizant with bad checks passed in the community to determine if the passer of the check involved may be readily known locally.

EFFECTIVE: 07/28/87

87-4.6.3 Determine If FBI Investigation Warranted

If it is determined that FBI investigation should be undertaken, the original bad check passed should be tactfully obtained. Its return may be promised. If time is of the essence, the FBI Laboratory should be so informed and the return of the check will be expedited. If it is not possible to secure the original check, it will materially assist the FBI Laboratory in its examination if a photographic copy rather than a photostat of the check is forwarded. In photographing the check, a ruler or other measurement is to be included in the photograph so that the exact size of the original document can be ascertained. Both the negative and a positive print of the photograph should be forwarded.

EFFECTIVE: 07/28/87

87-4.6.4 Handling of Check Evidence

The original check or a copy should be forwarded to the FBI Laboratory using Form FD-196 incorporating the following information:

- (1) Complete and accurate descriptions of checks
- (2) The circumstances surrounding the passing of the check, i.e., the modus operandi used, should be set forth briefly.
- (3) As complete a description as possible of the check passer should be included. This is particularly important in assisting the Criminal Justice Information Services Division in eliminating fingerprint cards of persons having the same name as that

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used by the check passer. In all unknown subject multiple check cases, the FBI Laboratory examines the handwriting on fingerprint cards containing names identical with that on the check. This comparison is an automatic procedure which is followed at FBIHQ without a specific request being made by the field office.

(4) Any miscellaneous information which is available should be included on the FD-196. For example, if the signature on the check being transmitted is known to be a simulated forgery, genuine signatures of the individual whose name was forged should be submitted.

(5) A specific request should be made if any examination is desired in addition to search in the National Fraudulent Check File and comparison with signatures on fingerprint cards.

(6) The check itself should be enclosed in a cellophane envelope if a latent fingerprint examination is requested.

(7) Normally the office submitting the first check to the FBI Laboratory is the office of origin. Lacking information to the contrary, the office transmitting the check should consider itself office of origin until advice is received that other checks have preceded its submission to the FBI Laboratory.

(8) The date and city where the check is cashed are to be set forth.

(9) Disposition of specimens is to be set out.

(10) A copy of the FD-196 transmitting the fraudulent check to the FBI Laboratory should be designated for the field office in whose territory the bank upon which the check is drawn is located. That field office should be requested to contact the drawee bank to determine if similar checks have been passed upon that bank. This is done since experience has shown that a check passer will issue a series of checks upon one bank and information concerning those checks can be received more expeditiously from the bank. It follows that the detailed information which is desired on the FD-196 transmitting fraudulent checks to the FBI Laboratory is unnecessary in cases in which the identity of the check passer is known and the check is submitted only for comparison with other checks in the same case.

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EFFECTIVE: 04/08/96

87-4.6.5 Discontinuing Investigation In Check Cases

Assuming that a report is received from the FBI Laboratory which indicates that the check submitted was not the work of a known check passer and the drawee bank advises that no similar checks have been passed on that bank, and in the absence of any other information indicating the contrary, it may be concluded that an isolated bad check is involved and that the case is not one which should be exhaustively investigated under the Bureau's policy as set out above. Should information be received at a later date indicating that the passer of this check is again active in passing additional checks, the case may be reopened.

EFFECTIVE: 01/31/78

87-4.6.6 Action Taken When Forgery or Counterfeit Determined

When FBI Laboratory report indicates check is forged or counterfeit, and/or facts indicate subject is an active violator, the following procedure must be followed:

(1) If the field office covering the drawee bank advises that the check submitted is forged or counterfeited or one of a series of bad checks, a stop should be placed immediately with that bank. The original victims of other checks passed should be ascertained. The office of origin should advise FBIHQ to expedite the Laboratory report inasmuch as this is an indication the subject is an aggravated check passer and the FBI Laboratory may tie his checks into a major case. The facts may or may not be presented to the USA at this time depending upon the urgency of the case. Presentment, generally, is more desirable after the receipt of the Laboratory report.

(2) If the Laboratory report identifies the passer of the check submitted with the subject of another case, pertinent information concerning the previous activities of the check passer will be furnished. The field office submitting the check on the basis of the Laboratory report will be in a position to conduct an intelligent investigation concerning the activities of the check passer in that field office territory and submit the appropriate communication to the office of origin which has correlated the

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investigation of the activities of this check passer prior to that time.

EFFECTIVE: 01/31/78

87-4.6.7 Office of Origin In Check Cases - Designation and Responsibilities

(1) FBIHQ desires that there be only one office of origin in a case involving the passing of bad checks. Ordinarily, the first office submitting a check will remain office of origin and field offices subsequently submitting checks passed by the same subject will be advised in the Laboratory reports as to the original office of origin in an effort to avoid confusion in this regard. Despite the exercise of precaution in this matter, it is apparent when a check passer moves rapidly from one field office territory to another that checks from several localities may be received by the FBI Laboratory at approximately the same time. On many occasions, a case cannot be identified with another pending case until after several communications have been written in various offices. On these occasions, FBIHQ will designate the proper office of origin either on its own volition or upon the receipt of a letter from a field office.

(2) It is necessary for the office of origin to assume responsibility for close supervision of fraudulent check cases. Investigative leads set out for auxiliary offices should be carefully monitored in order that unnecessary investigation may be avoided and valuable investigative leads given immediate attention. It should be borne in mind that if there are two or three processes outstanding for a check passer, the purpose of the remaining investigation is to apprehend him/her rather than collect evidence for additional prosecutions. When a major check passer is apprehended and makes a confession admitting numerous additional violations previously unknown, the undeveloped leads should be set out to fill any necessary gaps in the pending prosecution only. Investigation into the circumstances surrounding the passing of new checks should not be made unless prosecution is authorized in the territory where the checks were passed. After apprehension, the office of origin should make certain it sets out undeveloped leads for all offices where checks have been passed to inform the local police departments of the identity of the check passer in order that the records of such departments may be cleared. This is to be done since these police departments may desire to institute prosecution, as experience has shown that a check passer is seldom prosecuted in more than two or

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three Federal districts regardless of the number of violations involved. The full background of a major check passer should be ascertained when |he/she| is apprehended. Current photographs and numerous known handwriting specimens should be secured. This action should be taken because experience has revealed a major check passer is a professional and upon |his/her| release from the penitentiary will probably reenter the field of check passing and be the subject of another investigation.

EFFECTIVE: 04/22/83

87-4.6.8 Presentation to U.S. Attorney's Office

(1) The office of origin should pay particular attention to setting out undeveloped leads for presenting facts to USAs at appropriate times. In this regard, when the sole purpose is to clear the record and additional prosecution is not expected, the facts may be presented in the territory covering the bank on which the checks are drawn rather than in the territory where they were negotiated. This will, in many instances, clear a number of violations with one presentment to the USA. This method has the additional advantage of presenting a large number of individual violations to one USA with more likelihood of prosecution.

(2) It is also pointed out that in addition to causing a check to be transported in interstate commerce by negotiating it the subject may be prosecuted if |he/she| physically transports a check meeting the requirements of the statute.

(3) It should not be overlooked that Title 18, USC, Section 2314, also prohibits the interstate transportation of paraphernalia used or fitted to be used in falsely making, forging, altering, or counterfeiting any security or tax stamp or part thereof. Agents should be alert to locate any such paraphernalia in check cases. The USA may desire to make the transportation of such paraphernalia a separate count in the indictment.

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87-4.6.9 Investigation Concerning Printers of Counterfeit Checks
and Securities

Too little effort has been directed toward ascertaining the identities of the printers of counterfeited checks. If it can be proved that a printer knew the checks |he/she| prepared were counterfeit and would be negotiated by the subject, it is possible to prosecute |him/her| as an aider and abettor in the territory in which the subject is prosecuted as a principal. The success of the investigation will depend upon the acceptance of the office of origin of its responsibility to supervise the widespread activities of auxiliary offices and render frequent advice to them because the auxiliary offices are generally unaware of the complete picture of a check case. From a practical standpoint, detailed investigation in the nature of a collection of evidence should be minimized in the later stages of a check case unless prosecution is expected in the territory where the checks are passed.

EFFECTIVE: 04/22/83

| 87-4.6.10 | Deleted |

EFFECTIVE: 04/22/83

87-4.6.11 Traveler's Check Cases

(1) Section 2314 specifically provides that the transportation in interstate commerce of a traveler's check, validly issued for value, and upon which the purchaser's countersignature has been forged, is a violation of that statute.

(2) The Department has held that a prosecutable offense under Title 18, USC, Section 2314, does exist when blank stolen traveler's checks are transported interstate and the "purchaser's signature" blank is filled in without authority and with requisite intent by the thief or by one chargeable with knowledge that the check is stolen or is not bona fide. The traveler's check would be considered as falsely made (Stinson v. U.S., C.A. 5, 1963, 316 F. (2d) 554) within the meaning of the statute in the same sense that one falsely makes and forges when one alters or fills in blanks of a genuine instrument without authority or contrary to authority given.

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EFFECTIVE: 03/23/92

87-4.7 Deleted

EFFECTIVE: 03/23/92

87-4.7.1 Food Stamp Program Cases

The Department, in Memorandum #656 dated 12/11/69 to all U.S. Attorneys captioned "Food Stamp Program," discusses the problem being faced by the Department of Agriculture in the increasing thefts of food stamps. The Department recognizes that Title VII, USC, Section 2023, establishes in the Department of Agriculture the investigative responsibility for the illegal possession of these stamps (no requirement of interstate transportation). The Department adds, "However, in the event interstate transportation involving \$5,000 or more in stamps obtained by theft or fraud is indicated, the assistance of the FBI can be sought under Title 18, USC, Section 2314 (ITSP)." No investigation is to be instituted into thefts of these stamps without prior Bureau authority. If you are requested to institute investigation of the theft of food stamps, you should immediately advise the Bureau, by appropriate communication, of all details. If the stamps are in the possession of the U.S. Government at the time of theft, consider as a Theft of Government Property (TGP) violation.

EFFECTIVE: 03/23/92

| 87-4.8 | Deleted |

EFFECTIVE: 03/23/92

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87-4.8.1 Fraud Investigations Under the ITSP Statute

(1) Used where loss exceeds \$5,000 in any one incident and no interstate wire communication (telephone call, telex message, or telegram) is used in perpetration of the fraud.

(2) Facts concerning cases involving losses of less than \$5,000, and no use of interstate wire communications may be furnished to FBIHQ to increase the data base maintained in Bureau files concerning these criminals and their schemes.

(3) To establish a violation of Section 2314 involving the transportation of \$5,000 or more of the loss, it is necessary to prove that one or more of the subjects actually transported \$5,000 or more in interstate commerce. Efforts should be made to identify the con artists, ascertain their itinerary after the swindle, and conduct whatever investigation possible to locate the money in another state or evidence that it was transported.

(4) A violation may be established of Section 2314 even though no actual loss occurred, if the projected swindle was to amount to \$5,000 or more and the proposed victim was caused to travel interstate either in a build-up to the swindle or to obtain funds. If the swindle amounting to \$5,000 or more actually takes place, and the victim is caused to travel interstate as part of the process, a violation has occurred even though the funds are never carried out of state.

(5) For definitive information concerning Fraud By Wire violations (FBW), see Part I, Section 196 of this manual.

EFFECTIVE: 07/18/86

87-4.8.2 Other Avenues In Fraud Investigations

(1) Particular circumstances in a case may make prosecutions under the Conspiracy and/or Racketeer Influenced and Corrupt Organization (RICO) Statutes feasible, and should not be overlooked.

(2) The Mail Fraud (MF) Statute (Title 18, USC, Section 1341), under the jurisdiction of the U.S. Postal Service, is an excellent tool with which to attack frauds.

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(a) A fraud coming to your attention, and lacking any FBI jurisdiction, should be immediately reported to a U.S. Postal Inspector, and must not be continued under investigation.

(b) The character of Mail Fraud (MF) may be added to the title where it becomes another statute under which the subject(s) may be prosecuted in conjunction with other charges brought that fall within FBI jurisdiction.

(3) Sources of information in these type investigations include offices of state attorneys general, state or local consumer protection offices, U.S. Postal Inspection Service, Securities and Exchange Commission, Better Business Bureau, chambers of commerce, local district attorneys' offices, among others.

EFFECTIVE: 07/18/86

87-4.8.3

(1)

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(2) FBIHQ will search for identification in this file any handwritten, typewritten, or printed specimens obtained during an active confidence scheme investigation and submitted to FBIHQ, Attention: FBI Laboratory, with appropriate request.

EFFECTIVE: 07/23/90

87-4.8.4 Deleted

EFFECTIVE: 07/23/90

87-4.9 Top Thief Target (TTT)

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EFFECTIVE: 07/23/90

ba/b7E

87-4.9.1 Purpose of the TTT

The goal of TTT is to target top thieves, fences, and organized criminal gangs who are involved in stealing and redistributing property valued at tens of millions of dollars. The objective of TTT activity is to identify top thieves, aggressively collect evidence of their violations of Federal statute and stop their activity through prompt arrest and prosecution.

EFFECTIVE: 07/23/90

87-4.9.2

(1)

(2)

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EFFECTIVE: 07/23/90

87-4.9.3 Investigative Procedure

(1) Based on facts or circumstances which indicate that the target may be engaged in or is about to be engaged in criminal activity or the violation of a Federal law, a new 87G case should be opened and assigned to a Special Agent working investigations within the ITS.

(2) Identify and obtain background information concerning these targets such as photographs, description, criminal record, modus operandi, hangouts, associates, and travel patterns of burglars, armed robbers, and fences, who engage in activities of a magnitude, that indicates they are major violators or potential violators of Federal law such as the ITSMV, ITSP, or TFIS statutes.

(3) Assign to [redacted] investigative activity Agent(s) whose experience gives him/her a thorough working knowledge of the psychology of burglars, armed robbers, and fences and who is capable of applying unusual or creative investigative techniques.

(4) All personnel involved should be fully aware of the provisions of the ITSP - Conspiracy, Hobbs Act and Racketeer Influenced and Corrupt Organizations (RICO) statutes which are potentially applicable to the objectives of this program. Consideration should also be given to the use of Title III coverage within the provisions of the Omnibus Crime Control and Safe Streets Act of 1968.

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EFFECTIVE: 07/23/90

87-5 MISCELLANEOUS

EFFECTIVE: 07/23/90

87-5.1

EFFECTIVE: 07/23/90

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87-5.2 Obtaining Known Handwriting Samples

The chances of the FBI Laboratory identifying a questioned specimen with a known specimen are increased many times when the known specimens are similar to the questioned specimens.

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EFFECTIVE: 07/23/90

87-5.2.1 Legal Requirements

(1) Each page of samples taken from a subject should bear subject's own name or initials, written by the subject, as well as the date.

(2) At the conclusion of the sample taking, a statement that the samples were provided voluntarily should be written, in the subject's handwriting, even though dictated by the Agent. It should be dated, and witnessed by the Agent.

(3) If obtained pursuant to a court order, no such statement is necessary. The samples still must be signed by the subject, dated, and witnessed by the Agent.

EFFECTIVE: 07/23/90

87-5.3 Report Writing Rules

EFFECTIVE: 02/16/89

87-5.3.1 Unknown Subject Cases

You should be guided by current Bureau rules concerning preparation of prosecutive reports.

EFFECTIVE: 02/16/89

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87-5.3.2 Other Reporting Requirements

(1) Only one copy of ITSP prosecutive report need be submitted unless dissemination at FBIHQ is desired. If so, that dissemination should be set out in the copy count of the report, with the reason justifying the dissemination stated on the FD-272.

(2) Reports must be prepared when requested by the USA's Office.

(3) A summary airtel should be prepared in any case that generates great public interest or to advise of significant developments in such a case.

(4) In major cases the office of origin should advise logical field offices of details of the theft, suspects' descriptions, description of the stolen property, and request that local law enforcement agencies and informants be contacted. This dissemination should be made in LHM under suitable cover communication, and the LHM must be written so as to allow receiving offices to reproduce it and provide it to such local law enforcement agencies as they determine are appropriate.

(5) In all ITSP cases involving armored carrier/courier losses, an FD-430 must be submitted to FBIHQ, Attention: Violent Crimes Unit, Criminal Investigative Division in duplicate, within 30 working days. The OO shall determine if regional or other field office notification is necessary. (See MIOG, Part I, 15-4(9), 91-12.1, 192-11.1, & 192-11.2; MAOP, Part II, 9-6.)

EFFECTIVE: 11/30/93

87-6 VENUE

Any district in which the offense was begun, continued, or completed (Title 18, USC, Section 3237).

EFFECTIVE: 02/16/89

87-7 PENALTIES

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EFFECTIVE: 02/16/89

87-7.1 Interstate Transportation of Stolen Property (ITSP),
(Title 18, U.S. Code, Section 2314)

A \$10,000 fine, or ten years' imprisonment, or both.

EFFECTIVE: 02/16/89

87-7.2 Receiving Stolen Property, (Title 18, U.S. Code, Section
2315)

A \$10,000 fine, or ten years' imprisonment, or both.

EFFECTIVE: 11/18/83

87-8 CHARACTER - INTERSTATE TRANSPORTATION OF STOLEN PROPERTY
(ITSP)

EFFECTIVE: 11/18/83

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SECTION 88. UNLAWFUL FLIGHT TO AVOID PROSECUTION,
CUSTODY, CONFINEMENT, AND GIVING TESTIMONY

88-1 BACKGROUND

EFFECTIVE: 07/28/87

88-1.1 Section 1073

The original Unlawful Flight Statute, Title 18, USC, Section 408e, was enacted on 5-18-34, and covered only flights to avoid prosecution and giving testimony in the eight specific crimes of murder, kidnaping, burglary, robbery, mayhem, rape, assault with a dangerous weapon, extortion accompanied by threats of violence, and attempts to commit any of the above. On 8-2-46, it was amended to include flights to avoid custody and confinement after conviction for the above offenses. On 9-1-48, the current Unlawful Flight Statute, Title 18, USC, Section 1073, was enacted. This section was amended periodically to include a total of 11 specific felonies. On 10-4-61, the Organized Crime Bill was enacted which amended Title 18, USC, Section 1073, to include all state felonies and in the case of New Jersey, high misdemeanors. On 12-28-80, Congress enacted Public Law 96-611, Section 10(a) of which states in part, "the Congress hereby expressly declares its intent that Section 1073 of Title 18, United States Code, apply to cases involving parental kidnaping and interstate or international flight to avoid prosecution under applicable state felony statutes."

EFFECTIVE: 07/28/87

88-1.2 Section 1074

Title 18, USC, Section 1074, was enacted on 5-6-60, as part of the Civil Rights Act of 1960. This section added the local offenses of damaging, or attempting to damage, by fire or explosive, any building, structure, facility, vehicle, dwelling house, synagogue, church, religious center, or educational institution, public or private, which were not covered under Section 1073 at that time.

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EFFECTIVE: 07/28/87

88-2 STATUTES, PENALTIES, AND PROSECUTION

EFFECTIVE: 07/28/87

88-2.1 Section 1073

"Whoever moves or travels in interstate or foreign commerce with intent either (1) to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which he flees, for a crime, or an attempt to commit a crime, punishable by death or which is a felony under the laws of the place from which the fugitive flees, or which, in the case of New Jersey, is a high misdemeanor under the laws of said state, or (2) to avoid giving testimony in any criminal proceedings in such place in which the commission of an offense punishable by death or which is a felony under the laws of such place, or which in the case of New Jersey, is a high misdemeanor under the laws of said state, is charged, or (3) to avoid service of, or contempt proceedings for alleged disobedience of, lawful process requiring attendance and the giving of testimony or the production of documentary evidence before an agency of a state empowered by the law of such state to conduct investigations of alleged criminal activities, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

"Violations of this section may be prosecuted only in the Federal judicial district in which the original crime was alleged to have been committed, or in which the person was held in custody or confinement, or in which an avoidance of service of process or a contempt referred to in clause (3) of the first paragraph of this section alleged to have been committed, and only upon formal approval in writing by the Attorney General or an Assistant Attorney General of the United States, which function of approving prosecutions may not be delegated."

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88-2.2 Section 1074

"(a) Whoever moves or travels in interstate or foreign commerce with intent either (1) to avoid prosecution, or custody, or confinement after conviction, under the laws of the place from which he flees, for willfully attempting to or damaging or destroying by fire or explosive any building, structure, facility, vehicle, dwelling house, synagogue, church, religious center or educational institution, public or private, or (2) to avoid giving testimony in any criminal proceeding relating to any such offense shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

"(b) Violations of this section may be prosecuted in the Federal judicial district in which the original crime was alleged to have been committed or in which the person was held in custody or confinement: Provided, however, That this section shall not be construed as indicating an intent on the part of Congress to prevent any State, Territory, Commonwealth, or possession of the United States of any jurisdiction over any offense over which they would have jurisdiction in the absence of such section."

EFFECTIVE: 07/28/87

88-2.3 FBIHQ Approval is Necessary for Investigation Under
Section 1074

Upon receipt of a request for Bureau assistance in locating a fugitive subject or witness under Section 1074 (damaging property), immediately advise FBIHQ of the full details and do not conduct any investigation without prior FBIHQ approval.

EFFECTIVE: 07/28/87

88-3 REQUIREMENTS FOR INVESTIGATION

EFFECTIVE: 07/28/87

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88-3.1 Unlawful Flight to Avoid Prosecution

(1) Local authorities must have a warrant outstanding for the subject's arrest charging him/her with an offense covered in the statute and agree to extradite and prosecute upon the subject's apprehension.

(2) There must be sufficient evidence present to show with reasonable certainty that the subject fled interstate for the purpose of avoiding prosecution.

(3) Prior to the issuance of the Federal process the local prosecuting attorney or police agency should request assistance in writing to the USA.

(4) The USA must authorize the filing of a complaint and Federal arrest process must be outstanding prior to the time that investigation is instituted.

EFFECTIVE: 07/28/87

88-3.2 Unlawful Flight to Avoid Custody or Confinement

(1) Local authorities must have a warrant outstanding for the subject's arrest charging him/her with an offense covered in the statute and agree to extradite and prosecute or reconfine upon the subject's apprehension.

(2) There must be sufficient evidence present to show with reasonable certainty that the subject fled interstate for the purpose of avoiding custody or confinement.

(3) Since time is of the essence, upon issuance of a local warrant and an oral request for assistance by a competent local official, immediately present the facts to the USA for authorization of a Federal warrant. Local authorities should be advised to direct a letter to the USA confirming their oral request for assistance, however, do not delay your presentation to the USA and obtaining Federal process awaiting his/her receipt of the written request.

(4) The USA must authorize the filing of a complaint and Federal arrest process must be outstanding prior to the time that investigation is instituted.

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EFFECTIVE: 07/28/87

88-3.3 Unlawful Flight to Avoid Giving Testimony

(1) A criminal proceeding must have been actually instituted against a subject in the state court charging him/her with an offense covered in the statute.

(2) There must be sufficient evidence present to establish that the fugitive witness fled interstate for the purpose of avoiding giving testimony in this criminal proceeding. The fact that a fugitive witness has fled interstate after having been served with a subpoena in the state criminal proceeding will assist in establishing that the purpose of the flight was to avoid testifying. However, where sufficient independent evidence exists to establish that the fugitive witness fled with the purpose of avoiding testifying, it is not necessary that he/she have previously been served with a subpoena.

(3) Local authorities must have a warrant outstanding for the fugitive witness and be willing to extradite upon apprehension.

(4) Prior to the issuance of the Federal process, the local prosecuting attorney or police agency should request assistance in writing to the USA.

(5) The USA must authorize the filing of a complaint and Federal arrest process must be outstanding prior to the time that investigation is instituted.

EFFECTIVE: 07/28/87

88-3.4 Unlawful Flight - Pre-Federal Warrant Investigation

(1) Where a request is received from local or state authorities under the provisions of the Unlawful Flight Statute for FBI fugitive assistance and such request fails to contain sufficient evidence as to the interstate character of the violation to justify or support the issuance of the Federal complaint and warrant, these authorities should first be requested to supply the evidence of requisite character. In particularly serious cases, the FBI may be requested to conduct an investigation to establish the jurisdictional facts of apparent flight after the commission of the state felony. If an SAC does not concur that a case is serious

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enough to warrant initiating an investigation to establish the jurisdictional facts of apparent interstate flight, the USA, if USA still desires a preliminary FBI inquiry, as USA has been instructed, may report the matter at once to the Criminal Division, General Litigation and Legal Advice Section, [REDACTED] so that it can be discussed with FBIHQ.

(2) In those situations where the SAC has fully considered the seriousness of the case and does not concur that a pre-Federal warrant UFAP investigation is warranted and the USA still insists on a preliminary FBI inquiry, conduct no investigation and advise the USA that none will be conducted until it is authorized by FBIHQ. It should be suggested to the USA that USA consult with the Department in these situations. Thereafter, advise the [Fugitive/Government Reservation] Crimes Unit, Criminal Investigative Division, by telephone, followed by teletype, of the facts together with the field division's recommendations.

(3) As a general rule, in the absence of Federal UFAP process, anything more than a phone call or inquiries made of local or state authorities is interpreted by FBIHQ as "pre-Federal warrant investigation." Offices are instructed to decline, in all but the most compelling and serious situations, to conduct pre-Federal warrant investigations aimed at developing sufficient probable cause to support the interstate flight of the subject, as this is the responsibility of local and state authorities requesting FBI fugitive assistance. When a pre-Federal warrant investigation is agreed upon by the SAC and the USA without specific Departmental or FBIHQ involvement, submit, on a UACB basis, an airtel setting forth the full facts demanding the office's involvement. Such instances should rarely occur.

EFFECTIVE: 02/16/89

88-3.4.1 Fugitive Task Force (FTF) - Preliminary Inquiry (PI)

(1) In order to establish a practical and effective working relationship in an FTF environment, a PI may be initiated within the Attorney General Guidelines.

(2) Only those matters referred by and originating within the investigative jurisdiction of FTF nonfederal member agencies should be considered for initiation of a PI.

(3) [Deleted]

(4) Prior to initiating a PI, it is important to document

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those facts which indicate the POSSIBILITY that there has been an unlawful flight to avoid prosecution or confinement.

(5) | Deleted |

(6) | The standard for initiating a Preliminary Inquiry (PI) is less than the REASONABLE INDICATION of criminal activity that is necessary to open a full investigation. A PI is based upon the POSSIBILITY of criminal activity. Therefore, the opening communication must state the existence of a state or local felony warrant and additional information which indicates the POSSIBILITY of interstate flight. The following are examples of circumstances which may be combined to form a factual basis to establish the POSSIBILITY of interstate flight: |

(a) | existence of a driver's license; |

(b) | proximity of a subject's last known residence to another state's border; |

(c) | the fugitive has been at large for an extensive period of time; |

(d) | the termination of public utilities; or |

(e) | the existence of a motor vehicle registration.

The above facts are only examples of the information that, in conjunction with a state or local felony warrant, may provide the predication necessary to initiate a PI, and is not intended to be all inclusive.

All cases that are accepted by an FTF shall be opened as a PI or full investigation. A separate file number must be assigned to each fugitive subject referred by state and local agencies; these matters will not be worked out of a control file. |

(7) PIs should be completed within 90 days of initiation. Requests for succeeding 30-day extensions should be submitted to FBIHQ on a UACB basis at least 14 calendar days prior to the expiration of the PI. The extension request should include the following information:

(a) The basis for initiation of the PI.

(b) A summary of investigation conducted during the

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initial period or previous extension.

(c) Reason for the extension.

(8) In the event that the PI uncovers no evidence that the subject has fled interstate, authority to continue the investigation ceases and the PI should be closed.

(9) When PC of interstate flight is developed, a federal warrant should immediately be obtained prior to conducting any further investigation.

(10) Out-of-state leads should not be set in PIs without sufficient documented justification. Examples of proper out-of-state leads are record checks or the interview of an incarcerated individual. Leads for out-of-state interview at a location where the subject may be located should be inappropriate. Under NO circumstances should "locate-and-apprehend" leads be set absent federal process.

(11) These matters should be entered in FOIMS as PIs and include "Preliminary Inquiry" in the caption as follows:

JOHN DOE;
UFAP-(underlying local charge);
Preliminary Inquiry
OO: (office of origin)

(12) Upon issuance of federal process "Preliminary Inquiry" should be deleted from the title and the FOIMS entry converted to a full investigation record.

EFFECTIVE: 07/16/96

88-4 STATUTE OF LIMITATIONS

EFFECTIVE: 02/08/80

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88-4.1 Unlawful Flight to Avoid Prosecution, Custody, and
Confinement

The statute of limitations is tolled in every case of a violation of the Fugitive Felon Act where the flight is with the intent to avoid prosecution, custody, or confinement, since a person cannot be a fugitive felon without also being a fugitive from justice within the meaning of Title 18, USC, Section 3290.

EFFECTIVE: 02/08/80

88-4.2 Unlawful Flight to Avoid Giving Testimony

This situation does not apply in the case of a person fleeing to avoid giving testimony. Since flight to avoid giving testimony is not made punishable by state law, one does not become a fugitive from justice under Title 18, USC, Section 3290, by simply fleeing to avoid giving testimony. Whether or not a person becomes a fugitive from justice from the Federal offense of fleeing to avoid giving testimony becomes a factual question. If the facts show that subsequent to the flight to avoid giving testimony, the witness does in fact become a fugitive from justice, the statute of limitations is tolled.

EFFECTIVE: 02/08/80

88-5 RETURN OF FUGITIVES TO STATE JURISDICTION

EFFECTIVE: 02/08/80

88-5.1 Federal Prosecution

Although a Federal penalty is provided for a violation of this act, its primary purpose is to aid the states in the return of their fugitives for trial or reconfinement. Therefore, Federal prosecution is not intended and will only occur in rare instances upon the formal approval in writing by the Attorney General or an Assistant Attorney General.

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EFFECTIVE: 02/08/80

88-5.2 Extradition is the State's Responsibility

(1) It is not the purpose of this act to supersede state rendition procedures when interstate rendition can be accomplished without the assistance of the federal government. The federal government cannot assume the obligation of returning, through its removal machinery, all these fugitives despite the fact that such persons technically come within the terms of the Fugitive Felon Act. This should be made clear to the state authorities at the time they request assistance.

(2) As an aid to the wanting state authorities, the apprehending office should interview the fugitive regarding the local offense and verbally determine his/her intention regarding waiving state extradition proceedings. The wanting state authorities should be immediately notified of the fugitive's arrest, place of incarceration, admissions, and intention regarding extradition by the office of origin. The office of origin should specifically point out to them that the fugitive is not bound by his/her verbal intent to waive extradition and can at any time before removal demand and receive an extradition hearing.

(3) Unless there are unusual circumstances present in the particular case, the apprehending office should transfer the custody of the fugitive to appropriate state or local authorities without unnecessary delay, and should request the office of origin to notify the United States Attorney's office to promptly move for the dismissal of the complaint. When this procedure is followed, it is not necessary to take the fugitive before a magistrate judge for an initial appearance pursuant to Fed. R. Crim. P. 5(a). (See MIOG, Part II, 2-7.1 and Legal Handbook for Special Agents, 3-5.) (The Department of Justice Criminal Division has advised FBIHQ that it is not necessary to wait until the UFAP warrant has actually been dismissed before releasing the subject to state or local authorities, but it is important that efficient procedures be implemented and followed to make sure that UFAP warrants are promptly dismissed after notification of an arrest is given.) (See MIOG, Part II, 11-1.4.)

(4) Should the wanting state authorities be unwilling to institute extradition proceedings after a subject's apprehension, the USA should be notified in order for him/her to cause dismissal of the federal process.

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| (5) | It is recognized that there will be instances where the state funds for the extradition of fugitives are exhausted, and possibly other situations will arise where it will be recognized as impossible for the state to effect extradition, but in all instances the state authorities should be given an opportunity to return the fugitive by regular rendition.

| (6) | In those instances where state rendition procedure has been attempted and has failed to secure the return of the fugitive, state authorities may request the USA to institute action under the Fugitive Felon Act. The USA must first obtain the authorization of the Department before attempting said action.

EFFECTIVE: 05/10/96

88-5.3 Dismissal of Federal Process

After the fugitive's apprehension and his/her extradition by the wanting state authorities for prosecution on the state offense or reconfinement, the Federal process should be dismissed and the case closed.

EFFECTIVE: 03/11/83

88-6 UNKNOWN SUBJECT CASES

Do not accept a case for investigation where the subject has not been properly identified by state authorities.

EFFECTIVE: 03/11/83

| 88-7 | PARENT-CHILD ABDUCTION MATTERS

EFFECTIVE: 03/11/83

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88-7.1 Policy

(1) The federal Kidnapping Statute specifically precludes from investigation the kidnapping of a minor child by the parent, except in cases where the abducting parent removes or retains the child outside the United States. Cases involving parental removal or retention of the child outside the United States should be investigated under the Kidnapping character as a violation of Title 18, USC, Section 1204, the International Parental Kidnaping Crime Act of 1993. (See MIOG, Part I, Section 7-4.7.)

(2) Parental abductions which do not involve an extraterritorial removal/retention of a child and are interstate in nature are specifically precluded from investigation under the Kidnapping Statutes. However, fugitive investigations in these matters may be instituted under the Unlawful Flight Statute providing the usual unlawful flight requirements that a local or state felony warrant has been issued, local authorities have requested Bureau assistance and agree to extradite when fugitive is located and probable cause is shown to indicate the fugitive has fled the state to avoid prosecution are met. In this regard, cases where the child was legally removed from the state and the warrant subsequently issued when the fugitive parent failed to return the child should be brought to the attention of the USA's Office at the time authorization to file the federal complaint is sought. This should be done so that the USA's Office will be aware that the case should be closely scrutinized to ensure that the "moves or travels in interstate or foreign commerce" provision of the Unlawful Flight Statute has been met in conjunction with the state statute under which the fugitive parent is charged.

EFFECTIVE: 03/20/95

88-7.2 Fugitive Priorities

Fugitive priorities in UFAP cases involving parent-child abduction will be assigned in accordance with the criteria set forth in Part II, 21-2 of this manual.

EFFECTIVE: 08/19/85

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88-7.3 Deleted

EFFECTIVE: 08/19/85

88-7.4 Disposition of Victim Children Located by the FBI

(1) Local authorities, rather than the FBI, have the responsibility for taking custody of a victim child located in their jurisdiction, and their court system has the authority to ensure that the child is returned to the parent having legal custody.

(2) In order to establish a preplanned formulated procedure for the disposition of victim children located by the FBI in UFAP-Parental Kidnaping cases, each field office should contact logical law enforcement agencies and child welfare departments to determine their policies in taking custody of victim children and their court procedures for returning the victim child to the parent having legal custody.

(3) If the victim child is with the fugitive parent at the time of the arrest, the arresting SAs should take temporary custody of the victim child to ensure his/her welfare and safety. The child, however, should be immediately turned over to the appropriate local law enforcement agency or child welfare department which has the ultimate responsibility for the custody and welfare of the child located in its jurisdiction. The FBI should not return the victim child directly to the parent who was in custody of the child prior to the parental kidnaping, since this is the responsibility of the above agencies and their court system.

(4) If the victim child is not with the fugitive parent at the time of the arrest and is subsequently determined to be at school, with a babysitter, staying with a relative, or other like situations, the arresting SAs should not take temporary custody of said child, since the child's welfare and safety are not in question. In these situations, the FBI should immediately notify the appropriate local law enforcement agency or child welfare department of the child's location in order for said agencies to resolve the issues of taking the victim child into protective custody and ensuring the child's return to the parent having legal custody through appropriate court proceedings.

(5) If the location of the victim child is known prior to the pending arrest of the fugitive parent, the FBI, if possible, should notify the appropriate local law enforcement agency or child welfare department beforehand of the child's location in order that the above issues can be resolved by said agencies and coordinated with the arrest of the fugitive

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parent by the FBI.

(6) In addition to reporting the subject's apprehension to FBIHQ, the office of origin, and known auxiliary offices, the specific disposition of the victim child, if located, should be included in the apprehension teletype. This notification should include the identity, location and telephone number of the local custodial agency and the specific individual handling the matter. The office of origin should ensure that the parent having legal custody of the child at the time of the parental kidnaping is promptly notified in order that proceedings may be instituted by said individual to regain custody of the abducted child.

EFFECTIVE: 08/19/85

88-7.5 Access to Information from the Federal Parent Locator Service (FPLS), UFAP-Parental Kidnaping-Child Abduction Matters

FPLS requires that a certification letter be submitted with each request for information regarding a Parental Kidnaping subject. This letter certifies that:

(1) The request is being made solely to locate an individual in connection with a parental kidnaping or child custody case.

(2) Any information obtained through FPLS will be treated as confidential, will be used solely for the purpose for which it was obtained and will be safeguarded in accordance with the Privacy Act of 1974 (Title 5, USC, Section 552a).

(3) That Federal tax information obtained through the FPLS will not be used or disclosed in violation of Title 26, USC, Section 6103, and Title 26, USC, Section 7213 (a) (1).

(4) That SAC, Baltimore, or SAC's designee, will be the certifying official for the FBI. Field offices desiring to request information from the FPLS should submit an airtel to the Baltimore Field Office with a lead at Rockville, Maryland, to contact the FPLS. The airtel should set forth the following descriptive data in order that a complete search of all records available can be made by FPLS:

(a) Subject's name

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- (b) Known aliases
- (c) Social Security Number (SSAN), if known
- (d) Branch of military service, if applicable
- (e) Retired military and branch, if applicable
- (f) Whether subject receives any veteran's benefits
- (g) Federal employee, if applicable (past, present

or retired)

- (h) Date of birth
- (i) Place of birth
- (j) Subject's father's full name, if known
- (k) Subject's mother's full name, including maiden

name, if known

(5) In cases where the SSAN is known, the results of this search will be provided to the FBI within 14 days. If the SSAN is unknown, hand searches will be conducted by the Social Security Administration, which may take several months to complete. FPLS will furnish the address and employment data on file at the time the search is made.

(6) Searches can also be conducted on the victim's name, provided that the applicable descriptive data, as set out above, is furnished. These searches are helpful if the victim is eligible to receive either social security benefits or veteran's benefits from a deceased parent. In some cases, the victim may be employed on a part-time basis.

(7) All offices are reminded that requests for information from FPLS can be made in UFAP-Parental Kidnaping cases only. Leads to contact FPLS should not be set out in any other types of investigation.

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88-8

JUVENILE SUBJECTS

(1) A request for assistance to locate a juvenile under the Unlawful Flight Statute, who flees interstate to avoid prosecution, custody, or confinement, should be accepted or refused for investigation based on whether the individual has been handled locally as an adult or as a juvenile on the state offense in question.

(2) If the individual has been treated as an adult and charged with or convicted of the substantive criminal offense in question, investigation should be instituted under the Unlawful Flight Statute.

(3) If the individual has been handled as a juvenile and charged with juvenile delinquency or adjudged a juvenile delinquent, the Unlawful Flight Statute does not apply and investigation should not be instituted since juvenile proceedings are not considered a criminal offense.

EFFECTIVE: 08/19/85

88-9

STATE PAROLE AND PROBATION VIOLATORS

(1) Requests for assistance to locate state parole and probation violators who, after conviction for a crime covered by the Unlawful Flight Statute, are placed on parole or probation for said crime and flee interstate, fall within the provisions of the Unlawful Flight Statute.

(2) Local authorities should be advised to submit a formal order revoking the subject's parole or probation, together with a communication to the USA making a formal request for assistance.

(3) These matters, if orally requested, should be promptly presented to the USA and investigation should not be held in abeyance pending receipt by the USA of the above formal written request.

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88-10 INDIVIDUALS FREE ON STATE BOND

(1) Requests for assistance to locate individuals who flee interstate after being released on local bond to await court action on a charge covered by the Unlawful Flight Statute fall within the provisions of this act and should be promptly presented to the USA.

(2) If USA declines to authorize a complaint for the issuance of an Unlawful Flight warrant based on the grounds that there has not been an actual forfeiture of bond in the case, promptly furnish the full details to FBIHQ by cover airtel enclosing an original and four copies of an LHM for referral to the Department for a final determination.

EFFECTIVE: 08/19/85

88-11 VERIFYING STATE PROCESS AND INTENT TO EXTRADITE AND PROSECUTE OR RECONFINE

The status of the warrant issued by the state authorities for the subject's arrest and their continued intention to extradite and prosecute or reconfine the subject upon his/her apprehension must be confirmed once a year.

EFFECTIVE: 08/19/85

88-12 REPORTING PROCEDURES (See MIOG, Part I, 25-10, 76-1.8, 76-2.9, 76-3.13, 115-7 & Part II, 21-29.)

(1) Upon initiating an unlawful interstate flight fugitive investigation, two copies of an FD-65 should be promptly forwarded to FBIHQ, and one copy submitted directly to the Savannah Information Technology Center (SITC), by the office of origin. Upon the fugitive's apprehension or location, the locating office must promptly notify FBIHQ by teletype (at least ROUTINE in precedence), followed by Form FD-515 entry into the Integrated Statistical Reporting and Analysis Application (ISRAA). The office of origin must ensure that all auxiliary offices are notified by teletype to discontinue.

(2) As a general rule, Prosecutive Reports are not required in unlawful interstate flight cases and, therefore, are not to be submitted to FBIHQ unless a specific request is made for same.

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EFFECTIVE: 10/11/94

88-13 CHARACTER

(1) Section 1073 - UNLAWFUL FLIGHT TO AVOID PROSECUTION (UFAP), UNLAWFUL FLIGHT TO AVOID CUSTODY (UFAC), UNLAWFUL FLIGHT TO AVOID CONFINEMENT (UFAC) - followed by the local substantive offense; or UNLAWFUL FLIGHT TO AVOID GIVING TESTIMONY (UFAT) - followed by the local substantive crime charged in the criminal proceedings.

(2) Section 1074 - UNLAWFUL FLIGHT TO AVOID PROSECUTION (UFAP), UNLAWFUL FLIGHT TO AVOID CUSTODY (UFAC), UNLAWFUL FLIGHT TO AVOID CONFINEMENT (UFAC), UNLAWFUL FLIGHT TO AVOID GIVING TESTIMONY (UFAT) - followed by DAMAGING PROPERTY.

EFFECTIVE: 08/19/85

||88-14 CHILD SUPPORT RECOVERY ACT OF 1992

EFFECTIVE: 11/29/93

| 88-14.1 Statute
| Title 18, USC, Section 228

EFFECTIVE: 11/29/93

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88-14.2 Background

The Child Support Recovery Act of 1992 (CSRA), Public Law No. 102-521, makes the willful failure to pay a past due support obligation with respect to a child residing in another state a Federal offense. A first violation of the CSRA is punishable by six months' imprisonment and/or fine. Subsequent violations are punishment by two years' imprisonment and/or fine. The FBI has investigatory jurisdiction.

EFFECTIVE: 11/29/93

88-14.3 Elements of the Offense

The United States must prove that the defendant:

- (1) Having the ability to pay,
- (2) Did willfully fail to pay,
- (3) A known past due (child) support obligation,
- (4) Which has remained unpaid for longer than one year OR is an amount greater than \$5,000,
- (5) For a child who resides in another state.

Interstate flight is NOT an element of the offense.

EFFECTIVE: 11/29/93

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88-14.4 Definitions

(1) Past due support obligation

The CSRA defines "past due support obligation" as any amount:

(a) determined under a court order or an order of an administrative process pursuant to the law of a state to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living; and

(b) that has remained unpaid for a period longer than one year, or is greater than \$5,000.

(2) Willfulness

(a) According to the legislative history, willfulness has the same meaning as it has for the purposes of Federal criminal law. Willfulness is the knowing and intentional violation of a known legal duty.

With respect to ability to pay, the legislative history states:

"The government must establish beyond a reasonable doubt, that at the time payment was due the (defendant) possessed sufficient funds to enable him to meet his obligation or that the lack of sufficient funds on such date was created by (or was the result of) a voluntary and intentional act without justification in view of all the financial circumstances of the (defendant)."

(b) Willfulness cannot be presumed from nonpayment alone. The Government is required to prove that the defendant, as of the date specified as the date of the offense, willfully failed to pay an outstanding amount.

(c) Criminal culpability is not obviated by partial payment of support obligations because the statute defines past due support obligation as "any amount." However, partial payment may be relevant to inability to pay, which would negate willfulness. The circumstances of any case in which partial payment has been made, including the relationship of the amount of partial payment to the total arrearage and ability to pay the arrearage, should be considered before proceeding.

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EFFECTIVE: 11/29/93

88-14.5 Investigative/Prosecutive Procedures/Policy

(1) On 7/13/93, the Attorney General signed national guidelines outlining the procedures to be followed by Department of Justice personnel in the enforcement of the CSRA. These guidelines make the United States Attorney in each judicial district responsible for determining which cases will be selected for investigation and prosecution. Therefore, the FBI will only investigate violations of the CSRA referred by the U.S. Attorneys Offices.

(2) While complaints and referrals for investigation may come from private lawyers, individual complainants, or state and local agencies, as a matter of policy, the U.S. Attorneys Office will generally only accept referrals from state Title IV-D agencies.

(3) Title IV-D of the Social Security Act, 42 USC Section 651 et seq., requires states to establish programs for the enforcement of child support. The agencies operating these programs are known as IV-D agencies. These agencies must pursue child support on behalf of individuals who are receiving public assistance as well as at the request of individuals who are not. In addition, there may be other qualified agencies involved with child support. Ordinarily an individual complainant should be encouraged to work with a IV-D agency or other appropriate agency to pursue other available remedies before action is taken by Federal prosecutors.

(4) Because of the variation among state laws, DOJ policy encourages U.S. Attorneys to coordinate with IV-D officials or their designees and other appropriate officials on local and state levels to establish referral procedures and may wish to establish local committees to develop local guidelines. FBI personnel are authorized to serve on these committees.

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88-14.6 Referral Package

U.S. Attorneys will require a referral package in every case. Each referral package will include all background information, copies of court records and orders, and ability-to-pay information. As a general rule, cases will be accepted by the U.S. Attorneys Office only if they make clear that all reasonably available remedies have been exhausted. Among such cases, priority should be given to cases where the following is established:

(1) a pattern of flight from state to state to avoid payment or flight after service of process for contempt or contempt hearing; or

(2) a pattern of deception to avoid payment such as changing employment, concealing assets or location, or using false social security numbers; or

(3) failure to make support payments after being held in contempt; or

(4) when the failure to make child support payments has a nexus to other potential Federal charges, such as bankruptcy fraud (i.e., concealing assets), bank fraud (i.e., false statements to a bank), Federal income tax charges (i.e., false statement or tax evasion) or related criminal conduct.

EFFECTIVE: 11/29/93

88-14.7 Notice to Target and Charging

(1) If, after reviewing all pertinent documents, further action is believed to be warranted, the following steps will be taken by the U.S. Attorneys Office prior to filing charges:

(a) Before referring any case involving the CSRA to the FBI, a letter will be sent to the nonpaying parent advising them of the CSRA and that they appear to be in violation of it and requesting payment of the arrearage within a specified period (30 days). If payment is not made, the matter will be referred to the FBI.

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(b) After the FBI completes the investigation and prior to the filing of charges, a second letter will be sent by the U.S. Attorney advising the target that charges will be filed unless satisfactory payment is made within a specified period of time (30 days).

(c) If satisfactory payment is still not forthcoming and no adequate explanation for nonpayment has been advanced, U.S. Attorneys Offices should file charges against the nonpaying parent.

(2) Since the first offense is a misdemeanor, the U.S. Attorneys Office will use summons to obtain the presence of the defendant in court.

(3) As a matter of policy, except in extraordinary cases, pretrial diversion will not be used to resolve these cases, since the impact of the felonious second offense would be avoided by pretrial diversion of the first offense.

(4) To ensure that criminal process is not used to enforce a civil debt, once charges are filed, a case should not be routinely dismissed merely because an offender makes payment.

EFFECTIVE: 11/29/93

88-14.8 Character and Alpha Classification

(1) CSRA matters will be worked as 88E classifications. The CSRA is not a fugitive-related investigation but is a substantive FBI investigation predicated on a violation of Title 18, USC, Section 228, Failure to Pay Legal Child Support Obligations.

(2) These matters should be entered in FOIMS as CSRA MATTERS and include "CSRA MATTERS" in the caption as follows:

JOHN DOE;
CSRA MATTERS;
OO: (Office of Origin)

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SECTION 89. ASSAULTING, KILLING OR ATTEMPTING TO KILL
A FEDERAL OFFICER; CONGRESSIONAL, CABINET
AND SUPREME COURT ASSASSINATION, KIDNAPING,
AND ASSAULT; CONSPIRACY TO IMPEDE OR INJURE
AN OFFICER; CRIMES AGAINST FAMILY MEMBERS

89-1 BREAKDOWN OF THE 89 CLASSIFICATION (See MIOG, Part I,
267-4(7).)

The 89 classification is made up of four separate and
distinct violations which are as follows: (1) Assaulting, Killing or
Attempting to Kill a Federal Officer (AFO/KFO); (2) Congressional,
Cabinet, and Supreme Court Assassination, Kidnaping, and Assault;
(CCSCAKA); (3) Conspiracy to Impede or Injure an Officer (CIO); and
(4) Crimes Against Family Members (CAFM). For purposes of clarity and
reference, this section will set forth these violations individually
in a four-part format.

NOTE: Upon receipt of information sufficient to initiate an
investigation under the Assaulting, Killing or Attempting to Kill a
Federal Officer classification, and when the violation has occurred on
Indian Lands, a new Crime on Indian Reservation (198G classification)
case should be promptly opened. See Section 198-1.5 (7) for complete
details.

EFFECTIVE: 11/23/94

89-2 ASSAULTING, KILLING OR ATTEMPTING TO KILL A FEDERAL
OFFICER

EFFECTIVE: 02/25/91

89-2.1 Deleted

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EFFECTIVE: 11/23/94

89-2.2 Statutes and Penalties (See MIOG, Part I, 44-1.1(10),
89-3.2(2), 89-3.6(2), 175-2(2).)

Assaulting, Killing or Attempting to Kill a Federal
Officer is covered by seven statutes which are set forth as follows:

(1) Assaulting, Resisting or Impeding Certain Officers or
Employees, Title 18, USC, Section 111.

"(a) In general --
Whoever forcibly assaults, resists, opposes, impedes,
intimidates, or interferes with any person designated in Section 1114
of this Title while engaged in or on account of the performance of his
official duties, or forcibly assaults or intimidates any person who
formerly served as a person designated in Section 1114 on account of
the performance of official duties during such person's term of
service, shall be fined under this title or imprisoned not more than
three years, or both."

"(b) Enhanced penalty -- Whoever, in the commission
of any such acts, described in subsection (a), uses a deadly or
dangerous weapon, shall be fined under this title or imprisoned not
more than ten years, or both."

(2) Protection of Officers and Employees of the United
States, Title 18, USC, Section 1114.

"Whoever kills or attempts to kill any judge of the United
States,

any United States Attorney,
any Assistant United States Attorney, or
any United States marshal or deputy marshal or person
employed to assist such marshal or deputy marshal,
any officer or employee of the Federal Bureau of
Investigation of the Department of Justice,
any officer or employee of the Postal Service,
any officer or employee of the Secret Service, or of the
Drug Enforcement Administration,
any officer or member of the U.S. Capitol Police,
any member of the Coast Guard,
any employee of the Coast Guard assigned to perform

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investigative, inspection or law enforcement functions,
Administration | any officer or employee of the Federal Railroad
enforcement functions, |
correctional institution, |
any officer or employee of any United States penal or
internal revenue or any person assisting him in the execution of his
duties,
any immigration officer,
any officer or employee of the Department of Agriculture
or of the Department of the Interior designated by the Secretary of
Agriculture or the Secretary of the Interior to enforce any Act of
Congress for the protection, preservation, or restoration of game and
other wild birds and animals,
any employee of the Department of Agriculture designated
by the Secretary of Agriculture to carry out any law or regulation, or
to perform any function in connection with any Federal or State
program or any program of Puerto Rico, Guam, the Virgin Islands | or any
other commonwealth, territory, or possession | of the United States, or
the District of Columbia, for the control or eradication or prevention
of the introduction or dissemination of animal diseases,
any officer or employee of the National Park Service,
Engineers assigned to perform investigations, inspections, law or
regulatory enforcement functions, or field-level real estate
functions,
any officer or employee of, or assigned to duty in, the
field service of the Bureau of Land Management, or
any officer or employee of the Indian Field Service of the
United States, or
any officer or employee of the National Aeronautics and
Space Administration directed to guard and protect property of the
United States under the administration and control of the National
Aeronautics and Space Administration,
any security officer of the Department of State or the
Foreign Service, or
any officer or employee of | the Department of
Education; | the Department of Health and Human Services, the Consumer
Product Safety Commission, Interstate Commerce Commission, the
Department of Commerce, or of the Department of Labor, or of the
Department of the Interior, or of the Department of Agriculture
assigned to perform investigative, inspection or law enforcement
functions, or
any officer or employee of the Federal Communications
Commission performing investigative, inspection or law enforcement

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functions, or

any officer or employee of the Department of Veterans Affairs assigned to perform investigative or law enforcement functions, while engaged in the performance of his official duties, or on account of the performance of his official duties, or any United States probation or pretrial service officer,

or

any United States magistrate, or any officer or employee of any department or agency within the intelligence community (as defined in Section 3.4(F) of Executive Order 12333, December 8, 1981, or successor orders) not already covered under the terms of this section, or

any attorney, liquidator, examiner, claim agent, or other employee of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Housing Finance Board, the Resolution Trust Corporation, the Board of Governors of the Federal Reserve System, any Federal Reserve bank, or the National Credit Union Administration, or any other officer, agency or employee of the United States designated for coverage under this section in regulations issued by the Attorney General engaged in or on account of the performance of his official duties or

any officer or employee of the United States or any agency thereof designated to collect or compromise a Federal claim in accordance with Sections 3711 and 3716 - 3718 of Title 31 or other statutory authority shall be punished as provided under Sections 1111 and 1112 of this title, except that any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years."

(3) | THREATS TO ASSAULT, KIDNAP, OR MURDER A UNITED STATES OFFICIAL, A UNITED STATES JUDGE, A FEDERAL LAW ENFORCEMENT OFFICER, OR AN OFFICIAL WHOSE KILLING WOULD BE A CRIME UNDER TITLE 18, USC, SECTION 1114 ARE COVERED IN TITLE 18, USC, SECTION 115 (B).

On 10/12/84, Title 18, USC, was amended by creating Section 115. This statute makes it a Federal offense to impede, intimidate, interfere with, or retaliate against certain Federal officials by assaulting, kidnaping, or murdering, or threatening to assault, kidnap, or murder a member of his/her family. See 89-5 concerning "Crime Against Family Members of Federal Officials (CAFME)." On 11/18/88, Public Law 100-690 amended Title 18, USC, Section 115 by adding a provision which brought the Federal officials themselves within the purview of the statute. This amendment made it a Federal crime to threaten to assault, kidnap, or murder a United States official, a United States judge, a Federal law enforcement officer or an official whose killing would be a crime under Title 18, USC,

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Section 1114.

Excerpts of this statute concerning threats against Federal officials by threatening or injuring a family member, Title 18, USC, Section 1115, are as follows:

"(a) (1) Whoever -

"... (B) threatens to assault, kidnap, or murder a United States official, a United States judge, a Federal law enforcement officer, or an official whose killing would be a crime under such section (Title 18, USC, Section 1114),

with intent to impede, intimidate, or interfere with such official, judge or law enforcement officer while engaged in the performance of official duties, or with intent to retaliate against such official, judge, or law enforcement officer on account of the performance of official duties shall be punished as provided in subsection (b)."

"... (b) (4) A threat made in violation of this section shall be punished by a fine of not more than \$5,000 or imprisonment for a term of not more than five years, or both, except that imprisonment for a threatened assault shall not exceed three years."

"(c) As used in this section, the term --

"(1) 'Federal law enforcement officer' means any officer, agent, or employee of the United States authorized by law or by a Government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of Federal criminal law;

"(3) 'United States judge' means any judicial officer of the United States, and includes a justice of the Supreme Court and a United States magistrate; and

"(4) 'United States official' means the President, President-elect, Vice President, Vice-President-elect, a Member of Congress, a member of the executive branch who is the head of a department listed in Title 5, USC, Section 101, or the Director of the Central Intelligence Agency."

(4) Conspiracy to murder, Title 18, USC, Section 1117.
"If two or more persons conspire to violate section 1111, 1114, or 1116 of this title, and one or more of such persons do any overt act

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to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or for life."

(5) Murder, Title 18, USC, Section 1111.

"(a) Murder is the unlawful killing of a human being with malice aforethought. Every murder perpetrated by poison, lying in wait, or any other kind of willful, deliberate, malicious, and premeditated killing; or committed in the perpetration of, or attempt to perpetrate, any arson, escape, murder, kidnaping, treason, espionage, sabotage, aggravated sexual abuse or sexual abuse, burglary, or robbery or perpetrated from a premeditated design unlawfully and maliciously to effect the death of any human being other than him who is killed, is murder in the first degree.

"Any other murder is murder in the second degree.

"(b) Within the special maritime and territorial jurisdiction of the United States,

"Whoever is guilty of murder in the first degree, shall suffer death unless the jury qualifies its verdict by adding thereto 'without capital punishment,' in which event he shall be sentenced to imprisonment for life;

"Whoever is guilty of murder in the second degree, shall be imprisoned for any term of years or for life."

It should be noted that when enacted, Section 1111 provided for the death penalty under certain circumstances. However, in a 1972 Supreme Court decision, *Furman v. Georgia*, it was held that the imposition of the death sentence constitutes cruel and unusual punishment unless strict statutory standards are provided for its application. Since Section 1111 is discretionary and does not provide the above standards, its death penalty provisions are invalid.

(6) Manslaughter, Title 18, USC, Section 1112.

"(a) Manslaughter is the unlawful killing of a human being without malice. It is of two kinds:

"Voluntary -- Upon a sudden quarrel or heat of passion.

"Involuntary -- In the commission of an unlawful act not amounting to a felony, or in the commission in an unlawful manner, or without due caution and circumspection, of a lawful act which might

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produce death.

"(b) Within the special maritime and territorial jurisdiction of the United States,

"Whoever is guilty of voluntary manslaughter, shall be imprisoned not more than ten years;

"Whoever is guilty of involuntary manslaughter, shall be fined not more than \$1,000 or imprisoned not more than three years, or both."

(7) Assault or Resistance, Title 18, USC, Section 2231.

"(a) Whoever forcibly assaults, resists, opposes, prevents, impedes, intimidates, or interferes with any person authorized to serve or execute search warrants or to make searches and seizures while engaged in the performance of his duties with regard thereto or on account of the performance of such duties, shall be fined not more than \$5,000 or imprisoned not more than three years, or both; and --

"(b) Whoever, in committing any act in violation of this section, uses any deadly or dangerous weapon, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both."

(8) The kidnaping of a federal officer named in Title 18, USC, Section 1114 or designated by regulations issued by the Attorney General for coverage under Title 18, USC, Section 1114 is a violation of Title 18, USC, Section 1201(a)(5). See MIOG, Part I, Section 7-1.1 for the investigation of kidnaping matters.

(9) Protected Officers and Employees of the United States designated by the U.S. Attorney General on 5/18/94, as set forth in the Federal Register, Vol. 59, No. 95.

Part 64, of Title 28, Code of Federal Regulations (CFR) (AG Order No. 1874-94), as set forth in the Federal Register, Vol. 59, No. 95, dated 5/18/94, designates categories of Federal officers and employees who, in addition to those already designated by statute, will be within the protective coverage of Title 18, USC, Section 1114, which prohibits the killing or attempted killing of such designated officers and employees. The categories of Federal officers and employees covered by Section 1114 are also protected, while they are engaged in or account of the performance of their official duties, from a conspiracy to kill, Title 18, USC, Section 1117; kidnaping,

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Title 18, USC, Section 1201 (a)(5); forcible assault, intimidation, or interference, Title 18, USC, Section 111; and threat of assault, kidnap or murder with intent to impede, intimidate, or retaliate against such officers or employees, Title 18, USC, Section 115 (a)(1)(B). In addition, the immediate family members of such officers and employees are protected against assault, kidnap, murder, attempt to kidnap or murder, and threat to assault, kidnap, or murder with intent to impede, intimidate, or retaliate against such an officer or employee, Title 18, USC, Section 115 (a)(1)(A). The protective coverage has been extended to those Federal officers and employees whose jobs involve inspection, investigative or law enforcement responsibilities, or whose work involves a substantial degree of physical danger from the public that may not be adequately addressed by available state or local law enforcement resources.

Title 28, CFR, Part 64, Section 64.2 states "The following categories of Federal officers and employees are designated for coverage under Title 18, USC, Section 1114:

- "(a) Judges and special trial judges of the U.S. Tax Court;
- "(b) Commissioners and employees of the U.S. Parole Commission;
- "(c) Attorneys of the Department of Justice;
- "(d) Resettlement specialists and conciliators of the Community Relations Service of the Department of Justice;
- "(e) Officers and employees of the Bureau of Prisons;
- "(f) Criminal investigators employed by the U.S. Attorney's Office; and employees of the U.S. Attorney's Office assigned to perform debt collection functions;
- "(g) U.S. Trustees and Assistant U.S. Trustees; bankruptcy analysts and other officers and employees of the U.S. Trustee System who have contact with creditors and debtors, perform audit functions, or perform other investigative or enforcement functions in administering the bankruptcy laws;
- "(h) Attorneys and employees assigned to perform or to assist in performing investigative, inspection or audit functions of the Officer of the Inspector General of an "establishment" or a "designated Federal entity" as those terms are defined by Sections 11 and 8E, respectively, of the Inspector General Act of 1978, as amended, Title 5, USC, app.3, Sections 11 and 8E, and of the Offices of Inspector General of the U.S. Government Printing Office, the Merit Systems Protection Board, and the Selective Service System.
- "(i) Employees of the Department of Agriculture at the State, District or County level assigned to perform loan making,

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loan servicing or loan collecting functions;

"(j) Officers and employees of the Bureau of Alcohol, Tobacco, and Firearms assigned to perform or to assist in performing investigative, inspection or law enforcement functions;

"(k) Federal air marshals of the Federal Aviation Administration;

"(1) Employees of the Bureau of Census employed in field work conducting censuses and surveys;

"(m) Employees and members of the U.S. Military services and employees of the Department of Defense who:

"1. are military police officers,

"2. have been assigned to guard and protect property of the United States, or persons under the administration and control of a U.S. military service or the Department of Defense, or

"3. have otherwise been assigned to perform investigative, correction or other law enforcement functions;

"(n) The Director, Deputy Director for Supply Reduction, Deputy Director for Demand Reduction, Associate Director for State and Local Affairs, and Chief of Staff of the Office of National Drug Control Policy;

"(o) Officers and employees of the Department of Energy authorized to carry firearms in the performance of investigative, inspection, protective or law enforcement functions;

"(p) Officers and employees of the U.S. Environmental Protection Agency assigned to perform or to assist in performing investigative, inspection or law enforcement functions;

"(q) Biologists and technicians of the U.S. Fish and Wildlife Service who are participating in sea lamprey control operations;

"(r) Uniformed and nonuniformed special police of the General Services Administration; and officers and employees of the General Services Administration assigned to inspect property in the process of its acquisition by or on behalf of the U.S. Government;

"(s) Special Agents of the Security Office of the U.S. Information Agency;

"(t) Employees of the regional, subregional and resident offices of the National Labor Relations Board assigned to perform investigative and hearing functions or to supervise the performance of such functions; and auditors and Security Specialists of the Division of Administration of the National Labor Relations Board;

"(u) Officers and employees of the U.S. Nuclear Regulatory Commission:

"1. assigned to perform or to assist in performing investigative, inspection or law enforcement functions or

"2. engaged in activities related to the review

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of license applications and license amendments;

"(v) Investigators employed by the U.S. Office of Personnel Management;

"(w) Attorneys, accountants, investigators and other employees of the U.S. Securities and Exchange Commission assigned to perform or to assist in performing investigative, inspection, or other law enforcement functions;

"(x) Employees of the Social Security Administration assigned to Administration field offices, hearing offices and field assessment offices;

"(y) Officers and employees of the Tennessee Valley Authority authorized by the Tennessee Valley Authority Board of Directors to carry firearms in the performance of investigative, inspection, protective or law enforcement functions;

"(z) Officers and employees of the Federal Aviation Administration, the Federal Highway Administration, the National Highway Traffic Safety Administration, the Research and Special Programs Administration and the Saint Lawrence Seaway Development Corporation of the U.S. Department of Transportation who are assigned to perform or assist in performing investigative inspection or law enforcement functions;

"(aa) Federal administrative law judges appointed pursuant to Title 5, USC, Section 3105; and

"(bb) Employees of the Office of Workers' Compensation Programs of the Department of Labor who adjudicate and administer claims under the Federal Employees Compensation Act, the Longshore and Harbor Workers' Compensation Act and its extension, or the Black Lung Benefits Act."

EFFECTIVE: 11/23/94

89-2.3 Elements

(1) That the defendant |threatened, |assaulted, killed or attempted to kill the Federal officer or employee.

(2) That the Federal officer or employee is protected under Title 18, USC, Section 1114.

(3) |That when threatened, |assaulted, killed, or the attempt to kill occurred while the protected federal officer or employee was engaged in the performance of his/her official duties or |the protected federal officer or employee |was |threatened, |assaulted,

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killed or the attempt to kill was on account of the performance of his/her official duties.

(4) Based on a 3/19/45 Supreme Court Decision, UNITED STATES V. FEOLA, it is not necessary to allege and prove under Title 18, USC, Section 111, that the subject knew the victim was a federal officer or employee at the time of the assault. The Supreme Court held that it need only be established that the subject had the specific intent to commit the assault. However, as a matter of investigative and prosecutive policy, such knowledge, if present, should always be obtained. Prior to this Supreme Court decision, the various U.S. Circuit Courts of Appeals were divided as to whether or not the above knowledge on the part of the subject was an essential element.

(5) In regard to the federal Conspiracy Statute, Title 18, USC, Section 371, the above Supreme Court decision also held that it is not necessary to allege and prove that the subjects knew the victim they conspired to assault was a federal officer or employee.

(6) While the above Supreme Court decision dealt only with assaults of federal officers and employees in connection with Title 18, USC, Section 111, the Department of Justice (DOJ) is of the opinion that this decision would also apply to killings of federal officers and employees covered under Title 18, USC, Section 1114, and conspiracies to kill these individuals.

(7) Title 18, USC, Section 111, does not define the term assault. The DOJ has advised that in the absence of this statutory definition, the courts have followed the following common law definition: An attempt with force or violence to do a corporal injury to another consisting of an act which may cause corporal injury, accompanied by circumstances which denote at the time an intention coupled with the present ability of using actual violence against the person. |(See MIOG, Part I, 89-3.5(3), 175-4(5).)|

(8) The element of force is required under the provisions of Title 18, USC, Section 111, since it states in part, "Whoever forcibly assaults," In many instances the use of force by the subject will be clearly present and will not present a legal issue. It should be noted that mere verbal threats alone do not constitute force; however, a threat of force uttered with the apparent present ability to execute it, such as the subject displaying a weapon or making a threatening gesture which places the victim in fear of bodily harm, legally constitutes force and a violation of the above statute.

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EFFECTIVE: 11/23/94

89-2.4 Method for Determining if a Federal Officer or Employee is Protected Under the Assaulting a Federal Officer (AFO) and Killing a Federal Officer (KFO) Statutes

(1) Upon receipt of a complaint, immediately review Title 18, USC, Section 1114, to determine if the reported victim is specifically listed and, therefore, protected.

(2) If, after the above review, a question exists as to whether or not the reported victim is protected, promptly contact an appropriate Assistant U.S. Attorney (AUSA) for a legal opinion.

(3) If the AUSA cannot resolve the issue, telephonically contact the Violent Crimes/Fugitive Unit, Violent Crimes and Major Offenders Section, Criminal Investigative Division, FBIHQ, for resolution.

EFFECTIVE: 11/23/94

89-2.5 Renaming of Agencies Covered Under Title 18, U.S. Code, Section 1114

(1) Title 18, USC, Section 1114, identifies the agencies, officers, and employees who are covered under the AFO and KFO Statutes.

(2) Occasionally, an agency identified and protected under Section 1114 will undergo an executive reorganization and be renamed. An example is the Bureau of Narcotics and Dangerous Drugs which became the Drug Enforcement Administration.

(3) Based on court interpretations of Title 5, USC, Section 907(a), dealing with executive reorganizations, it has been held that a successor agency is afforded the same degree of protection under Section 1114 as the agency which it replaces. Section 907(a) continues, in effect, those laws existing prior to the reorganization of an agency. Therefore, the FBI should investigate AFO and KFO

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violations involving the successor agency.

EFFECTIVE: 02/16/89

89-2.6 Distinction Between "Engaged In" Versus "On Account Of"
Performance of Official Duties

(1) The distinction between a protected Government officer who is assaulted, killed or an attempt to kill occurs while "engaged in the performance of his/her official duties" and "on account of the performance of his/her official duties" is as follows:

(a) If a Special Agent is assaulted by a bank robbery fugitive while apprehending him/her, the assault occurred while the Agent was "engaged in the performance of his/her official duties."

(b) If, after being released from prison, the bank robbery subject assaults the above Agent, while either on or off duty, because the Agent had previously arrested him/her, the assault occurred "on account of the performance of his/her official duties."

(2) The above latter distinction is an important factor to be considered if a protected Government officer or employee is assaulted, killed or an attempt to kill occurs while either on or off duty. Consideration should be given to the possibility that the victim was attacked because of past performances of official duties. In such situations, an investigation may be instituted to determine if the attack was so motivated, thus making it a violation of either the AFO or KFO Statutes.

EFFECTIVE: 12/19/86

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89-2.7 Comments and Clarification Regarding Threats to Commit an
 Assaulting a Federal Officer or Killing a Federal Officer
 Violation (See MIOG, Part I, 89-2.10(7), 89-2.15(4).)

(1) Threats to assault or kill a protected federal officer or employee constitute a federal violation under Title 18, USC, Section 115(a)(1)(B). A requisite element in providing these crimes is "intent." These crimes must be committed with intent to impede, intimidate, interfere with, or retaliate against United States officials, United States judges, federal law enforcement officers, or officers whose killing would be a crime under Title 18, USC, Section 1114, while those individuals are engaged in the performance of their official duties, or on account of the performance of their official duties.

(2) It should be noted that if captioned threats do not constitute an actual AFO violation, they must be further analyzed as follows to determine if they constitute some other federal or local violation upon which investigative or referral action should be taken:

(a) If captioned threats are conveyed by the U.S. mail or interstate telephone call, FBI jurisdiction under the Federal Extortion Statute exists. See Part I, Section 9 of this manual entitled "Extortion" for complete details.

(b) If the threats involve two or more subjects, a violation under the federal Conspiracy Statute, Title 18, USC, Section 371, or the Conspiracy to Impede or Injure an Officer Statute, Title 18, USC, Section 372, may exist. See 89-4 for complete details.

(c) Captioned threats, under the proper circumstances, could constitute an Obstruction of Justice violation. See Part I, Section 72 of this manual entitled "Obstruction of Justice" for complete details.

(d) Captioned threats, if made by telephone call within the District of Columbia or in interstate commerce, may constitute a violation of the Interstate Obscene or Harassing Telephone Calls Statute, Title 47, USC, Section 223. See Part I, Section 178 of this manual entitled "Interstate Obscene or Harassing Telephone Calls" for complete details.

(3) If the office of origin (OO) is in doubt whether captioned threats constitute a federal violation under the FBI's jurisdiction, the fact situation should be promptly presented to an appropriate AUSA for a legal opinion regarding this issue and whether

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an investigation or a "preliminary inquiry" should be conducted in accordance with the current Attorney General's Guidelines governing such procedures.

(4) In the absence of FBI jurisdiction, if it is determined that a federal violation under the investigative jurisdiction of another federal agency exists, such as blackmail which is handled by Postal Inspectors, the case should be referred to the appropriate agency for investigation.

(5) In the absence of a federal violation, instant threats should be referred to local authorities to determine if they constitute an offense which will be investigated by them.

(6) Any presentation to an AUSA for a legal opinion or referral to another federal agency or local authority should be set forth in the notification communication to FBIHQ. See 89-2.10 for complete details.

(7) The OO must immediately notify the victim and any agency having protective responsibility for the victim. In cases involving threats against members of the Federal Judiciary, the Chief Judge of the Judicial District also should be notified of the threat. Notification should include whether the FBI or another agency is investigating the threat. All notifications should be set forth in the initial teletype to FBIHQ.

(8) A confirmation letter to the victim must be sent within five working days after the FBI is made aware of the threat. A copy of the confirmation letter must be directed to any agency having protective responsibility for the victim and, if appropriate, to the Chief Judge of the Judicial District.

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89-2.8 Threat Assessments

(1) In cases involving AFO or KFO threats received by a victim, the FBI may be requested by the agency responsible for protecting the victim for a "threat assessment" of the threats received.

(2) Based on past experience, the above situation will most likely occur when a Federal judge has received an AFO or KFO threat and the local U.S. Marshals Service (USMS) Office is providing the victims with protection. The USMS Office may request the local FBI Office or FBIHQ, through USMS Headquarters, Washington, D.C., for a "threat assessment" to assist them in determining if the protection detail should be continued.

(3) It must be clearly understood that the FBI does not provide "threat assessments" per se. The FBI will not, under any circumstances, render an opinion as to whether the protection should be continued or terminated.

(4) It is necessary, however, when a field office receives such a legitimate request, that it disseminate all known facts regarding the AFO or KFO threats and the results of any pertinent investigation. This dissemination will enable the agency providing the protection to formulate its own "threat assessment" and opinion whether the protection should be continued or terminated. If the threat was developed through an FBI informant, his/her identity must be protected; however, a statement regarding his/her reliability should be provided. In threats developed from other sources known to the FBI, dissemination should include a statement as to their reliability as far as can be determined.

(5) In order to prevent a misinterpretation of the facts, the above dissemination must be made by letterhead memorandum (LHM). In addition, FBIHQ must be promptly notified of the request and the local dissemination by submission of a cover airtel to FBIHQ enclosing four (4) copies of the disseminated LHM.

(6) Requests or "threat assessments" occasionally originate on a headquarters level. In such instances, FBIHQ will promptly notify the appropriate office and request an LHM setting forth details of the threat and the results of any investigation conducted. The information disseminated to the requesting agency will enable it to formulate its own "threat assessment."

(7) Field offices should deal only with local

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representatives of agencies requesting information in connection with threat assessments. Inquiries from the headquarters of those agencies should be referred to FBIHQ.

EFFECTIVE: 02/16/89

89-2.9 FBI Investigative Jurisdiction

(1) The AFO and KFO statutes (Title 18, USC, Sections 111, 115, 1111, 1112, 1114, 1117 and 2231) do not specifically designate the FBI as the responsible investigative agency. However, the DOJ has historically ruled that the FBI has investigative jurisdiction over all federal criminal statutes when no agency is specifically designated to conduct the investigation.

(2) Following passage of the original AFO and KFO Statutes on May 18, 1934, and in accord with the above DOJ ruling, the FBI has investigated, and continues to investigate, all assaults and killings of and attempts to kill federal officers and employees protected under Title 18, USC, Section 1114, with the following exceptions:

(a) Pursuant to a 10/2/56 agreement, the Department of the Treasury has investigative jurisdiction over assaults and killings of and attempts to kill its personnel. See 89-2.13 for complete details.

(b) Pursuant to a 3/5/75 agreement, the Postal Inspectors have investigative jurisdiction over assaults and killings of and attempts to kill postal employees under certain designated conditions. See 89-2.14 for complete details.

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89-2.10 Notification to FBIHQ in Killing a Federal Officer and
Assaulting a Federal Officer Cases (See MIOG, Part I,
89-2.7(6), 89-2.11(10).)

(1) FBIHQ should be promptly notified of all new KFO cases by telephone and confirmed by immediate teletype. In addition, FBIHQ should be advised of all subsequent major investigative developments by summary teletype. The teletype reporting a subject's apprehension should include a statement as to whether or not the subject admitted the violation.

(2) In all AFO cases, depending on the urgency of the situation, FBIHQ should be promptly notified by telephone or teletype. Telephone notification to FBIHQ must be confirmed by immediate teletype. In addition, FBIHQ should be advised of all subsequent major investigative developments by summary teletype.

(3) In cases involving a threat to commit an AFO or KFO violation, depending on the urgency of this situation, FBIHQ should be notified by telephone, teletype or airtel. Telephone notification to FBIHQ must be promptly confirmed by teletype. If such cases involve FBI personnel, United States Attorneys or Assistant United States Attorneys as potential victims, notification should be made by telephone or teletype. In cases involving members of the Federal Judiciary, including U.S. Magistrates, refer to 89-2.10(4).

(4) During regular working hours, FBIHQ, Criminal Investigative Division, Violent Crimes/Fugitive Unit, must be immediately notified by telephone of all reports of threats to commit an AFO or KFO violation against any member of the Federal Judiciary, including U.S. Magistrates. If report of a threat occurs outside of regular working hours, telephone the FBIHQ Duty Agent. This telephonic notification should be followed by an "Immediate" teletype to FBIHQ. (See (3) & MIOG, Part I, 89-2.15(3).)

(5) In any AFO or KFO investigation, FBIHQ must be advised by airtel of its closing. This airtel should state the basis for closing. The airtel should also indicate the victim, as well as any agency having protective responsibility for the victim and any Chief Federal Judge (if victim was a member of the Federal Judiciary), was notified that the investigation has been closed.

(6) In regard to AFO or KFO cases involving FBI personnel and threatened or actual AFO or KFO cases involving federal judges, USAs and AUSAs, see 89-2.15 for further details.

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(7) In cases involving a threat to commit an AFO or KFO violation, the teletype or airtel notification to FBIHQ must set forth the complete details of the threat and its means of conveyance. See 89-2.7 for further requirements.

EFFECTIVE: 11/23/94

89-2.11 Investigative Procedures

(1) In KFO violations, signed statements, if possible, should be obtained from all eyewitnesses to the offense and other witnesses who provide any positive information concerning the case. Interviews of individuals who were in the immediate vicinity of the offense but claim not to have seen or heard anything should be recorded in an FD-302 in the event they are later contacted by defense counsel for opposing testimony.

(2) In KFO violations, it is essential to establish that the cause of death occurred by reason of the subject's actions. An autopsy must be performed by a physician who will testify as to the cause of death. Copies of the autopsy report, along with the interview of the performing physician, must be included in the prosecutive report.

(3) In AFO and KFO violations, every effort must be made to recover any weapon used for examination purposes. In addition, the weapon should be traced to establish it was in the subject's possession at the time of the offense.

(4) In AFO and KFO violations, evidence of a prior crime committed by the subject, which may have been the basis for the assault such as his/her attempting to avoid apprehension, may be introduced as evidence to establish a motive for having committed the AFO or KFO violation.

(5) In AFO and KFO violations, a thorough past history of the subject should be developed as this information may be used as rebuttal evidence against him/her during his/her trial.

(6) In AFO cases, the victim should be examined by a physician in order to establish and document the extent of injuries. A copy of the medical report, along with the interview of the examining physician, should be included in the prosecutive report.

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(7) If AFO or KFO threats have been received by the victim and investigation has been or will be instituted by the FBI under the policy set forth in 89-2.7.

b2/b7E

[REDACTED]

(8) [REDACTED]

(9) | Deleted |

(10) When FBI personnel are victims in actual or threatened AFO or KFO cases, FBIHQ should be notified as set forth in 89-2.10.

(11) AFO and KFO cases involving FBI personnel must receive immediate and aggressive investigation. When the subject is identified, the case should be promptly presented to the USA's Office in an effort to obtain federal process. If prosecution is declined, FBIHQ should be advised by teletype setting forth the complete details. If appropriate, FBIHQ will discuss the case with the DOJ for a final determination. It is noted that an absence of actual physical injury should not bar federal prosecution.

(12) In the event an AFO or KFO matter arises from a substantive investigation, a separate AFO or KFO case will be opened. A copy of the opening communication should be directed to the substantive unit at FBIHQ.

EFFECTIVE: 03/21/95

| 89-2.12 | Deleted |

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EFFECTIVE: 11/23/94

| 89-2.12.1 | Deleted |

EFFECTIVE: 11/23/94

89-2.13 Department of the Treasury Personnel

(1) For purposes of this section, the Department of the Treasury is comprised of the United States Secret Service (USSS); Internal Revenue Service; United States Customs Service; and the Bureau of Alcohol, Tobacco, and Firearms.

(2) When the AFO and KFO Statutes were initially enacted into law, the FBI investigated those offenses involving Department of the Treasury officers and employees.

(3) Based on a subsequent desire of the Department of the Treasury to investigate such offenses involving its personnel, a jurisdictional agreement was reached between the Department of the Treasury, FBI, and DOJ.

(4) On 10/2/56, the Attorney General (AG) issued a memorandum ruling that assaults and killings of Department of the Treasury personnel were to be investigated by the Department of the Treasury rather than the FBI. This memorandum also stated that if any case develops wherein the absence of an FBI investigation of it is materially interfering with law enforcement, the AG should be advised.

(5) A Department of the Treasury agency may request an FBI field office to investigate an AFO or KFO matter as an exception to the AG's 10/2/56 ruling. The headquarters of the requesting agency should forward such requests to FBIHQ by the most practical, expeditious means so that FBI investigation, if approved, is not delayed. The field office receiving a request of this type should promptly furnish pertinent details to the Violent Crimes Unit, Criminal Investigative Division, FBIHQ, so appropriate Bureau officials may be informed of the incident and the request.

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EFFECTIVE: 02/16/89

89-2.14 U.S. Postal Service (USPS) Employees

(1) Title 18, USC, Sections 111 and 1114, provide protection to officers and employees of the USPS from assaults, killings and attempts to kill.

(2) On 3/5/74, DOJ issued the following policy directive regarding AFO and KFO matters involving USPS employees:

"Unless otherwise directed by the Department, investigation of assaults on and homicides of personnel of the USPS is for the FBI if incidental to another violation under the primary investigative jurisdiction of the FBI or if the attack is by a nonemployee against a Postal Inspector and for the USPS in all other instances."

(3) For purposes of clarification, based on the above, current FBI and USPS jurisdiction is as follows:

(a) The FBI will investigate assaults and killings of and attempts to kill Postal Inspectors by nonpostal employees.

(b) The USPS will investigate assaults and killings of and attempts to kill Postal Inspectors by postal employees.

(c) The USPS will investigate all other assaults, killings of and attempts to kill USPS officers and employees except in cases where the attack is incidental to another violation under the primary investigative jurisdiction of the FBI or if otherwise directed by DOJ.

(4) In applying the above guidelines, the term "employee" includes all individuals employed by the USPS, regardless of title, other than persons who provide services for the USPS on a fee, contract, job, or piecework basis.

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89-2.15 Assaulting, Killing, Attempting to Kill, or Threats Made
Against Federal Judges, United States Attorneys and
Assistant United States Attorneys | (See MIOG, Part I,
89-2.10(6).) |

(1) It should be noted that while Title 18, USC, Section 1114, lists "any judge of the United States" as being protected from assaults, killings and attempts to kill, U.S. Supreme Court Justices are actually protected under the Congressional, Cabinet, and Supreme Court Assassination, Kidnaping, and Assault Statute, Title 18, USC, Section 351. See 89-3 for complete details. As a consequence, assassinations, kidnapings, attempts to kill, and assaults of U.S. Supreme Court Justices are investigated by the FBI under Section 351, and assaults and killings of or attempts to kill all other federal judges are investigated by the FBI under Sections 111 and 1114, respectively.

(2) Although there is no direct case law in point, DOJ has opined that District of Columbia Superior Court Judges and Judges of Territorial Courts of the Virgin Islands fall within the "any judge of the United States" provision of Section 1114. DOJ, therefore, recommends that an AFO or KFO investigation may be instituted by the FBI if these judges are assaulted, killed or an attempt to kill occurs while engaged in or on account of the performance of their official duties. However, DOJ is also of the opinion that if investigation is instituted by the FBI, prosecution in both instances should be handled by local authorities, who would also have jurisdiction under their laws, unless compelling reasons exist for federal prosecution under Title 18, USC, Sections 111 or 1114.

(3) In regard to actual assaults and killings of or attempts to kill captioned individuals within the elements of Title 18, USC, Sections 111 and 1114, a violation is clearly present and an investigation should be immediately instituted. FBIHQ should be promptly notified of any such violations by telephone and/or teletype, and the notification teletype to FBIHQ should set forth the investigation already conducted and specific leads reflecting the investigation to be conducted. (See 89-2.10(4) for procedures concerning members of the Federal Judiciary.) In addition, FBIHQ should also be advised of all subsequent major investigative developments by a summary teletype.

(4) In regard to threats to assault or kill captioned individuals, Title 18, USC, Section 115 (a)(1)(B) makes it a federal crime to threaten to assault, kidnap, or murder United States officials (whose killing would be a crime under Title 18, USC, Section

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1114) and United States judges. A United States judge is defined as "...any judicial officer of the United States, and includes a justice of the Supreme Court and a United States magistrate...." Title 18, USC, Section 1114 lists both U.S. Attorneys and Assistant U.S. Attorneys as protected officers or employees. Therefore, threats against United States judges, U.S. Attorneys, and Assistant U.S. Attorneys are investigated by the FBI under Title 18, USC, Section 115. See 89-2.7 for instructions regarding proper procedures.

(5) Although AFO and KFO violations involving captioned individuals fall within the FBI's investigative jurisdiction, the FBI does not have legal authority to provide physical protection for those individuals to prevent threatened assaults, killings and attempts to kill. The security and physical protection of captioned individuals are the statutory responsibility of the USMS which is vested under Title 28, USC, Section 569.

(6) Based on the above protective responsibilities of the USMS, an agreement between FBIHQ and the USMS Headquarters was established wherein FBIHQ agreed to promptly notify the USMS both locally and on a headquarters level whenever a threat to assault or kill captioned individuals is received by the FBI, or when such individuals are actually assaulted or killed.

(7) When an investigation is instituted involving one of captioned individuals as a victim or potential victim, close liaison should be established locally with the USMS office responsible for his/her physical protection.

(8) Dissemination of pertinent information to USSS on a local and headquarters level must be made by the FBI whenever an individual threatens, assaults, kills or attempts to kill captioned individuals. See 89-2.19 for additional information.

(9) In conjunction with (6) and (8) above, the office receiving instant threats must promptly notify the nearest office of the USSS and the USMS office covering the victim's location. The notification teletype to FBIHQ should specifically set forth the details of the notification made locally by the FBI and the USMS and the USSS.

(10) Based on an agreement between FBIHQ and the DOJ, FBIHQ has agreed to promptly notify the Deputy Assistant Attorney General, Criminal Division, and the Assistant Director for Legal Services, Executive Office for United States Attorneys, DOJ, Washington, D.C., whenever a threat to assault, kill or attempt to

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kill a USA or AUSA is received by the FBI, or when said individuals are actually assaulted or killed. FBIHQ will handle dissemination of information to the above DOJ officials and the USSS and USMS Headquarters.

EFFECTIVE: 11/23/94

89-2.16 Assaulting, Killing, or Attempting to Kill a Federal Officer Cases Involving U.S. Bureau of Prisons (BOP) Personnel

(1) Based on a 10/30/52 request by the BOP Headquarters, Washington, D.C., FBIHQ has agreed to disseminate on a headquarters level a copy of FBI reports prepared in AFO and KFO cases involving BOP personnel.

(2) Prior to 6/9/80, the FBI conducted an investigation of all AFO and KFO cases involving BOP personnel.

(3) Based on a February, 1980, Office of Planning and Evaluation field survey of AFO cases in which it was determined that USAs throughout the field were routinely declining prosecution of minor and unaggravated assaults of BOP personnel by inmates in favor of the subject being administratively handled by BOP authorities, the following investigative policy was adopted by the FBI on 6/9/80:

(a) Prior to conducting an investigation of alleged minor and unaggravated assaults of BOP personnel by inmates, a preliminary incident report should be obtained from prison authorities and promptly presented to the USA to determine if Federal prosecution is warranted or if the incident should be handled by administrative procedures available to BOP authorities.

(b) The OO should thereafter promptly, orally advise the local BOP authorities of the USA's opinion regarding prosecution of minor and unaggravated assaults. If prosecution is declined, the above oral dissemination should be confirmed by providing BOP authorities locally with a copy of the letter to the USA confirming his/her declination. BOP authorities may then consider proceeding administratively against the inmate. If an investigation is required or prosecution is authorized by the USA, the above oral notification and subsequent investigation by the FBI at the BOP facility will serve as notice to BOP authorities to refrain from taking administrative

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sanctions against the inmate.

(c) In order for FBIHQ to advise the BOP Headquarters, Washington, D.C., of declination cases in which a prosecutive report is not prepared, the OO should submit to FBIHQ, by cover airtel, three copies of the letter to the USA confirming his/her declination. The cover airtel should set forth a request for FBIHQ to disseminate a copy of the letter to BOP Headquarters, Washington, D.C.

(d) If investigation is instituted and a prosecutive report is prepared, two copies of the report should be submitted to FBIHQ, with one copy designated for BOP Headquarters. Do not disseminate a copy of the prosecutive report locally to the BOP facility involved. The facility should be advised of the final outcome of the investigation by letter or LHM. This communication should merely set forth the prosecutive results and not contain any information which would identify witnesses, sources, or investigative techniques which could be possibly compromised.

EFFECTIVE: 12/19/86

89-2.17 Any Security Officer of the Department of State or the Foreign Service

(1) Title 18, USC, Section 1114, was amended on 8/27/64 to include any security officer of the Department of State or Foreign Service. The intention of this amendment was to extend protection to any of the security officers engaged in protective activities under Title 22, USC, Section 2666.

(2) Section 2666 defines the above security officers as individuals designated by the Secretary of State and authorized to carry firearms for the purpose of protecting heads of foreign states, official representatives of foreign governments, and other distinguished visitors to the United States, the Secretary of State, the Deputy Secretary of State official representatives of the U.S. Government, and members of the immediate families of any such persons, both in the United States and abroad.

EFFECTIVE: 12/19/86

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89-2.18 Nuclear Regulatory Commission (NRC) Inspectors

(1) On 6/30/80, Section 235 of the Atomic Energy Act of 1954 was amended to extend protection to captioned individuals who are assaulted or killed while engaged in the performance of such inspection duties, or on account of the performance of such duties.

(2) Based on an FBI/DOJ management decision, on 8/16/82, Section 117 of this manual entitled "Atomic Energy Act of 1954" was revised to transfer these violations to the 117 classification as an Atomic Energy Act violation.

(3) Investigations involving NRC Inspectors as victims initiated after 8/16/82, are to be handled as set forth in (2) above.

EFFECTIVE: 12/19/86

89-2.19 Dissemination of Information to United States Secret Service in Assaulting a Federal Officer and Killing a Federal Officer Cases

(1) Pursuant to a 2/3/65 agreement between the Bureau and the USSS, the FBI is obligated to disseminate certain types of information developed during AFO and KFO investigations to the USSS, on both a local and headquarters level, to assist the USSS in its statutory protective functions.

(2) The notification teletype to FBIHQ should include the complete fact situation, the identity of the USSS employee notified, the time and date of notification, and the identity of the FBI employee who made the dissemination. FBIHQ will handle dissemination to USSS Headquarters.

(3) In regard to AFO and KFO cases, see Part I, 175-14(2) of this manual entitled "FBI/USSS Agreement Concerning Protective Responsibilities" and Part I, 175-14(3) entitled "USSS Protectees in a Travel Status" for the types of information to be disseminated to the USSS.

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89-2.20 Department of Justice Prosecutive Policy in Assaulting a
Federal Officer Cases

The USA's Manual states, in essence, that the focus of the DOJ's prosecutive policy is on Federal officers and employees who have law enforcement duties which regularly expose them to the public, and on staff members of Federal correctional institutions. This protection from assaults and other forms of forcible resistance, enables such persons to perform their required functions effectively, and violent acts against them should be prosecuted vigorously. By contrast, offenses against other types of Federal employees should be referred to a local prosecutor unless the offense is particularly aggravated or there are other unusual circumstances present justifying Federal action.

EFFECTIVE: 12/19/86

89-2.21 Character

- (1) Assaulting or Attempting to Kill a Federal Officer
(AFO)
- (2) Killing a Federal Officer (KFO)

EFFECTIVE: 12/19/86

89-2.22 Subclassification

See MAOP, Part II, 3-1.1, "FBI Classifications and
Subdivided Classifications."

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89-2.23 Venue

Venue will be in the judicial district where the assault, killing or attempt to kill occurred. Title 18, USC, Section 3236, provides that the crime of murder is committed at the place where the injury was inflicted, the poison administered, or other means employed, which caused the death of the victim, without regard to the place where the death occurred.

EFFECTIVE: 12/19/86

89-2.24 Office of Origin

In AFO or KFO violations, the OO shall be the office in whose territory the assault, killing or attempt to kill occurred.

EFFECTIVE: 12/19/86

89-2.25 Copies of Prosecutive Reports to FBIHQ

Two copies in both AFO and KFO cases.

EFFECTIVE: 12/19/86

89-3 CONGRESSIONAL, CABINET, AND SUPREME COURT ASSASSINATION,
KIDNAPING, AND ASSAULT (CCSCAKA)

EFFECTIVE: 12/19/86

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89-3.1 Background

(1) Prior to 1/2/71, there were no specific Federal statutes covering the killing, kidnaping, or assaulting of a Member of Congress or a Member-of-Congress-elect, or attempting or conspiring to kill or kidnap such persons. Federal prosecution of the above crimes had to be prosecuted under one of the general Federal criminal statutes, if applicable, or referred to local authorities for prosecution.

(2) On 1/2/71, the Omnibus Crime Control Act of 1970, Public Law 91-644, was enacted into law. Title IV of this Act provided the following protection for Members of Congress, by a new statute, Title 18, USC, Section 351, the Congressional Assassination Statute (CAS), and amended the Authorization for Interception of Wire or Oral Communications Statute, Title 18, USC, Section 2516.

(3) The CAS, Section 351, made it a Federal offense to kill, kidnap, assault, attempt to kill or kidnap, or conspire to kill or kidnap any Member of Congress or Member-of-Congress-elect. The above amendment to Section 2516 added CAS as one of the statutory offenses which could be investigated by use of properly authorized interceptions of wire or oral communications, when such interceptions may provide evidence of these violations.

(4) On 10/6/82, Title 18, USC, Sections 351 and 1751 were amended under Public Law 97-285 to provide penalties for crimes against Cabinet officers, Supreme Court Justices and Presidential staff members, and "for other purposes."

(5) The CAS was amended by the above Public Law to include the assassination, kidnaping, assault, attempts to kill or kidnap, and conspiracies to kill or kidnap the head or his/her second in command of a department in the executive branch of the Government listed under Title 5, USC, Section 101, or an individual nominated to be the head of a department during the pendency of his/her nomination; the Director of Central Intelligence or an individual nominated to be Director during the pendency of his/her nomination; and U.S. Supreme Court Justices, or individuals so nominated during the pendency of their nominations.

(6) Under the 10/6/82 CAS amendment referred to above, the Government need not prove that the subject knew that the victim was an individual protected under this statute, and it also provides for extraterritorial jurisdiction.

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(7) As a result of the 10/6/82 amendment, the CAS was retitled as the Congressional, Cabinet, and Supreme Court Assassination, Kidnaping, and Assault (CCSCAKA) Statute and is the current statute under which the FBI has investigative jurisdiction.

(8) Public Law 97-285 also amended Section 2516 to include CCSCAKA violations as one of the offenses which could be investigated by use of properly authorized interceptions of wire or oral communications, when such interceptions may provide evidence of these violations.

EFFECTIVE: 12/19/86

89-3.2 Statute and Penalties

(1) Set forth below in its entirety is the CCSCAKA Statute, Title 18, USC, Section 351.

"(a) Whoever kills any individual who is a Member of Congress or a Member-of-Congress-elect, a member of the executive branch of the Government who is the head, or a person nominated to be head during the pendency of such nomination, of a department listed in section 101 of title 5 or the second ranking official in such department, the Director (or a person nominated to be Director during the pendency of such nomination) or Deputy Director of Central Intelligence, a major Presidential or Vice Presidential candidate (as defined in section 3056 of this title), or a Justice of the United States, as defined in section 451 of title 28, or a person nominated to be Justice of the United States, during the pendency of such nomination, shall be punished as provided by section 1111 and 1112 of this title.

"(b) Whoever kidnaps an individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished by imprisonment for any term of years or for life.

"(d) If two or more persons conspire to kill or kidnap any individual designated in subsection (a) of this section and one or more of such persons do any act to effect the object of the

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conspiracy, each shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

"(e) Whoever assaults any person designated in subsection (a) of this section shall be fined not more than \$5,000, or imprisoned not more than one year, or both; and if personal injury results, shall be fined not more than \$10,000, or imprisoned for not more than ten years, or both.

"(f) If Federal investigative or prosecutive jurisdiction is asserted for a violation of this section, such assertion shall suspend the exercise of jurisdiction by a State or local authority, under any applicable State or local law, until Federal action is terminated.

"(g) Violations of this section shall be investigated by the Federal Bureau of Investigation. Assistance may be requested from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.

"(h) In a prosecution for an offense under this section the Government need not prove that the defendant knew that the victim of the offense was an individual protected by this section.

"(i) There is extraterritorial jurisdiction over the conduct prohibited by this section."

(2) Section 351(a) provides for punishment as provided by Sections 1111 and 1112. Title 18, USC, Section 1111, is the Murder Statute, and Title 18, USC, Section 1112, is the Manslaughter Statute. See 89-2.2 for their text, definitions, and penalties.

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89-3.3 Elements

(1) The elements of the CCSCAKA Statute are summarized as follows:

(a) That the defendant killed or kidnaped an individual designated in Section 351(a).

(b) That the defendant assaulted an individual designated in Section 351(a).

(c) That the defendant attempted to kill or kidnap an individual designated in Section 351(a).

(d) That two or more persons conspired to kill or kidnap an individual designated in Section 351(a) and one or more of the persons did an act to effect the object of the conspiracy.

(2) In regard to (1)(c) above, the following DOJ opinion pertaining to the identical element under the Presidential and Presidential Staff Assassination, Kidnaping, and Assault (PPSAKA) Statute, Title 18, USC, Section 1751 (see Part I, 175-2 of this manual entitled "Statute and Penalties"), should be noted and followed under the CCSCAKA Statute, Title 18, USC, Section 351.

(a) Under the PPSAKA Statute, the DOJ has ruled that when an individual acting alone threatens to kidnap or kill a protected individual and commits a sufficient overt act to carry out the threat, such as purchasing a weapon, such an act constitutes an attempt to kill or kidnap within the meaning of the PPSAKA Statute. See Part I, 175-3 of this manual entitled "Elements" for complete details.

(b) The DOJ has advised FBIHQ that this opinion regarding the PPSAKA Statute also applies to the identical element within the meaning of the CCSCAKA Statute.

(3) In regard to (1)(d) above, the following DOJ opinion pertaining to the identical element under the PPSAKA Statute should be noted and followed under the CCSCAKA Statute.

(a) Under the PPSAKA Statute, the DOJ has ruled that the FBI has the authority to investigate a credible allegation of a conspiracy to kill or kidnap a protected individual even though the allegation does not include any information regarding an overt act in furtherance of the conspiracy.

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(b) The DOJ has advised FBIHQ that this opinion regarding the PPSAKA Statute also applies to the identical element within the meaning of the CCSCAKA Statute.

(4) It should be noted that Section 351(h) does not require that the subject knew the victim was an individual protected under this statute.

(5) Furthermore, the CCSCAKA Statute does not require that the criminal act occur while the protected individual is engaged in or on account of the performance of his/her official duties.

EFFECTIVE: 12/19/86

89-3.4 Definitions

(1) Member of Congress - One who is a component part of the U.S. Senate or House of Representatives. The DOJ is of the opinion that in addition to U.S. Senators and Representatives, delegates or representatives of special geographical divisions who are extended the privileges of membership, such as the Resident Commissioner from Puerto Rico, are protected under this statute. The DOJ has also advised that in their opinion, the Vice President would be classified as a Member of Congress under this statute; however, prosecutions for any violation involving him/her as a victim should be pursued under Title 18, USC, Section 1751, the PPSAKA Statute, so as to allow use of its more liberal assault and reward provisions.

(2) Member-of-Congress-Elect - One who has been certified by the usual state or local certifying official as having been elected to one of the offices described above. This term does not include a U.S. Senator appointed under the 17th Amendment and while pending entry to office.

(3) Head, Second Ranking Official, or Person Nominated to be Head - Title 5, USC, Section 101, identifies captioned individuals in part by setting forth the 13 executive departments which are referred to under Section 351(a). These Departments are State, Treasury, Defense, Justice, Interior, Agriculture, Commerce, Labor, Health and Human Services, Housing and Urban Development, Transportation, Energy, and Education.

(4) Director of Central Intelligence (DCI) - The DCI is

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the primary advisor to the President and the National Security Council on national foreign intelligence matters. To discharge this and other assigned duties, the Director of the Central Intelligence Agency (CIA) is also the DCI and the head of the Intelligence Community. The Intelligence Community consists of the CIA, the National Security Agency, the Defense Intelligence Agency, certain offices within the Department of Defense, the Bureau of Intelligence and Research of the Department of State, the intelligence elements of the military services, the FBI, and the Departments of Treasury and Energy.

(5) Posse Comitatus - The common law definition is individuals who may be summoned by the sheriff to assist in preserving the public peace or in executing a legal precept that is forcibly opposed. Title 18, USC, Section 1385, which is commonly referred to as the Posse Comitatus Statute, prohibits the use of the military as a posse comitatus or otherwise to execute the laws unless expressly authorized by the Constitution or Act of Congress. Section 351(g) specifically removes this prohibition.

(6) Extraterritorial Jurisdiction - This term describes the legal authority to cause an investigation to be conducted and subsequently prosecute a subject in the United States for a violation of Federal law which was committed by him/her outside the territorial jurisdiction of the United States. Section 351(i) specifically grants extraterritorial jurisdiction for CCSCAKA violations. As a practical matter, these situations will present immense investigative difficulties and may require extradition of the subject to the United States. The DOJ has elected not to furnish investigative and prosecutive guidelines in this area. Each case will be considered individually upon receipt of the facts and the results of a contract with appropriate foreign authorities regarding what action and assistance will be provided to the United States.

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89-3.5 Comments and Clarification Regarding the Congressional,
Cabinet and Supreme Court Assassination, Kidnaping, and
Assault Statute

(1) This statute covers assassinating, kidnaping, assaulting, attempts to kill or kidnap, and conspiracies to kill or kidnap. It does not include mere threats made by a subject against those individuals protected under Section 351(a) unless the threat is to kill or kidnap and the individual who made the threat commits a sufficient overt act in furtherance of carrying it out. See 89-3.3 and 89-3.6 for further details.

(2) The term "kidnap" as used in this statute, merely means "carrying away" the victim, and interstate transportation is not required. In addition, investigation can be instituted immediately since the "24 hour presumptive rule" utilized in the Federal Kidnaping Statute does not apply under Section 351(b).

(3) Section 351(e) does not define the term assault. See 89-2.3 for the definition of assault under the AFO Statute. This definition is also utilized under the CCSCAKA Statute.

(4) Section 351(e) divides assaults into two categories: those that result in personal injury and all others. The personal injury suffered must occur to individuals enumerated under Section 351(a).

(5) The assault penalties under Section 351(e) make no provision for aggravated assaults in which a deadly or dangerous weapon is utilized. The penalty for assault not resulting in personal injury is a \$5,000 fine and/or not more than one year's confinement. If the assailant uses a deadly or dangerous weapon, however, consideration should be given to prosecution under Section 351(c), attempt to kill, even though the intended victim was not personally injured. The penalty for an attempt to kill under Section 351(c) is any term of years or for life.

(6) The conspiracy provisions of Section 351(d) are limited to two objectives, killing or kidnaping, and do not include the objective of assault. In a conspiracy situation involving an assault objective, prosecution must be had under Title 18, USC, Section 371, with Section 351(e), the assault provision, as the underlying charge.

(7) If Federal investigative or prosecutive jurisdiction is asserted, Section 351(f) suspends local jurisdiction for the same

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offense until Federal action is terminated. However, it does not prevent local authorities from cooperating with the FBI during our investigation. Conflicts of jurisdiction resulting from the commission of an independent local offense, such as assaulting a state official incidental to a CCSCAKA violation, are to be resolved on a case-by-case basis.

(8) The death penalty provisions of Section 351(b) and 351(d) are invalid based on a 1972 Supreme Court decision, *Furman v. Georgia*, which required strict statutory standards for its application.

EFFECTIVE: 12/19/86

89-3.6 Comments and Clarification Regarding Threats Made to Protected Individuals (See MIOG, Part I, 89-3.8 (4) & 89-3.10 (2).)

(1) As noted in 89-3.5, mere threats made by a subject to a protected individual do not constitute a violation of the CCSCAKA Statute unless the threat is to kill or kidnap and the individual who made said threat commits a sufficient overt act in furtherance of the threat.

(2) It should be noted that if captioned threats do not constitute an attempt to kill or kidnap under the CCSCAKA Statute, they must be further analyzed to determine if they constitute some other federal or local violation upon which investigative or referral action should be taken by the FBI. Most of the individuals protected under the CCSCAKA Statute are also protected (concerning threats) under Title 18, USC, Section 115. See MIOG, Part I, 89-2.2 for complete details. For those individuals protected under the CCSCAKA statute but not covered under Title 18, USC, Section 115, additional analysis of existing statutes may be required:

(a) If the threat, coupled with an overt act, involves a conspiracy to assault rather than to kill or kidnap a protected individual, FBI jurisdiction will be under the federal Conspiracy Statute, Title 18, USC Section 371, with the assault provisions of the CCSCAKA Statute, Section 351(e), as the underlying charge.

(b) If the threat involves a conspiracy without an overt act against a protected individual, FBI jurisdiction will lie

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under the Conspiracy to Impede or Injure an Officer (CIO) Statute, Title 18, USC, Section 372. See 89-4 for complete details.

(c) If the threat is conveyed by the U.S. mail or interstate telephone call, FBI jurisdiction will be under the corresponding federal Extortion Statute. See Part I, Section 9 of this manual entitled "Extortion" for complete details.

(d) If the threat is made by telephone within the District of Columbia or in interstate commerce and does not meet the criteria of the federal Extortion Statute, Title 18 USC, Section 875, it may constitute a violation of the Interstate Obscene or Harassing Telephone Calls Statute, Title 47, USC, Section 223. See Part I, Section 178 of this manual entitled "Interstate Obscene or Harassing Telephone Calls" for complete details.

(e) Title 18, USC, Section 245(b)(1) entitled "Federally Protected Activities" should be considered as a possible basis for a federal violation and FBI jurisdiction. See Part I, Section 44-1.5 of this manual for complete details.

(3) If the OO is in doubt whether captioned threats constitute a federal violation under the FBI's jurisdiction, the fact situation should be promptly presented to an appropriate AUSA for a legal opinion regarding this issue and whether an investigation or "preliminary inquiry" should be conducted in accordance with the AG's Guidelines governing such procedures.

(4) In the absence of FBI jurisdiction, if it is determined that a federal violation under the investigative jurisdiction of another federal agency exists, the case should be referred to that agency.

(5) In the absence of a federal violation, information received regarding threats should be referred to local authorities as they may constitute a local offense.

(6) Details regarding presentation of threat matters to an AUSA for a legal opinion, or their referral to another federal agency or local authorities for handling, should be set forth in the notification teletype to FBIHQ.

(7) The office developing the information regarding captioned threats must promptly notify the intended victim if he/she is located within its territory or request the appropriate office to make the notification. The intended victim should also be advised of

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what investigative or referral action is being taken. The above dissemination or requested dissemination should be set forth in the notification teletype to FBIHQ.

EFFECTIVE: 11/23/94

89-3.7 Threat Assessments

(1) In cases involving a CCSCAKA threat received by a victim, the FBI may be requested by the agency responsible for protecting the victim for an assessment of it.

(2) See 89-2.8. The instructions set forth also apply to CCSCAKA matters and should be followed accordingly.

EFFECTIVE: 12/19/86

89-3.8 FBI Versus United States Secret Service Jurisdiction

(1) The following distinctions between the CCSCAKA Statute and the PPSAKA Statute regarding FBI and USSS jurisdiction should be noted.

(2) The FBI has investigative jurisdiction over actual violations of both the above statutes.

(3) Individuals protected under the PPSAKA Statute, other than Presidential and Vice Presidential staff members, are also USSS protectees under the Secret Service Powers Statute, Title 18, USC, Section 3056. Threats made against the above USSS protectees not constituting a PPSAKA violation should be referred to and investigated by the USSS under their Threats Against the President and Successors to the Presidency Statute, Title 18, USC, Section 871. See Part I, 175-9 of this manual entitled "FBI Versus United States Secret Service Jurisdiction" for complete details.

(4) Individuals protected under the CCSCAKA Statute are not USSS protectees. Threats made against these individuals which do not constitute a CCSCAKA or other Federal violation under the FBI's jurisdiction should not be referred to the USSS. See 89-3.6 for complete details regarding FBI policy in this area. See 89-3.13 for

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FBI dissemination requirements in this area.

EFFECTIVE: 12/19/86

89-3.9 Congressional Candidates

(1) Although Title 18, USC, Section 351(a), provides protection to Members of Congress and Members-of-Congress-elect, it does not include those individuals who are candidates for Congress. Therefore, the CCSCAKA Statute is not applicable for establishing investigative jurisdiction in assassinations, kidnaping, assaults, or threats concerning Congressional candidates.

(2) It should be noted, however, that the FBI may have investigative jurisdiction over threats and assaults involving Congressional candidates under other federal statutes if the appropriate elements are present. For complete details and instructions, refer to Part I, Section 9 entitled "Extortion"; Part I, Section 44-1.5; and Part I, Section 56 entitled "Election Laws," of this manual.

EFFECTIVE: 11/23/94

89-3.10 Notification to FBIHQ in Congressional, Cabinet, and Supreme Court Assassination, Kidnaping, and Assault Cases

(1) In all threatened or actual CCSCAKA violations, depending on the urgency of the situation, FBIHQ should be promptly notified by telephone. Telephone notification to FBIHQ must be promptly confirmed by teletype. FBIHQ should also be advised of all subsequent major investigative developments by summary teletype. The teletype reporting a subject's apprehension should include a statement as to whether or not the subject admitted the violation.

(2) In cases involving a threat to commit a CCSCAKA violation, the teletype notification to FBIHQ must set forth the complete details of the threat and its means of conveyance. See 89-3.6, 89-3.13, and 89-3.14 for further requirements.

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EFFECTIVE: 12/19/86

89-3.11 Investigative Procedures

(1) The investigative procedures to follow in threatened and actual CCSCAKA violations are similar to those utilized in threatened and actual KFO and AFO violations. Refer to 89-2.11 for details.

(2) In assassination cases under Title 18, USC, Section 351, refer to 89-3.12 as to the assistance that Armed Forces Institute of Pathology will render upon request.

(3) As noted in 89-3.1, Public Law 97-285 amended the Authorization for Interception of Wire or Oral Communications Statute, Title 18, USC, Section 2516, to include CCSCAKA violations as offenses that can be investigated by use of properly authorized interceptions of wire or oral communications.

EFFECTIVE: 12/19/86

89-3.12 Agreement Between the FBI and the Armed Forces Institute of Pathology (AFIP)

On 8/19/76, the AFIP and the FBI entered into the following self-explanatory Memorandum of Agreement in Presidential and Congressional Assassination matters:

"1. PARTIES: The parties to this agreement are the Armed Forces Institute of Pathology (AFIP) and the Federal Bureau of Investigation (FBI).

"2. PURPOSE: This agreement established procedures and assigns responsibilities for providing AFIP medical investigation expertise to the FBI upon request in the event of the traumatic or unexpected death of the President of the United States, the Vice-President, a Member of Congress, or certain other persons designated in 18 USC 1751 and 18 USC 351.

"3. AUTHORITY: The general authority for this interdepartmental support agreement is 31 USC 686; the specific authorities for the support services to be provided are 18 USC 1751(i)

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and 18 USC 351(g).

"4. RESPONSIBILITIES OF THE AFIP:

"(a) To maintain a current contingency plan for providing medical investigative support to the FBI upon request.

"(b) To designate a staff of board-certified forensic pathologists and allied science personnel adequate to fulfill the responsibilities of this agreement.

"(c) To designate a liaison officer to coordinate with the FBI in planning for and activating this agreement.

"(d) To respond to an FBI request for assistance by conducting a complete medical investigation of death (forensic autopsy) in the event of the traumatic or unexpected death of one or more of those persons specified in paragraph 2, above, such investigation to be conducted at the AFIP if at all possible.

"(e) To dispatch designated members of the AFIP staff to the scene of death to obtain information relevant to the medical investigation and to accompany the remains on return to the AFIP.

"(f) To assume custody and control of all medical records and biological substances pertinent to the medical investigation of death.

"(g) To provide the FBI with a final report of the medical investigation of death and with such progress reports as are appropriate pending the final report, with the FBI to be the sole recipient of these reports.

"(h) To advance such funds as are necessary for current operations in the event it becomes necessary to activate this agreement.

"5. RESPONSIBILITIES OF THE FBI:

"(a) To designate a liaison officer to coordinate with the AFIP in planning for and activating this agreement.

"(b) To review on an annual basis the AFIP contingency plan for providing medical investigation support to the FBI.

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"(c) To assert federal investigative jurisdiction under 18 USC, 1751(h) or 18 USC 351(g) in the event it becomes necessary to activate this agreement.

"(d) To officially request the AFIP to conduct a complete medical investigation of death (forensic autopsy) in the event of the traumatic or unexpected death of one or more of those persons named in paragraph 2, above.

"(e) To obtain release of remains to the AFIP from the custody of local authorities for medical investigation pursuant to this agreement by whatever legal means are deemed necessary and expedient.

"(f) To instruct the FBI Special Agent in Charge at the scene of death to assist the AFIP staff with local travel arrangements and to provide access to the scene of death.

"(g) To obtain special mission aircraft when deemed necessary to expedite the medical investigation of death.

"(h) To assign a Special Agent to attend the medical investigation of death to receive and retain custody of physical evidence obtained during the investigation.

"(i) To receive from the AFIP the final report of the medical investigation of death as well as any progress reports provided and to take responsibility for all further dissemination of such reports.

"(j) To reimburse the AFIP for all funds advanced for current operations in the event it becomes necessary to activate this agreement.

"(k) To advise the United States Secret Service of the existence of this agreement and the AFIP contingency plan and to effect whatever coordination is necessary with that agency.

"6. GEOGRAPHIC LIMITATION: The jurisdictional authority of the FBI is limited to the United States, its territories and possessions. This agreement is similarly limited.

"7. TERM: This agreement shall become effective when executed by the representatives of both parties. It shall be reviewed annually and shall remain in effect until revoked by official action

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of either party communicated to the other.

"8. SIGNATURES:

"(a) For the AFIP: ELGIN C. COWART, 8/19/76
CAPTAIN, MEDICAL CORPS,
U.S. NAVY

"(b) For the FBI: The Director
CLARENCE M. KELLEY, 8/10/76
Director"

EFFECTIVE: 12/19/86

89-3.13 Dissemination to United States Secret Service in
Congressional, Cabinet, and Supreme Court Assassination,
Kidnaping, and Assault Cases

(1) Pursuant to the 2/3/65 agreement between the Bureau
and the USSS, the FBI is obligated to disseminate certain types of
information developed during CCSCAKA investigations to the USSS, on
both a local and headquarters level, to assist the USSS in its
statutory protective functions.

(2) Since threatened and actual CCSCAKA violations fall
within the above agreement, dissemination should be made to USSS on
both the local and headquarters level in the following manner:

(a) The office developing the information should
promptly telephonically advise the nearest office of the USSS of the
facts.

(b) The notification teletype to FBIHQ should
include the complete fact situation, the identity of the USSS employee
notified, the time and date of notification, and the identity of the
FBI employee who made the dissemination. FBIHQ will handle
dissemination to USSS Headquarters.

(c) A dissemination copy of the above teletype
should be provided to the local USSS office which will serve as
confirmation of the previous telephonic notification to them. This
method will eliminate preparing an FD-376 and LHM since all pertinent
information and notification details will be a matter of record in the
above teletype.

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EFFECTIVE: 12/19/86

89-3.14 Dissemination to U.S. Capitol Police (USCP) and Others
Involving Members of Congress

(1) Senate Bill S. 1976 entitled, "An Act to Define the Area of the United States Capitol Grounds, to Regulate the Use Thereof, and for Other Purposes" was passed on 12/16/81 and enacted into law on 12/19/81 under Public Law 97-143.

(2) This Act, in essence, expands the protective functions of the USCP regarding Members and officers of Congress and their immediate families and provides for the USCP to be included and protected under the AFO and KFO Statutes. While the USCP's protective functions have been expanded, the FBI's investigative responsibilities in regard to the AFO, KFO, CCSCAKA and Extortion Statutes remain unchanged with the exception of the USCP now being protected under the AFO and KFO Statutes.

(3) Section 9A(a) of this Act provides, in essence, that subject to the direction of the Capitol Police Board (CPB), the USCP is authorized to protect, in any area of the United States, any Member or officer of Congress, as defined in Section 431 of the Act of 10/26/70 (Title 2, USC, Section 60-1(b)), and their immediate families if the CPB determines such protection to be necessary on a case-by-case basis.

(4) Section 9A(c) authorized the USCP, while in the performance of their protective duties under this Act, to make arrests without a warrant for any offense against the United States committed in their presence, or for any Federal felony, if they have reasonable grounds to believe that the person to be arrested has committed or is committing a felony.

(5) Section 9A(d) provides a penalty of not more than a \$300 fine and/or not more than one year's confinement for anyone who knowingly and willfully obstructs, resists, or intervenes with a member of the USCP performing a protective function under this Act.

(6) As stated above, this Act does not affect the FBI's jurisdiction since Section 9A(e) specifically states that nothing contained therein shall be construed to imply that the protective

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authority granted the USCP is intended to supersede any other agency involving the protection of Members and officers of Congress and their immediate families.

(7) Based on the above-expanded USCP protective duties, USCP has requested the Washington|Metropolitan|Field Office|(WMFO)|to promptly advise USCP of any potential or actual CCSCAKA violations or related threats and any potential or actual Federal Extortion Statute violations or related threats involving Members of Congress and/or their immediate families which are reported to the FBI. This information will be utilized by the USCP for intelligence purposes and to provide the above individuals with any approved protection under the above Act.

(8) |WMFO|is currently disseminating such information to the USCP by existing operational liaison. In order to ensure appropriate dissemination to the USCP by|WMFO in a timely fashion, all offices must report any receipt of such information or the initial results of any investigation by summary teletype to FBIHQ and WMFO within seven calendar days.| FBIHQ will handle dissemination of appropriate information to USSS Headquarters.

(9) In addition to the above-required notification to the USCP by|WMFO|and USSS Headquarters by FBIHQ, when Members of Congress are involved as victims, the office developing the information should promptly notify the nearest office of the USSS. See 89-3.13 and ensure in the notification teletype to FBIHQ that the office covering the victim's home district is requested to notify his/her local office and appropriate local law enforcement agencies in the area.

EFFECTIVE: 02/16/89

89-3.15 Dissemination to the Thirteen Protected Executive Branch Departments

(1) Title 18, USC, Section 351(a), extends protection to the head, second ranking official, or the person nominated to be head of the Departments of State, Treasury, Defense, Justice, Interior, Agriculture, Commerce, Labor, Health and Human Services, Housing and Urban Development, Transportation, Energy, and Education.

(2) Whenever a threatened or actual CCSCAKA violation or related threat is reported to the FBI involving the individuals set forth above, the appropriate official within victim's department and

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the nearest office of the USSS must be promptly notified by the FBI.

(3) Notification to the Department of Defense will be made by WMFO which will handle notification to all other departments.

(4) In order to ensure the required notifications are made, offices receiving or developing such information will include WMFO in their notification teletype to FBIHQ.

(5) The above teletype or a subsequent communication must include a complete physical description of any subjects developed, background data, and a photograph, if available.

(6) The notification teletype to FBIHQ must set forth the required dissemination to the nearest office of the USSS by the office developing the information and include the identity of the USSS employee notified, the time and date of notification and the identity of the FBI employee who made the dissemination. FBIHQ will handle dissemination to USSS Headquarters.

(7) A dissemination copy of the above teletype should be provided to the local USSS office which will serve as confirmation of the previous telephonic notification to them. This method will eliminate preparing an FD-376 and LHM since all pertinent information and notification details will be a matter of record in the above teletype.

EFFECTIVE: 02/16/89

89-3.16 Dissemination to Supreme Court Police Involving Supreme Court Justices

(1) Under the authority of Title 28, USC, Section 13(f), the Supreme Court has appointed a Deputy U.S. Marshal who, with the approval of the Chief Justice, has appointed and supervises individuals to serve as Supreme Court Police (SCP).

(2) In essence, the SCP serve as law enforcement officers to police the Supreme Court building, grounds, and adjacent streets; protect the Chief Justice and Associate Justices; and are authorized to bear arms and to make arrests.

(3) Based on the above protective responsibilities, WMFO should promptly advise the SCP of any potential or actual CCSCAKA

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violation or related threats involving Supreme Court Justices which are reported to the FBI. This information will be utilized by the SCP for intelligence purposes and to provide protection for the above individuals as may be required.

(4) In order to ensure appropriate dissemination to the SCP by WMFO in a timely fashion, all offices must report any receipt of such information or the initial results of any investigation by summary teletype to FBIHQ and WMFO within seven calendar days.

(5) The initial teletype or subsequent communication must include a complete physical description of any subject developed, background data, and a photograph, if available.

(6) See 89-3.13 for additional requirements pertaining to local USSS dissemination. FBIHQ will handle dissemination to USSS Headquarters.

EFFECTIVE: 02/16/89

89-3.17 Notification to Central Intelligence Agency

(1) Title 18, USC, Section 351(a), extends protection to the Director, a person nominated to be Director during the pendency of such nomination, and the Deputy Director of Central Intelligence.

(2) The Director of Central Intelligence (DCI) is also the Director of the Central Intelligence Agency (CIA). See 89-3.4(4) for complete details.

(3) Whenever a threatened or actual CCSCAKA violation or related threat is reported to the FBI involving the individuals set forth above, the appropriate office at CIA Headquarters, Langley, Virginia, must be promptly notified by WMFO.

(4) In order to ensure the required notification, offices developing such information should promptly forward it to FBIHQ and WMFO by teletype suitable for dissemination.

(5) The initial teletype or subsequent communication must include a complete physical description of any subject developed, background data, and a photograph, if available.

(6) WMFO, in addition to conducting any required

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investigation, will advise the appropriate office of CIA.

(7) See 89-3.13 for additional requirements pertaining to local USSS dissemination.

EFFECTIVE: 02/16/89

89-3.18 Department of Justice Prosecutive Policy in Congressional, Cabinet, and Supreme Court Assassination, Kidnaping and Assault Cases

(1) The USA's Manual states that supervisory responsibility for captioned violations rests with the Criminal Division, DOJ, and instructs that it be immediately notified telephonically when information is developed indicating an actual violation of the CCSCAKA Statute or when other unusual factors are involved.

(2) The USA's Manual further states that DOJ has retained authority to initiate prosecution under this statute. FBIHQ will notify the Criminal Division immediately of actual violations of this statute and provide copies of investigative reports to DOJ. OO should, similarly, promptly inform the appropriate USA and provide copies of investigative reports. The USAs have been instructed by the DOJ to review such reports so that they will be able to render advice to the Criminal Division regarding local factors and circumstances that may have a bearing on the case.

(3) The DOJ has requested to be advised if a victim requests that an investigation be terminated or investigated solely by a local law enforcement agency.

(4) Based on the above DOJ policy, the field should promptly notify the USA's Office when information is developed indicating an actual violation of the CCSCAKA Statute. The initial teletype to FBIHQ should state that the USA has been notified. If a victim requests that an investigation be terminated or investigated solely by a local law enforcement agency, the appropriate USA's Office and FBIHQ should be promptly notified. Submit details, including fact USA was informed, to FBIHQ by teletype.

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EFFECTIVE: 02/16/89

89-3.19 Character

(1) Since the CCSCAKA Statute protects four broad classes of individuals and covers seven types of crimes committed against them, the possible characters involved are numerous.

(2) Although Section 351(a) further subdivides the above four classes of individuals under elected, nominated, deputy, and second in command, for FBI character and management purposes, the classes of individuals protected will be placed into four groups as follows regardless of their status within the group.

- (a) Member of Congress
- (b) Executive Department Head and Director, CIA
- (c) Supreme Court Justice
- (d) Major Presidential or Vice Presidential Candidate (See Part I, Section 175-8 of this manual.)

(3) The types of crimes prohibited are as follows:

- (a) Assassination
- (b) Kidnaping
- (c) Assault
- (d) Attempt to Assassinate
- (e) Attempt to Kidnap
- (f) Conspiracy to Assassinate
- (g) Conspiracy to Kidnap

(4) In order to readily identify the character, class of protected individual, and type of prohibited crime involved, all characters under Section 351 will be designated as CCSCAKA and be further identified, in parentheses, by class of victim and type of crime involved as set forth in the following examples.

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- (a) CCSCAKA (Member of Congress - Assault)
- (b) CCSCAKA (Supreme Court Justice - Assassination)
- (c) CCSCAKA (Executive Department Head - Conspiracy to Kidnap)
- (d) CCSCAKA (Director, Central Intelligence Agency - Conspiracy to Assassinate)
- (e) CCSCAKA (Major Presidential Candidate - Attempt to Assassinate)

(5) Based on the above policy and examples, the proper character for any given CCSCAKA fact situation can be logically determined and should be set forth accordingly.

EFFECTIVE: 06/18/87

89-3.20 89 Congressional, Cabinet, and Supreme Court
Assassination, Kidnapping, and Assault Subclassifications

See MAOP, Part II, 3-1.1, "FBI Classifications and Subdivided Classifications."

EFFECTIVE: 10/18/95

89-3.21 Case Title

(1) In addition to the subject's name and aliases or an unknown subject designation and aliases, a CCSCAKA case title should include the victim's full name, his/her job title and agency, and the initial date of the threatened or actual violation.

(2) Set forth below is an example of a CCSCAKA case title for reference purposes:

JOHN DOE;
RICHARD JONES, ATTORNEY GENERAL,
DEPARTMENT OF JUSTICE

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WASHINGTON, D.C. - VICTIM
4/25/83
CCSCAKA (EXECUTIVE DEPARTMENT
HEAD - ASSAULT)
OO: |WMFO|

EFFECTIVE: 10/16/90

89-3.22 Venue

Venue will be in the judicial district where the violation occurred. Title 18, USC, Section 3236, provides that the crime of murder is committed at the place where the injury was inflicted, the poison administered, or other means employed which caused the death of the victim without regard to the place where the death occurred. For offenses committed outside the jurisdiction of any particular state or district, see Title 18, USC, Section 3238, entitled "Offenses Not Committed in Any District."

EFFECTIVE: 10/16/90

89-3.23 Office of Origin

In CCSCAKA violations, the OO shall be the office in which territory the violation occurred. See 89-3.22 for the definition of the place where a murder occurs and in regard to offenses not committed in any district.

EFFECTIVE: 10/16/90

89-3.24 Copies of Prosecutive Reports to FBIHQ

Three copies to FBIHQ, one copy of which will be disseminated to DOJ.

EFFECTIVE: 10/16/90

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89-4 CONSPIRACY TO IMPEDE OR INJURE AN OFFICER (CIO)

EFFECTIVE: 10/16/90

| 89-4.1 | Deleted |

EFFECTIVE: 11/23/94

89-4.2 Statute and Penalties

Set forth below in its entirety is the CIO Statute, Title 18, USC, Section 372.

"If two or more persons in any State, Territory, Possession, or District conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof, or to induce by like means any officer of the United States to leave the place where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties, each of such persons shall be fined not more than \$5,000 or imprisoned not more than six years, or both."

EFFECTIVE: 12/19/86

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89-4.3 Elements

If two or more persons conspire to prevent by force, intimidation, or threat:

- (1) Any person from accepting or holding any United States office;
- (2) Or from discharging any duties thereof;
- (3) Or induce by like means any United States officer to leave his/her required place of duty;
- (4) Or injure him/her or his/her property on account of the performance of his/her duties or while engaged in said duties;
- (5) Or injure his/her property in order to hinder or impede him/her in the performance of his/her duties.

EFFECTIVE: 12/19/86

89-4.4 Comments and Clarification Regarding the Conspiracy to Impede or Injure an Officer Statute

- (1) Unlike the AFO, KFO and CCSCAKA Statutes, which are restricted to those individuals specifically listed, the CIO Statute provides protection to any officer of the United States.
- (2) An officer of the United States is defined as any permanent, temporary, full- or part-time appointed or elected employee of the Federal Government.
- (3) The CIO Statute deals with conspiracy, therefore, it does not apply to a subject acting alone. See 89-4.7 for further details.
- (4) The conspiracy must be directed toward one of the objectives set forth in the CIO Statute.
- (5) The CIO Statute, unlike the general Conspiracy Statute, Title 18, USC, Section 371, and the conspiracy provisions of the CCSCAKA Statute, Title 18, USC, Section 351(d), does not require an overt act in furtherance of the objective; therefore, an appropriate conspiracy by itself constitutes a prosecutable offense.

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EFFECTIVE: 12/19/86

89-4.5 FBI Investigative Jurisdiction

The CIO Statute, Title 18, USC, Section 372, does not specifically designate the FBI as the responsible investigative agency. However, on 12/14/77, the DOJ advised FBIHQ that the FBI has investigative jurisdiction over the above statute.

EFFECTIVE: 12/19/86

89-4.6 Notification to FBIHQ in Conspiracy to Impede or Injure an Officer Cases

(1) Depending on the urgency of the situation, FBIHQ shall be promptly notified by telephone and/or teletype of all CIO cases. Telephone notification to FBIHQ must be promptly confirmed by teletype. The initial teletype notification to FBIHQ should set forth the complete details of the alleged conspiracy. In addition, FBIHQ should also be advised of all subsequent major investigative developments in these cases by summary teletype. The teletype reporting a subject's apprehension should include a statement as to whether or not the subject admitted the violation.

(2) See 89-4.8 for other requirements necessary in the notification teletype to FBIHQ.

EFFECTIVE: 12/19/86

89-4.7 Investigative Procedures | (See MIOG, Part I, 89-4.4 (3).) |

(1) Although an overt act in furtherance of the conspiracy is not required under the CIO Statute in order to constitute a prosecutable violation, any such overt act should be documented since it will tend to establish that a conspiracy did, in fact, exist.

(2) Although Section 372 requires a prohibited conspiracy

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involving two or more subjects in order to constitute a violation, if it initially appears that only one subject is involved in the prohibited action against the Government employee, it is permissible for the FBI to institute a preliminary inquiry in order to determine if a conspiracy involving additional subjects is present. If such inquiry fails to develop the required conspiracy, in the absence of any other Federal violation under the FBI's jurisdiction, the matter should be referred to the appropriate law enforcement agency for handling.

(3) If investigation determines the subject was acting alone, Title 18, USC, Section 245(b)(1) entitled "Federally Protected Activities" may be a basis for a Federal violation and FBI jurisdiction. See Part I, Section 44-1.5 of this manual for complete details.

EFFECTIVE: 01/31/94

89-4.8 Dissemination to United States Secret Service and Other Agencies in Conspiracy to Impede or Injure an Officer Cases

(1) Although CIO violations fall within the FBI's investigative jurisdiction, based on a 2/3/65 agreement between the USSS and the FBI concerning USSS's statutory protective responsibilities, the FBI is obligated to disseminate certain types of information if developed during one of our CIO investigations to the USSS, based on the premise that it may assist them in such responsibilities.

(2) In regard to CIO cases, see Part I, 175-14(2) entitled "FBI/USSS Agreement Concerning Protective Responsibilities" and 175-14(3) entitled "USSS Protectees in a Travel Status" for the types of information to be disseminated to the USSS.

(3) Prompt dissemination of information in the above categories to USSS must be made on a local and headquarters level.

(4) Initial dissemination to USSS locally is to be made telephonically to the nearest office of the USSS by the office developing the information.

(5) The notification teletype to FBIHQ must include the

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identity of the USSS employee notified, the time and date of notification, and the identity of the FBI employee who made the dissemination.

(6) A dissemination copy of the above teletype should be provided to the local USSS office which will serve as confirmation of the previous telephone notification to them. This will eliminate preparing an FD-376 and LHM since all pertinent information and notification details will be a matter of record in the teletype.

(7) In addition, notification of the conspiracy should be promptly made to the victim and his/her Government agency where employed. The notification teletype to FBIHQ should specifically set forth that notification to the victim and his/her Government agency has or will be made.

(8) FBIHQ, upon receipt of the notification teletype, will disseminate the appropriate information to the victim's Government agency headquarters and USSS Headquarters, Washington, D.C.

EFFECTIVE: 06/18/87

89-4.9 Character - Conspiracy to Impede or Injure an Officer
(CIO)

EFFECTIVE: 06/18/87

89-4.10 89 Conspiracy to Impede or Injure an Officer
Subclassification

See MAOP, Part II, 3-1.1, "FBI Classifications and
Subdivided Classifications."

EFFECTIVE: 10/18/95

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89-4.11 Venue

Venue will be in the judicial district where the violation occurred.

EFFECTIVE: 06/18/87

89-4.12 Office of Origin

In CIO violations, the OO shall be the office in which territory the violation occurred.

EFFECTIVE: 06/18/87

89-4.13 Copies of Prosecutive Reports to FBIHQ

Two.

EFFECTIVE: 06/18/87

89-5

CRIMES AGAINST FAMILY MEMBERS OF FEDERAL OFFICIALS (CAF)
- INFLUENCING, IMPEDING OR RETALIATING AGAINST A FEDERAL
OFFICIAL BY THREATENING OR INJURING A FAMILY MEMBER | (See
MIOG, Part I, 89-2.2(3), 175-1(6), 175-2(3).) |

EFFECTIVE: 11/23/94

| 89-5.1 | Deleted |

EFFECTIVE: 11/23/94

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89-5.2 Statute and Penalties

Set forth below in its entirety is the Crimes Against Family Members of Federal Officials Statute, Title 18, USC, Section 115:

"Influencing, impeding, or retaliating against a federal official by threatening or injuring a family member

"(a) (1) Whoever-

"(A) | assaults, kidnaps, or murders, or attempts to kidnap or murder, or threatens to assault, kidnap or murder a member of the immediate family of a United States official, a United States judge, a Federal law enforcement officer, or an official whose killing would be a crime under section 1114 of this |title; or |

"(B) |threatens to assault, kidnap, or murder a United States official, a United States judge, a Federal law enforcement officer, or an official who killing would be a crime under such section,

with intent to impede, intimidate, |or interfere with such |official, judge or law enforcement officer while engaged in |the performance |of official duties, |or with intent to retaliate against such official, judge, or law enforcement officer on account of the performance of official duties, |shall be punished as provided in subsection (b).

"(2) Whoever assaults, kidnaps, or murders, or attempts to kidnap or murder a member of the immediate family of any person who formerly served as a person designated in paragraph (1), with intent to retaliate against such person on account of the performance of official duties during the term of such person, shall be punished as provided in subsection (b). |

"(b) (1) An assault in violation of this section shall be punished as provided in section 111 of this title.

"(2) A kidnaping or attempted kidnaping in violation of this section shall be punished as provided in section 1201 of this title for the kidnaping or attempted kidnaping of a person described in section 1201(a) (5) of this title.

"(3) A murder or attempted murder in violation of this section shall be punished as provided in sections 1111 and 1113 of this title.

"(4) A threat made in violation of this section shall be

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punished by a fine of not more than \$5,000 or imprisonment for a term of not more than five years, or both, except that imprisonment for a threatened assault shall not exceed three years.

"(c) As used in this section, the term--

"(1) 'Federal law enforcement officer' means any officer, agent, or employee of the United States authorized by law or by a Government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of Federal criminal law;

"(2) 'immediate family member' of an individual means--

"(A) his spouse, parent, brother or sister, child or person to whom he stands in loco parentis; or

"(B) any other person living in his household and related to him by blood or marriage;

"(3) 'United States judge' means any judicial officer of the United States, and includes a justice of the Supreme Court and a United States magistrate; and

"(4) 'United States official' means the President, President-elect, Vice President, Vice President-elect, a Member of Congress, a member-elect of Congress, a member of the executive branch who is the head of a department listed in 5 U.S.C. 101, or the Director of The Central Intelligence Agency."

EFFECTIVE: 11/23/94

89-5.3 Elements

The elements of the CAFM Statute are summarized as follows:

(1) That the defendant assaulted, kidnaped, or murdered an individual designated in Section 115(c).

(2) That the defendant(s) attempted to kidnap or murder an individual designated in Section 115(c).

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(3) That the defendant threatened to assault, kidnap or murder an individual designated in Section 115(c).

The above crimes must be committed with the intent to impede, intimidate, interfere with, or retaliate against federal officials, judges or law enforcement officers while engaged in performance of their official duties or on account of the performance of their official duties.

EFFECTIVE: 11/23/94

89-5.4 Investigative Procedures

(1) The general investigative procedures set out for KFO, AFO, CCSCAKA, CIO and Presidential and Presidential Staff Assassination, Kidnaping and Assault matters should be followed in actual or threatened CAFM violations. See this section and Part I, Section 175, of this manual for details.

(2) Investigations involving Title 18, USC, Section 115 should be handled under the substantive classification for the particular official involved. In the event a CAFM investigation is instituted solely under Section 115, classification 89-F should be utilized.

(3) When appropriate and as previously set forth in Part I, Section 89, of this manual, instructions, policies, investigative procedures, jurisdictional agreements (i.e., FBI and Department of the Treasury), notification to FBIHQ and dissemination requirements apply in fulfilling FBI investigative responsibilities under Title 18, Section 115.

(4) "Agreement of Procedures" adopted by the USSS and the FBI will apply to procedures to be followed in the event that a violation of law occurs involving a person or persons protected by the U.S. Secret Service pursuant to law and which falls within the investigative jurisdiction of the FBI. See Part I, Section 175, of this manual.

EFFECTIVE: 12/19/86

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89-5.5 Notification to FBIHQ and Dissemination Responsibilities

(1) FBIHQ should be promptly notified of all new CAFM cases involving a death or serious injury by telephone and confirmed by immediate teletype. In addition, FBIHQ should be advised of all subsequent major investigative developments by summary|teletype.|

(2) In all other CAFM cases, depending on the urgency of the situation, FBIHQ should be promptly notified by telephone or teletype. Telephone notification to FBIHQ must be confirmed by immediate teletype. In addition, FBIHQ should be advised of all subsequent major investigative developments by summary teletype.

(3) In CAFM cases involving a threat, FBIHQ should be notified by telephone, teletype, or airtel depending on the urgency of the situation. Telephone notification to FBIHQ must be promptly confirmed by teletype. If such cases involve the families of officials listed under sections (c)(4) of Section 115, or the families of FBI personnel, Federal judges, USAs or AUSAs as potential victims, notification to FBIHQ should be made by telephone and/or teletype.

(4) See 89-2.19, 89-3.13 and 89-4.8 of this section and Part I, Section 175, of this manual for details of Bureau responsibilities to disseminate certain types of information to USSS to assist in its protective functions.

EFFECTIVE: 06/26/91

89-5.6 Character - Crimes Against Family Members (CAFM)

EFFECTIVE: 06/26/91

| 89-5.7 Classification

For details concerning this topic, refer to Manual of Administrative Operations and Procedures (MAOP), Part II, 3-1.1 entitled "FBI|Classifications|and Subdivided Classifications."

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EFFECTIVE: 10/18/95

89-5.8 Case Title

(1) In addition to the full name of subject(s) and all known aliases, or an unknown subject(s) designation, a CAFM case should include the full name and relationship of the family member to the protected individual(s) designated in Section 115, the name of the protected individual, his/her job title and the initial date of the violation.

(2) EXAMPLE (Actual assault or threat):

JOHN DOE;
MARY E. SMITH, (Daughter) - VICTIM;
JOSEPH A. SMITH, SPECIAL AGENT - FBI - VICTIM;
10/1/86
AFO - CAFM;
OO: CHICAGO

(3) If the victim is a family member of a Member of Congress, Cabinet Officer, Supreme Court Justice, or Director of the CIA, the character should be shown as:

CCSCAKA - CAFM

EFFECTIVE: 06/26/91

89-5.9 Venue

Venue will be governed by the type of violation, assault, kidnaping, attempted kidnaping, murder, attempted murder, or threat to assault, kidnap or murder, as set forth in Section 115.

EFFECTIVE: 12/19/86

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|| 89-5.10 Office of Origin

Office of Origin will be established in the manner set forth in MAOP, Part II, Section 10-16.2.

EFFECTIVE: 12/19/86

|| 89-5.11 Copies of Prosecutive Reports to FBIHQ

Two.

EFFECTIVE: 12/19/86

|| 89-6 THREAT TO LIFE - DISSEMINATION OF INFORMATION (See MAOP, Part II, 9-7; MIOG, Part I, 166-4, 175-22.1, and 179-7.)

The following guidelines cover the FBI's responsibility to warn persons of threats to their life or threats that may result in serious bodily injury and policy regarding notification to other law enforcement agencies of such threats. (Extracted from Resolution 20 dated 12/16/96. See footnotes at the end of this citation.) In all instances, manner depending upon exigencies of situation, FBIHQ should be advised of details of such threats together with a notification of action taken or a recommendation as to action to be initiated UACB.

"III. Guidelines

"A. Warning to the Person.

"(1) Expeditious Warnings to Identifiable Persons.
Except as provided below in paragraph IIIA(3), when a Federal Law Enforcement Agency has information that a person who is identified or can be identified through reasonable means is subject to credible threat to his/her life or of serious bodily injury, the Agency should attempt expeditiously to warn that person of the nature and extent of the threat.

"(2) Manner, Means, and Documentation of Warning.

"a. The Agency may determine the means and manner of

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the warning, using the method most likely to provide direct notice to the intended victim. In some cases, this may require the assistance of a third party. The Agency must document in writing in its files the content of the warning, and when and where, and by whom it was delivered to the intended victim.

"b. An Agency may seek the assistance of another law enforcement agency to provide the warning. If this is done, the Agency must document in writing in its files the notification of the threat, and when, where, and the name of the other agency's representative to whom it was delivered, along with the other agency's agreement to provide a timely warning.

"(3) Exceptions.

"a. A Federal Law Enforcement Agency need not attempt to warn an intended victim of a threat to his/her life or of serious bodily injury in the following circumstances:

"(i) when providing the warning to the intended victim is likely to cause equal or greater physical harm to one or more persons; 1

"(ii) when the intended victim knows the nature and extent of the specific threat against him/her; or

"(iii) when the intended victim is: (a) a public official who, because of his/her official position, is provided a protective detail; (b) a participant in the Witness Security Program that is administered by the United States Marshals Service; or (c) detained or incarcerated. See paragraph IIIB(1).

"b. Whenever time and circumstances permit, an Agency's decision not to provide a warning in the foregoing circumstances must be approved, at a minimum, by a Senior Field Manager. 2 In all cases, the reasons for an Agency's decision not to provide a warning must be documented in writing in the Agency's files.

"NOTE: This paragraph does not apply to the agencies directly responsible for providing the security for the individuals referred to in paragraph IIIA(3)a(iii), above, when the threat is to the referenced individual. In such cases, documentation, if any, should be created in accordance with the agency procedures.

"B. Notification to Law Enforcement Agencies With Protective or

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Custodial Jurisdiction.

"(1) Expeditious Notification. When a Federal Law Enforcement Agency has information that a person described above in paragraph IIIA(3)a(iii) is subject to any threat to his/her life or of serious bodily injury, the Agency must expeditiously notify other law enforcement agencies that have protective or custodial jurisdiction.

"(2) Means, Manner, and Documentation of Notification. The notifying Agency may determine the means and manner of the notification. When providing notification, the notifying Agency shall provide as much information as possible regarding the threat and the credibility of the threat. The notifying Agency must document in writing in its files the content of the notification, and when, where, and to whom it was delivered.

"C. Notification to Law Enforcement Agencies That Have Investigative Jurisdiction.

"(1) Expeditious Notification. Except as provided below in paragraph IIIC(4), when a Federal Law Enforcement Agency has information that a person (other than a person described above in paragraph IIIA(3)a(iii)) who is identified or can be identified through reasonable means is subject to a credible threat to his/her life or of serious bodily injury, the Agency should attempt expeditiously to notify other law enforcement agencies that have investigative jurisdiction concerning the threat.

"(2) Threats to Occupied Structures or Conveyances. When a Federal Law Enforcement Agency has information that a structure or conveyance which can be identified through reasonable means is subject to a credible threat which could cause loss of life or serious bodily injury to its occupants, the Agency should provide expeditious notification to other law enforcement agencies that have jurisdiction concerning the threat.

"(3) Means, Manner, and Documentation of Notification. The Agency may determine the means and manner of the notification. The Agency must document in writing in its files the content of the notification, and when, where, and to whom it was delivered.

"(4) Exceptions.

"a. A Federal Law Enforcement Agency need not attempt to notify another law enforcement agency that has

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investigative jurisdiction concerning a threat:

"(i) when providing the notification to the other law enforcement agency is likely to cause equal or greater physical harm to one or more persons; or

"(ii) when the other law enforcement agency knows the nature and extent of the specific threat to the intended victim.

"b. Whenever time and circumstances permit, an Agency's decision not to provide notification to another law enforcement agency in the foregoing circumstances must be approved, at a minimum, by a Senior Field Manager. In all cases, the reasons for an agency's decision not to provide notification should be documented in writing in the Agency's files.

"IV. Rights of Third Parties.

"Nothing in these guidelines is intended to create, or does create, an enforceable legal right or private right of action.

Footnotes:

"1 If the equal or greater harm would occur to a Government informant or Agent as a result of his/her participation in an investigation, consideration should be given to extricating that individual from the investigation or taking other appropriate measures in order to minimize the risk.

"2 As used in these guidelines, 'Senior Field Manager' refers to a Federal Law Enforcement Agency operational field manager of the GS-15 rank or higher, or the person serving in that capacity in his or her absence."

EFFECTIVE: 03/14/97

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SECTION 90. IRREGULARITIES IN FEDERAL PENAL INSTITUTIONS

90-1 STATUTES

Title 18, USC, Sections 1791 and 1792.

EFFECTIVE: 07/11/85

90-1.1 Section 1791. | Providing or Possessing Contraband in
Prison

"(a) Offense. A person commits an offense if, in violation of a statute, or a regulation, rule, or order issued pursuant thereto--

"(1) he provides, or attempts to provide, to an inmate of a a Federal penal or correctional facility--

"(A) a firearm or destructive device;

"(B) Any other weapon or object that may be used as a weapon or as a means of facilitating escape;

"(C) a narcotic drug as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802);

"(D) a controlled substance, other than a narcotic drug, as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802), or an alcoholic beverage;

"(E) United States currency; or

"(F) any other object; or

"(2) being an inmate of a Federal penal or correctional facility, he makes, possesses, procures, or otherwise provides himself with, or attempts to make, possess, procure, or otherwise provide himself with, anything described in paragraph (1).

"(b) Grading. An offense described in this section is punishable by--

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"(1) imprisonment for not more than ten years, a fine of not more than \$25,000, or both, if the object is anything set forth in paragraph (1) (A);

"(2) imprisonment for not more than five years, a fine of not more than \$10,000, or both, if the object is anything set forth in paragraph (1) (B) or (1) (C);

"(3) imprisonment for not more than one year, a fine of not more than \$5,000, or both, if the object is anything set forth in paragraph (1) (D) or (1) (E); and

"(4) imprisonment for not more than six months, a fine of not more than \$1,000, or both, if the object is any other object.

"(c) Definitions. As used in this section, 'firearm' and 'destructive device' have the meaning given those terms, respectively, in 18 U.S.C. 921 (A) (3) and (4)."

EFFECTIVE: 07/11/85

90-1.2 Section 1792. |Mutiny and Riot Prohibited

"Whoever instigates, connives, willfully attempts to cause, assists, or conspires to cause any mutiny or riot, at any Federal penal or correctional facility, shall be imprisoned not more than ten years or fined not more than \$25,000, or both."

EFFECTIVE: 07/11/85

90-1.3 Statutory Amendments Based on the Comprehensive Crime Control Act of 1984 (CCCA of 84)

(1) The CCCA of 84 was enacted into law on 10/12/84 and under Chapter XI, Part H, entitled "Possession of Contraband In Prison," amended the Irregularities in Federal Penal Institutions Statutes, Title 18, USC, Sections 1791 and 1792, as follows:

(2) New Subsection 1791 (a) (1) makes it an offense for any person to provide or attempt to provide to a Federal inmate, in

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violation of a prison rule, regulation, or order, one of the above-listed six classifications of objects.

(3) New Subsection 1791 (a) (2) makes it an offense for a Federal inmate to make, possess, procure or otherwise provide himself/herself with any of the objects enumerated in Subsection (a) (1) or attempt to do so.

(4) New Subsection 1791 (b) provides different grades of penalties, ranging from a prison term of six months and a fine of \$1,000, to a prison term of ten years and a fine of \$25,000, corresponding to the danger represented by the different types of contraband involved.

(5) Prior to the passage of the CCCA of 84, both Sections 1791 and 1792 dealt with prison contraband. Under the above Act, the contraband offenses were all consolidated into Section 1791 and were deleted from Section 1792. Furthermore, this Act, under Section 1792, added a fine of up to \$25,000 to the existing maximum penalty of 10 years for prison mutiny or riot.

(6) It should be noted that Part H of this Act was primarily designed to remedy the following two defects in the above two statutes dealing with prison contraband. Under the former language of Section 1791, it was an offense to introduce contraband into, or to move it from place to place within a prison, but possession, in itself, of a prohibited article was not a violation of Federal law. Furthermore, both Sections 1791 and 1792 provided a penalty of up to 10 years' imprisonment without taking into consideration the danger represented by the different types of contraband involved.

(7) In regard to the seizure of contraband by Bureau of Prisons (BOP) personnel, Part H of this Act added Section 4012 to Title 18, U.S. Code, to provide statutory authority for the summary seizure by the BOP of contraband and for its forfeiture to the Government. Prior to the passage of Section 4012, the right of BOP personnel to seize contraband was derived from the general statutory authority of the BOP, pursuant to Title 18, USC, Section 4042, to provide for the protection and discipline of inmates. Federal courts have differed over the authority of BOP, under the above general language, to seize and retain contraband. Section 4012 clarifies the authority of BOP personnel to summarily seize contraband articles and have them forfeited to the Government. The BOP is presently developing administrative procedures for the forfeiture of seized contraband.

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EFFECTIVE: 07/11/85

90-2 MISCELLANEOUS

The Department of Justice ruled on 12/11/91 that the FBI has primary investigative jurisdiction over conspiracy to violate the ERS (Title 18, USC, Sections 751-757). Conspiracy to violate any of these statutes should be investigated under the 90 classification. The provisions of Title 18, USC, Sections 201 and 202, relating to bribery, should also be considered in investigation of acts which may be in violation of the IFPI statutes.

EFFECTIVE: 09/07/93

90-3 POLICY

(1) When a complaint is received alleging a basic or nonserious violation of these sections, the field office will determine whether preliminary investigation is warranted and will coordinate with the local Bureau of Prisons (BOP) facility. Whenever a complaint is received alleging violations which are serious, sensitive, or unusual, or would cause notoriety in the local or national news media, the field office should initiate investigation promptly and expeditiously advise the Criminal Investigative Division (CID), FBIHQ, by telephone, followed by a communication reporting the facts and results of any investigation initiated. Allegations or complaints concerning BOP personnel should be expeditiously submitted to FBIHQ by LHM and cover communication in order to ensure appropriate coordination with BOP headquarters. Institute investigation promptly. Allegations of civil rights violations relating to violence motivated by racial or religious bias or an illegal act under color of law should be investigated according to MIOG, Part I, Section 44 or 282, respectively.

(2) Cases can be presented to the USA without prior FBIHQ authority.

(3) Reports of riots or sit-down strikes which may not initially involve an FBI violation may be received from authorities. Agents should not enter the penitentiary during such occurrences and

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they should in no way interfere with the prison administration in connection with quelling the riot or the sit-down strike. When notified, effective liaison should be set up and FBIHQ informed immediately. At the first opportunity an Agent should enter the institution and immediately ascertain from the warden if any violation within the FBI's jurisdiction has occurred. As incidents, such as riots or sit-down strikes, may result in violations within the FBI's jurisdiction, sufficient manpower should be available to act immediately if a violation is indicated.

(4) Violations of Title 21, USC, Section 844, Controlled Substance Act (CSA) occurring within federal penal institutions will be handled by the FBI under Title 18, USC, Section 1791. Information developed during CSA violations occurring within federal penal institutions that involve subjects outside the institutions should be referred to the Drug Enforcement Administration.

(5) INVESTIGATIONS REGARDING CRIMINAL ALLEGATIONS AGAINST
PUBLIC OFFICIALS

(a) It is recognized that during the course of an investigation within this classification information is sometimes developed alleging that a federal, state or local official is in violation of federal law. If the focus of the investigation continues to be this substantive classification and/or federal crimes committed by a person who merely happens to be a federal, state or local official, "Corruption-Related Matter," should be added to the character of the case, and it will continue to be managed under the Violent Crimes and Major Offenders Program. If, however, the focus of the investigation shifts to the abuse of his/her position of trust by the federal, state or local official in violation of federal criminal law, a new "Corruption of Federal Public Officials" (58) or "Corruption of State and Local Public Officials" (194) matter should be opened within the White Collar Crimes Program.

(b) Deleted

(c) Deleted

(d) Deleted

(e) Deleted

(6) RESOLUTION OF HOSTAGE SITUATIONS OR CRIMINAL ACTIONS
WHICH REQUIRE FBI PRESENCE AT BOP FACILITIES

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"MEMORANDUM OF UNDERSTANDING (MOU)
BETWEEN THE FEDERAL BUREAU OF PRISONS (BOP)
AND THE FEDERAL BUREAU OF INVESTIGATION (FBI)
ON HOSTAGE OR CRISIS INCIDENTS AT BUREAU OF PRISONS FACILITIES

"I. PURPOSE: This Memorandum of Understanding (MOU) is to establish interagency operational policy guidelines for Federal Bureau of Prisons (BOP) and Federal Bureau of Investigation (FBI) personnel for the successful resolution of hostage situations or criminal actions which require FBI presence at BOP facilities.

"II. JURISDICTION:

"A. The BOP has primary responsibility for all operations at federal correctional facilities during routine and emergency operations.

"B. The FBI has primary investigative responsibility for all violations of Title 18 (T18), United States Code (USC), Section 13 (Crimes on a Government Reservation) (CGR) including the jurisdiction as defined in Section 7 (Special maritime and territorial jurisdiction of the United States defined).

"C. The FBI also has investigative responsibility for criminal activities at BOP facilities, to include hostage situations or similar incidents, under T18, USC, Sections 1791 and 1792 (Irregularities in Federal Penal Institutions), and T18, USC, Section 1203 (Hostage Taking).

"III. DEFINITIONS:

"As used herein:

"A. 'BOP On-Scene Commander' refers to a BOP field commander whom the BOP Director has designated as in charge of the BOP facility.

"B. 'FBI On-Scene Commander' refers to an FBI SAC or SAC's designee who is in charge of the FBI resources during an operational response by the FBI.

"C. An 'advisory response' is a minimal FBI response during which the FBI deploys FBI crisis management assets to assist/advise the crisis response resources of the BOP. At this level response, the FBI SAC or SAC's designee will deploy as the FBI's on-scene coordinator. The FBI will not deploy an FBI command and control element.

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"D. An operational response is defined as one during which the FBI deploys significant FBI crisis management resources, as necessary, to resolve the crisis. This level response may consist of HRT deployment, and/or multiple FBI field office SWAT teams, and/or crisis negotiation/behavioral specialists and/or technical personnel. An operational response will always be accompanied by an FBI SAC or SAC's designee and an FBI command and control element.

"IV. ADVANCE COORDINATION:

"A. BOP Wardens and FBI SACs will develop a program to exchange information concerning each BOP facility within a field division's territory. This program will include the specifics of how joint operations will be implemented, site surveys, appropriate interagency training and logistical support during a crisis situation.

"B. BOP and FBI crisis response plans will be prepared by executive management personnel at BOP facilities and FBI field divisions to address specific crisis management requirements at each BOP facility. The crisis response plans will reflect the terms of this MOU and be periodically updated.

"v. IMPLEMENTATION: The decision as to whether FBI involvement constitutes an advisory or operational response will be dependent on the circumstances of the incident, the request from the BOP On-Scene Commander and as necessary, additional direction and/or guidance from BOP and FBI Headquarters.

"VI. COMMAND, CONTROL AND COORDINATION:

"A. In the event of an advisory response by the FBI, the BOP On-Scene Commander will retain command and control of all aspects of the crisis response. BOP Headquarters will retain overall command and control of the incident. The BOP On-Scene Commander will also coordinate with the FBI and keep the FBI informed of all developments. The FBI will have a person designated to the BOP command post.

"1. FBI advisors may be part of HRT, field SWAT, crisis negotiators, behavioral specialists, technical personnel or other assets as agreed upon by the FBI SAC or SAC's designee and BOP On-Scene Commander.

"B. In the event of an operational response by the FBI, which will include an FBI On-Scene Commander and a command and control element, the BOP and FBI On-Scene Commanders will work cooperatively toward

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resolution of the crisis. All actions of the FBI On-Scene Commander will be closely coordinated with the BOP On-Scene Commander who retains overall responsibility for the institution operations and the incident.

"1. During an FBI operational response, the FBI and BOP will immediately form a joint command post upon the arrival of FBI crisis response resources.

"2. Once the FBI fully activates an operational response at the scene, the FBI On-Scene Commander will assume responsibility of all crisis management assets (BOP and FBI) in terms of planning for and executing plans for incident resolution. The FBI On-Scene Commander will consult and coordinate with the BOP On-Scene Commander who retains overall responsibility for the institution and the incident.

"3. BOP and FBI Headquarters command centers will establish a direct link throughout the duration of the incident to exchange information and to address issues of mutual concern as they arise. Issues that cannot be resolved at the scene of the incident or at the command center level will be addressed at headquarters level by senior BOP and FBI staff.

"C. The FBI On-Scene Commander, in consultation with the BOP On-Scene Commander, may initiate an emergency assault should there be imminent threats to life or of serious injury to hostages, inmates, or law enforcement personnel. In all other circumstances, no planned tactical resolution will be initiated without prior specific approval from both BOP and FBI Headquarters.

"D. The FBI On-Scene Commander will conduct additional criminal investigation following the resolution of the incident, including crime scene investigation, if appropriate. Debriefings of all officials involved are required and will be accomplished as soon as possible after the resolution of the incident and will be coordinated through the FBI On-Scene Commander. This requirement does not supersede BOP's policy regarding post incident interviews and investigation.

"VII. TERMS OF AGREEMENT: This MOU will take effect immediately upon signature of all parties.

"For the Federal Bureau of Investigation:

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"/s/ _____ 10/25/96
LOUIS J. FREEH Date
Director

"For the Federal Bureau of Prisons:

"/s/ _____ 10/24/96
KATHLEEN M. HAWK Date
Director"

(7) The following MOU was executed for the purpose of establishing local interagency operational procedures and guidelines concerning the conduct of investigations of violations of federal criminal statutes occurring in BOP facilities.

"MEMORANDUM OF UNDERSTANDING BETWEEN THE FEDERAL BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF PRISONS ON VIOLATIONS OF FEDERAL CRIMINAL STATUTES

"I. PURPOSE: The purpose of this Memorandum of Understanding (MOU) is to establish interagency operational procedures and guidelines for the Federal Bureau of Investigation (FBI) and the Federal Bureau of Prisons (BOP) with regard to violations of federal criminal statutes occurring in BOP facilities, on BOP property or which involve BOP staff. In hostage and/or crisis situations, this MOU is superseded by the separate MOU between the FBI and the BOP. In violations of the Federal Escape and Rescue Statutes, this MOU is superseded by the separate MOU between the FBI, the BOP and the United States Marshals Service.

"II. GOALS: It is mutually agreed that general guidelines and procedures should be established and implemented to ensure an efficient and effective response to criminal incidents which occur in BOP facilities, on BOP property or which involve BOP staff. It is further agreed that BOP facilities and FBI field divisions will coordinate their efforts to develop local procedures, as appropriate, and fully share information and the results of their respective investigations to assist each agency in fulfilling its own mission and responsibilities concerning violations of federal criminal statutes occurring at or involving staff of Federal Bureau of Prisons' institutions. The violations in question include, but are not limited to, homicides or suspected homicides, unexplained or unusual deaths, assaults on federal officers or inmates (serious or involving weapons), significant destruction of government property, trafficking

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in contraband, and other serious offenses.

"III. JURISDICTION:

"(A). The BOP has primary responsibility for all operations of a Federal prison facility during routine and emergency situations, as well as during investigations of criminal matters.

"(B). The FBI shall assume primary investigative responsibility and jurisdiction once it has accepted a criminal matter for investigation. Coordination will be implemented and maintained with the BOP as appropriate.

"IV. IMPLEMENTATION:

"(A). The FBI and the BOP will develop and exchange information regarding the facilities at all BOP sites. The information should be included but is not limited to: prison site surveys, appropriate interagency training, and operational support in times of crisis.

"(B). A local operational plan to address resources, manpower, points of contact, notifications, and other relevant matters, will also be prepared by affected local BOP and FBI field office staff in accordance with the terms of this MOU. This plan will be routinely updated.

"V. RESPONSIBILITIES:

"(A). BUREAU OF PRISONS RESPONSIBILITIES:

"(1). Upon the occurrence of any incident that may involve a criminal act, the BOP will take immediate action to secure and preserve the scene of the incident and to identify any witnesses to the incident.

"(2). Upon the occurrence of any incident involving a criminal act, the BOP will immediately notify the appropriate designated FBI representative of the incident. An apparent suicide will be treated as a possible homicide until determined otherwise by a competent authority, such as the coroner or medical examiner. Any further investigative activity by the BOP shall be closely coordinated with the FBI so as to appropriately support the ongoing criminal investigation, while also pursuing administrative actions as appropriate.

"(3). Upon notification, if the FBI does not initiate a criminal investigation, the BOP will assume primary investigative

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responsibility for conducting and documenting an investigation of the incident for possible disciplinary action.

"(B). FEDERAL BUREAU OF INVESTIGATION RESPONSIBILITIES:

"(1). Upon notification by the BOP of the occurrence of an incident that may involve a criminal act, the appropriate designated FBI representative will determine whether to initiate an FBI criminal investigation of the incident. That determination and notification to the BOP concerning the incident will be made as soon as feasible but not greater than 24 hours after the BOP notification to the FBI. The FBI will conduct an on-site investigation of inmate deaths. An apparent suicide will be treated as a possible homicide until determined otherwise by a competent authority such as the coroner or medical examiner.

"(2). In those instances in which the FBI initiates a criminal investigation, the FBI will assume primary investigative responsibility for conducting and documenting the criminal investigation.

"(3). In those instances in which the FBI initiates a criminal investigation, the FBI will coordinate investigative activity with the BOP as appropriate, in order to minimize the disruption to the operation of the BOP facility.

"(4). In those instances in which the FBI has conducted a criminal investigation, the BOP is to be provided notification regarding the closure of the FBI investigative file.

"VI. PROTOCOL: It is agreed that the contents of this MOU will be provided to both agencies involved in this agreement, as well as the Executive Office of United States Attorneys, in order to fully coordinate notification procedures, points of contact to facilitate liaison, crime-scene management and preservation procedures, and development of criminal investigations.

"VII. STANDARD PROCEDURES:

"(A). NOTIFICATION/INITIAL REFERRAL: Upon the occurrence of any incident involving a criminal act, the BOP will immediately notify the appropriate designated FBI representative of the incident. During the initial contact, local BOP staff shall provide information and receive instructions regarding immediate efforts to secure the crime scene until the FBI responds.

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"(B). RESPONSE: When a criminal case is referred to the FBI for investigation, local FBI staff shall respond as soon as practicable either by telephone or by an on-site visit. Following the initial referral, the FBI shall determine whether to initiate an investigation. That determination shall be made and communicated to the BOP as soon as feasible but not greater than 24 hours after the BOP notification to the FBI.

"(C). INVESTIGATION: In the event the local FBI division initiates an investigation, the FBI will assume primary investigative responsibility and jurisdiction. Coordination will be implemented and maintained with the BOP as appropriate. In cases where the FBI requests investigative assistance from the BOP, the FBI will convey instructions regarding the questioning of suspects, preservation of the crime scene or evidence, and any other pertinent instructions.

"VIII. TERMS OF AGREEMENT: This MOU will take effect immediately upon signature of all parties.

"For the Federal Bureau of Investigation:

"/s/ _____
LOUIS J. FREEH
Director

8/9/96
DATE

"For the Federal Bureau of Prisons:

"/s/ _____
KATHLEEN M. HAWK
Director"

8/23/96
DATE

EFFECTIVE: 04/24/97

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CHARACTER - IRREGULARITIES IN FEDERAL PENAL INSTITUTIONS

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EFFECTIVE: 11/20/90

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SECTION 91. BANK ROBBERY, BANK BURGLARY, BANK LARCENY, BANK
EXTORTION

91-1 BACKGROUND

The Bank Robbery and Incidental Crimes Statute, Title 18, U.S. Code (USC), Section 2113, was enacted in 1934 making it a Federal violation to rob any national bank or state member bank of the Federal Reserve System. Investigative jurisdiction under this statute was delegated to the FBI. In 1935 this statute was amended to include all banks insured by the Federal Deposit Insurance Corporation (FDIC) or the Federal Savings and Loan Insurance Corporation (FSLIC). In 1937 this statute was expanded to include the violations of bank burglary and bank larceny. In 1950 this statute was amended to cover federally insured savings and loan associations. In 1959 this statute was amended to cover Federal credit unions. In 1986 this statute was amended to include bank robberies committed by extortion.

EFFECTIVE: 10/26/87

91-2 BANK ROBBERY AND INCIDENTAL CRIMES STATUTE AND PENALTIES

EFFECTIVE: 10/26/87

91-2.1 Bank Robbery and Bank Extortion, Title 18, USC, Section 2113(a)

"Whoever, by force and violence, or by intimidation, takes, or attempts to take, from the person or presence of another, or obtains or attempts to obtain by extortion, any property or money or any other thing of value belonging to, or in the care, custody, control, management, or possession of, any bank, credit union, or any savings and loan association, shall be fined not more than \$5,000 or imprisoned not more than twenty years, or both."

EFFECTIVE: 10/26/87

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91-2.2 Bank Burglary, Title 18, USC, Section 2113(a)

"Whoever enters or attempts to enter any bank, credit union, or any savings and loan association, or any building used in whole or in part as a bank, credit union, or as a savings and loan association, with intent to commit in such bank, credit union, or in such savings and loan association, or building, or part thereof, so used, any felony affecting such bank, credit union, or such savings and loan association and in violation of any statute of the United States, or any larceny shall be fined not more than \$5,000 or imprisoned not more than twenty years, or both."

EFFECTIVE: 10/26/87

91-2.3 Bank Larceny, Title 18, USC, Section 2113(b)

"Whoever takes and carries away, with intent to steal or purloin, any property or money or any other thing of value exceeding \$100 belonging to, or in the care, custody, control, management, or possession of any bank, credit union, or any savings and loan association, shall be fined not more than \$5,000 or imprisoned not more than ten years or both; or

"Whoever takes and carries away, with intent to steal or purloin, any property or money or any other thing of value not exceeding \$100 belonging to, or in the care, custody, control, management, or possession of any bank, credit union, or a savings and loan association, shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

EFFECTIVE: 10/26/87

91-2.4 Receiving and Possession, Title 18, USC, Section 2113(c)

"Whoever receives, possesses, conceals, stores, barter, sells, or disposes of, any property or money or other thing of value which has been taken from a bank, credit union, or a savings and loan association, in violation of subsection (b) of this statute, knowing the same to be property which has been stolen, shall be subject to the punishment provided by said subsection (b) for the taker."

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EFFECTIVE: 10/26/87

91-2.5 Assault or Life In Jeopardy, Title 18, USC, Section
2113(d)

"Whoever, in committing, or in attempting to commit, any offense defined in subsections (a) and (b) of this statute, assaults any person, or puts in jeopardy the life of any person by the use of a dangerous weapon or device, shall be fined not more than \$10,000 or imprisoned not more than twenty-five years, or both."

EFFECTIVE: 08/27/90

91-2.6 Kill or Kidnap, Title 18, USC, Section 2113(e)

"Whoever, in committing any offense defined in this section, or in avoiding or attempting to avoid apprehension for the commission of such offense, or in freeing himself or attempting to free himself from arrest or confinement for such offense, kills any person, or forces any person to accompany him without the consent of such person, shall be imprisoned not less than ten years, or punished by death if the verdict of the jury shall so direct."

EFFECTIVE: 08/27/90

91-2.7 Definition of Bank, Title 18, USC, Section 2113(f)

"As used in this section the term 'bank' means any member bank of the Federal Reserve System, and any bank, banking association, trust company, savings bank, or other banking institution organized or operating under the laws of the United States, and any institution the deposits of which are insured by the Federal Deposit Insurance Corporation."

EFFECTIVE: 08/27/90

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91-2.8 Definition of Credit Union, Title 18, USC, Section 2113(g)

"As used in this section the term 'credit union' means any Federal credit union and any State-chartered credit union the accounts of which are insured by the National Credit Union Administration Board, and any 'Federal credit union' as defined in section 2 of the Federal Credit Union Act."

EFFECTIVE: 08/27/90

91-3 COMMENTS AND CLARIFICATIONS REGARDING THE BANK ROBBERY AND
INCIDENTAL CRIMES STATUTE (BRICS)

EFFECTIVE: 08/27/90

91-3.1 Robbery of Bank Messengers

A bank messenger delivering money, etc., to or from a bank covered under the BRICS is considered to have custody and control of the above property on behalf of the bank. A robbery of said property from the messenger is a violation of Section 2113(a), Bank Robbery.

EFFECTIVE: 08/27/90

91-3.2 Robbery of an Armored Carrier

Robbery of an armored carrier may be a violation of Title 18, USC, Section 2113. However, to ensure uniformity, all robberies of armored carriers are to be investigated as Hobbs Act - Armored Carriers violations. (See Part I, Section 192, of this manual, for complete details.)

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91-3.3 Bank Night Depositories

(1) Regardless of the contractual relationship between the bank and the depositor, such deposits are considered to be within the care, custody, and control of the bank based on the bailment situation created when the deposit is made.

(2) A break-in or attempted break-in of a bank night depository with the appropriate intent constitutes a bank burglary violation. Under these circumstances, if deposits are stolen, a bank larceny violation also exists.

(3) An unsuccessful attempt to intercept or trap deposits placed in a bank night depository with the appropriate intent by means of a device constitutes an unlawful attempt to enter the bank within the meaning of the BRICS and constitutes a bank burglary violation. Under these circumstances, if deposits are stolen, a bank larceny violation also exists.

EFFECTIVE: 10/26/87

91-3.4 Automated Teller Machines (ATMs)

(1) In the early 1970s, ATMs were established both on and off bank premises by federally insured financial institutions.

(2) ATMs provide services ranging from the transfer of funds from one account to another, accepting payments on installment loans, or receiving deposits. An ATM can also dispense cash to a set limit and debit it to the customer's savings or checking account.

(3) For legal purposes, an ATM is a bank or branch bank within the meaning of the BRICS.

(4) The money, deposits, or other things of value which are received by or contained within an ATM belong to or are in the care, custody, or control of the bank.

(5) An ATM located off premises may be serviced solely by the bank or by a third party under contract with the bank.

(6) An ATM by definition is not manned, therefore, the robbery provisions of the BRICS are not applicable; however, a bank burglary or bank larceny violation may occur in connection with an

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ATM.

(7) A break-in or attempted break-in of an ATM of a federally insured banking institution is a bank burglary violation.

(8) A break-in of an ATM of a federally insured banking institution where money or another thing of value is taken with intent to steal or purloin constitutes both a bank burglary and bank larceny violation.

(9) To fraudulently obtain money or another thing of value from an ATM by using a forged, counterfeit or stolen access card under false pretenses is a bank larceny violation.

EFFECTIVE: 10/26/87

91-3.5 Larceny, Larceny by Trick, and False Pretenses in Relation to Bank Larceny

(1) In order for a bank larceny violation to exist, the elements of common law larceny, larceny by trick or false pretenses must be present.

(2) Common law larceny is defined as the taking and carrying away of the personal property of another without his/her consent with intent to steal.

(3) Larceny by trick is defined as obtaining mere possession and not title to the personal property of another by fraudulent representations with intent to steal.

(4) False pretenses are defined as obtaining both possession and title to the personal property of another by fraudulent representations with intent to steal.

(5) If a bank is victimized by means of larceny by trick, such as presentation of bogus coin rolls, quick change schemes, obtaining money or another thing of value from an ATM by using a forged, counterfeit, or stolen access card, etc., there has been a bank larceny violation.

(6) If a bank is victimized by means of larceny by trick, such as a subject posing as an armored car employee authorized to pick up certain funds for delivery to a stated place, it is a bank larceny

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violation. This is based on the fact that the victim bank, based on the false representations, merely intended to turn over possession and not title of the funds to the subject.

(7) It should be noted that Section 2113(b) only applies where the amount of money involved exceeds \$100.00 and there is an actual taking or carrying away with intent to steal or purloin the money or other thing of value. In any situation in which there is doubt whether or not a bank larceny violation has occurred, the USA should be promptly consulted for a legal opinion.

EFFECTIVE: 10/26/87

91-3.6 Attempted Bank Larcenies

It should be noted that Section 2113(b), Bank Larceny, does not contain a provision for an attempted bank larceny and covers only situations in which an actual bank larceny occurs. However, in a situation involving an attempted bank larceny by a burglary, the second paragraph of Section 2113(a), Bank Burglary, will apply even though Section 2113(b), Bank Larceny, does not.

EFFECTIVE: 10/26/87

91-3.7 Theft Not Necessary In a Bank Burglary Violation

(1) A bank burglary violation, Section 2113(a), occurs when the subject forcibly enters or attempts to enter a banking institution with intent to commit any larceny or any felony affecting such banking institution and in violation of any statute of the United States.

(2) It is not necessary that the subject actually steal any property belonging to, or in the care, custody, control, management, or possession of the banking institution in order to be prosecuted for bank burglary. If, during the commission of a bank burglary, the subject actually steals any property, as set forth above, he/she has also committed a bank larceny violation in addition to a bank burglary violation.

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EFFECTIVE: 08/27/90

91-3.8 Theft From Safe-Deposit Boxes

Although the contents of a safe-deposit box belong to the box holder and they are not federally insured, a theft from a safe-deposit box during a bank burglary constitutes bank larceny since the contents are in the care of the bank within the meaning of the BRICS.

EFFECTIVE: 08/27/90

91-3.9 Receiving or Possession of Bank Robbery, Bank Burglary,
Bank Larceny or Bank Extortion Loot

Under Section 2113(c), Receiving and Possession, it would appear that this offense covers only property, money, or other things of value received or possessed from a bank larceny; however, this section also covers property, money, or other things of value received or possessed from a bank robbery, bank burglary or bank extortion.

EFFECTIVE: 08/27/90

91-3.10 Prosecution for Receiving and Possession

Under Section 2113(c), Receiving and Possession, it is not necessary to prove that the subject knew the property, money, or other thing of value was taken from a bank, credit union, or savings and loan association, in violation of the BRICS, only that the subject knew that the property, money or other thing of value was stolen. Pursuant to Title 18, USC, Section 21, the element of guilty knowledge may also be established by proof that the defendant believed that the property, money or other thing of value was stolen, after or as a result of an official representation as to the nature of the property (see MIOG, Part II, 1-1.12). |

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EFFECTIVE: 10/23/95

91-3.11 Death Penalty

Under Section 2113(e), the death penalty provision has been ruled invalid.

EFFECTIVE: 08/27/90

91-3.12 Savings and Loan Association

For purposes of clarification, under Section 2113(f), the term "bank" includes the following banking institutions:

(1) A Federal savings and loan association.

(2) An institution insured by the Federal Deposit Insurance Corporation's Savings Association Insurance Fund.

(3) Deleted

(4) Deleted

EFFECTIVE: 08/27/90

91-3.13 Federal Land Bank

(1) A Federal land bank operating under a charter issued by the Farm Credit Administration is a banking institution operating under the laws of the United States and, accordingly, is covered under the BRICS.

(2) It should be noted, however, that Federal land banks do not accept deposits, deal primarily in mortgages and, therefore, are not a likely target for a 91 subject.

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EFFECTIVE: 08/27/90

| 91-3.14 | State Prosecution Not a Bar to Federal Prosecution

State prosecution for any offense covered under the BRICS is not a legal bar to subsequent Federal prosecution under the above statute; however, there must be compelling reasons and the Attorney General must personally approve such prosecution.

EFFECTIVE: 08/27/90

91-4 BANK PROTECTION ACT OF 1968 AND THE FEDERAL CREDIT UNION ACT

EFFECTIVE: 08/27/90

91-4.1 Bank Protection Act (BPA) of 1968

(1) The BPA of 1968, Public Law 90-389, was enacted on 7/7/68 and provides that Federal regulatory agencies shall "promulgate rules establishing minimum standards with which each bank or savings and loan association must comply with respect to the installation, maintenance, and operation of security devices and procedures, reasonable in cost, to discourage robberies, burglaries and larcenies and to assist in the identification and apprehension of persons who commit such acts."

(2) Under the above Act, the following Federal regulatory agencies regulate the following financial institutions:

(a) Comptroller of Currency - national banks and banks located in the District of Columbia;

(b) Federal Reserve System (FRS) - state-chartered banks that are members of the FRS;

(c) Federal Deposit Insurance Corporation (FDIC) - state-chartered banks that are not members of the FRS but the accounts of which are insured by the FDIC;

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(d) Office of Thrift Supervision - Federal savings and loan associations and institutions and state-chartered savings and loan associations and institutions, the accounts of which are insured by the Federal Deposit Insurance Corporation's Savings Association Insurance Fund.

(e) Credit unions are not covered under this Act. Refer to the Federal Credit Union Act citation, 91-4.2.

(3) The regulations of the Federal regulatory agencies were originally published in the Federal Register, Volume 34, Number 11, dated 1/16/69, with certain amendments published in the Federal Register, Volume 38, Number 194, dated 10/9/73, copies of which are available in each office.

(4) All Agents working 91 matters must be familiar with the above regulations. In general, these regulations require certain minimum mandatory security devices and procedures and others that are discretionary, subject to changes ordered by the responsible Federal regulatory agencies.

(5) Mandatory security devices include:

(a) A lighting system during the hours of darkness in the vault area if visible from the outside.

(b) Tamper-resistant locks on exterior doors and windows.

(c) An alarm system or other appropriate device for promptly notifying the nearest responsible law enforcement officers of an attempted or perpetrated robbery or burglary.

(6) Mandatory security procedures include:

(a) The development and utilization of a security program with certain characteristics.

(b) Bait money, comprised of Federal Reserve notes with denominations, bank of issue, serial numbers, and series year recorded, maintained at each teller's station.

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91-4.2 Federal Credit Union Act (FCUA)

(1) The FCUA, amended by Public Law 91-468, enacted on 10/19/70, provides that the Administrator, National Credit Union Administration (NCUA), shall insure the accounts of all Federal credit unions and those state-chartered credit unions who apply for this insurance.

(2) The regulations of the NCUA, which established minimum mandatory security devices and procedures for the above credit unions to discourage robberies, burglaries and larcenies and to assist in the identification and apprehension of persons who commit such acts, became effective on 6/15/71, and copies of these regulations are available in each office.

(3) The minimum mandatory security devices and procedures established by the NCUA under the FCUA are quite similar to the regulations established by the Federal regulatory agencies under the BPA of 1968, and all Agents working 91 matters must be familiar with these regulations.

EFFECTIVE: 10/26/87

91-4.3 Requests by Financial Institutions for FBI Evaluation of Security Devices, Procedures, and Programs

(1) The regulations of the Federal regulatory agencies under the BPA of 1968 and the FCUA also state that the bank security officer may provide for the installation, maintenance, and operation of other security devices after seeking the advice of law enforcement officers and any other appropriate sources.

(2) The above regulations do not require the FBI to furnish financial institutions with an evaluation of their mandatory and/or discretionary security devices and procedures; however, as a matter of policy, it is permissible and desirable for the FBI to orally recommend and encourage their use. For obvious reasons, the FBI should not identify or endorse related equipment by name or manufacturer as being the most desirable.

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91-4.4 Reporting Noncompliance with Mandatory Security
Regulations by Financial Institutions to FBIHQ

(1) Enforcement of the mandatory security devices and procedures required by the five Federal regulatory agencies under the BPA of 1968 and the FCUA is the responsibility of the above agencies and the DOJ.

(2) If during the course of an investigation it is determined that a financial institution covered under these Acts is not in compliance with the mandatory security devices and procedures, a letterhead memorandum (LHM), original and four copies, should be submitted to FBIHQ by airtel, marked Attention: |Violent|Crimes Unit, Criminal Investigative Division.

(3) The cover airtel should set forth the proper case title as normally reported; however, the title of the LHM should set forth only the identity and location of the financial institution involved. The body of the cover airtel should identify the Federal regulatory agency which has responsibility for the financial institution involved and a request for FBIHQ to disseminate copies of the enclosed LHM to the Federal regulatory agency and the DOJ. The body of the LHM should set forth a succinct summary of the 91 violation, the date of occurrence and the security violation committed. The body of the LHM should not set forth the identities of any subjects or suspects.

(4) FBIHQ, upon receipt of the above LHM, will forward one copy each to the appropriate Federal regulatory agency and the General Litigation and Legal Advice Section, Criminal Division, Department of Justice, for their consideration in initiating action to correct the situation.

(5) Under the BPA of 1968 and FCUA, a financial institution that violates a mandatory security regulation shall be subject to a civil penalty not to exceed \$100 for each day of future noncompliance.

EFFECTIVE: 02/16/89

91-5

INVESTIGATIVE POLICY AND OBJECTIVE IN BANK ROBBERY, BANK
BURGLARY, BANK LARCENY AND BANK EXTORTION VIOLATIONS

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EFFECTIVE: 02/16/89

91-5.1 Investigative Policy

The FBI's investigative policy in 91 cases is an immediate measured Agent response by all offices to all violations of the Bank Robbery and Incidental Crimes Statute, with subsequent investigations utilizing sufficient Agent manpower to ensure effective handling of all incidents.

EFFECTIVE: 02/16/89

91-5.2 FBI's Objective

The FBI's objective in 91 cases is to intelligently utilize all allocated funded resources to achieve the maximum federal and local solution rate and prosecutive results possible.

EFFECTIVE: 10/18/95

91-5.3 Manpower Commitments (See MIOG, Part I, 91-9.1.)

FBIHQ is aware that many offices are continually encountering manpower problems in meeting their investigative responsibilities. As a consequence, it is recognized that it may not be possible or desirable to commit extensive manpower resources to every bank robbery, bank burglary, and bank larceny investigation. Those offices having well-trained, effective local law enforcement agencies may have to consider exercising the necessary flexibility in conjunction with local authorities especially when responding to routine bank robbery, bank burglary, and bank larceny violations. The number of Agents responding, the extent of investigation to be conducted and the length of time a case should be kept in a pending status should be determined by responsible supervisory personnel. It must be clearly understood, however, that the FBI must continue to fully meet its investigative responsibilities in this area.

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91-5.4 Guidelines For Closing Cases

In determining how long a bank robbery, bank burglary, bank larceny or bank extortion case should be kept in a pending status and active investigation conducted when no leads or suspects have been developed, the following policy should be adopted in those cases wherein investigation was instituted.

(1) When an aggressive and thorough investigation has been conducted in a bank burglary/bank larceny case where the loss is less than \$10,000.00 and no leads or suspects have been developed or appear to be forthcoming, the case should be closed within six months. If suspects or new leads are independently developed, the case should be reopened and the investigation reinstated.

(2) In regard to bank robberies, bank extortions, and bank burglaries/bank larceny cases where the loss exceeds \$10,000.00, it should be understood that the above within-six-month closing policy does not apply due to the inherent seriousness of these violations. These cases should be aggressively and thoroughly investigated for no less than six months before any consideration is given to closing the case due to lack of leads or suspects. Every investigative option must be exhausted and it must be determined that no further evidence is forthcoming. Prior to closing, each case should be judged on its merits, and any doubts whether a case should be closed or remain pending should be resolved in favor of continuing the investigation for whatever time period within the Statute of Limitations is required to solve it or justify its closing.

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91-5.5 Response and Subsequent Investigative Plan

| (1) | FBIHQ does not believe it is feasible to develop a response and subsequent investigative plan that can be molded to fit each office. Therefore, each SAC will be responsible for the development of a response and subsequent investigative plan, if not already in effect, that will fit the needs of his/her particular office while still fulfilling the FBI's investigative responsibilities. The data, statistics, and factors to be considered in measuring the soundness and effectiveness of each office's bank robbery, bank burglary, bank larceny and bank extortion response and subsequent investigative plans are readily available within each office.

| (2) | Each Agent who may respond and/or conduct investigations involving 91 violations should be made aware of this overall plan and be familiar with all its phases.

| (3) | This overall plan should be reviewed annually by responsible field supervisory personnel to ensure that it is adequately revised to meet changing conditions. |

EFFECTIVE: 08/27/90

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| 91-7 | |DELETED|

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91-8 IMMEDIATE INVESTIGATIVE STEPS TO BE TAKEN AT THE SCENE OF
A 91 VIOLATION

(1) Establish liaison with local authorities at the scene in order to coordinate the investigation.

(2) Ensure that the crime scene area is protected in order that an appropriate crime scene search can be subsequently conducted.

(3) Promptly obtain a physical description of the subject, his/her clothing, whether armed, bait money taken, getaway vehicle, escape route, and disseminate this information immediately in an effort to apprehend the subject in the area.

(4) Obtain the bank surveillance camera films for prompt processing.

(5) If a demand note was utilized, obtain possession for prompt submission to the FBI Laboratory for examination. See 91-17 of this manual.

(6) Determine the extent and scope of the neighborhood investigation required.

(7) Interview the bank employees and other witnesses at the scene for complete details of the violation and the identities of other possible witnesses. Information furnished which may become testimony should be recorded by FD-302 or a signed statement. In certain situations a signed statement is preferred, such as when a witness is a potential suspect, makes a positive identification of the subject from photographs or personal observation, or where there is reason to believe that the witness may become uncooperative and recant at a later date.

(8) Display appropriate photographs of logical 91 subjects and suspects to the witnesses in an effort to identify the subject at the outset of the investigation. See Section 6-4 of the Legal Handbook For Special Agents entitled "Photographic Identification."

(9) If a stolen getaway vehicle is known or suspected to have been used by the subject, it will often be abandoned by the subject shortly thereafter for a switch car. Based on this premise, ensure that efforts are instituted to locate the getaway car for purposes of a search, latent print examination, area neighborhood

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investigation, and a description of the switch car.

(10) Conduct an appropriate crime scene search at the victim bank. See 91-9 of this manual.

(11) If a hoax bomb device is utilized in the commission of a 91 violation, the entire device, or fragments thereof, should be obtained and submitted with all other evidence to the Materials and Devices Unit, Laboratory Division. See Part II, Sections 13-6.7 and 13-16.6, of this manual.

EFFECTIVE: 04/07/97

91-9 CONDUCTING A 91 CRIME SCENE SEARCH

(1) This citation is not intended to be all inclusive. For further details and instructions regarding crime scene searches, latent prints, evidence, and possible examinations of said evidence, refer to this manual, Part II, 13-6.4, entitled "Crime Scene Search," 15-3 entitled "Latent Print Examinations," 15-4, entitled "Submission of Evidence," Section 13, entitled "Laboratory Division Aids to Investigations," Section 5 of the Legal Handbook for Special Agents entitled "Search and Seizure," and the June, 1974, Police Instructor's Bulletin entitled "Crime Scene Search."

(2) There are four cardinal rules that should be followed in every 91 crime scene search.

(a) The first rule is to protect the crime scene to ensure that any possible evidence is not destroyed or contaminated. Protecting the crime scene is a continuous process which must start upon the arrival of the first Special Agent or police officer at the scene and continue until the crime scene search is completed.

(b) The second rule is to obtain the physical evidence legally. In most instances the 91 crime scene will consist of the bank premises and escape route which are not under the legal control of the subject; therefore, his/her consent or a search warrant will not be required to conduct a search of these areas. However, in other specific instances such as those involving the subject's residence, apartment, motel room, place of employment, vehicle, or getaway car, it is necessary to obtain his/her consent or a search warrant before the crime scene search can be legally conducted. It

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should be noted that searches of the above areas conducted incidental to arrest are limited as to area and point of time; therefore, depending on the scope of the intended search, the subject's consent or a search warrant may be necessary.

For further details regarding searches, see Section 5 of the Legal Handbook for Special Agents entitled "Search and Seizure." Whenever the legality of the intended search is in doubt, the Principal Legal Advisor or an appropriate AUSA should be contacted for a legal opinion prior to the search being conducted.

(c) The third rule is to conduct the crime scene search properly. A thorough search should be conducted in order to ensure that any physical evidence is not overlooked. If in doubt regarding whether a particular item is actually physical evidence or has potential evidentiary value, it should be collected and properly marked and preserved for identification and examination purposes.

(d) The fourth rule is to maintain the proper chain of custody of the evidence collected so that it can be successfully introduced into evidence at the time of trial.

(3) After ensuring that the 91 crime scene is protected, the four basic steps in conducting the crime scene search, in essence, are as follows:

(a) Conduct a preliminary survey of the crime scene in order to establish the overall situation and the objectives and the extent of the search.

In bank burglary violations it is essential to describe in complete detail by FD-302 the method by which the subject gained entrance to the bank and the subject's actions within the bank involving the alarm system, safe, vault, cash drawers, safe-deposit boxes, etc.

(b) Photograph the overall crime scene and the physical evidence located therein.

(c) Conduct a latent print examination.

(d) Collect, record, mark, and preserve the physical evidence recovered at the crime scene.

(4) In addition to the collection of the obvious physical evidence in bank burglary violations, efforts should be directed toward the collection of possible "transfer evidence." Whenever two

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surfaces contact each other, there is a partial transfer of material from one to the other. Typical examples are the subject's clothing, shoes, and vehicle picking up building materials when forcibly entering a bank and safe insulation when forcibly entering a safe. Samples of the appropriate possible "transfer evidence" should be collected at the crime scene for future comparison purposes with the subject's or suspect's clothing, shoes, and sweepings from his/her vehicle in an effort to place him/her at the crime scene.

(5) In regard to bank burglary toolmarks, a thorough examination of the forced entry area and other points of attack within the bank should be conducted in an effort to obtain them for future comparison purposes. The toolmark impressions may be obtained by taking possession of the surrounding area or by casting, whichever is more appropriate.

EFFECTIVE: 10/26/87

91-9.1 Sharing or Delegating Crime Scene Search Responsibilities
with Local Authorities

(1) Under our investigative policy and objectives in 91 violations (see 91-5.3 of this manual), FBI offices having well-trained, effective local law enforcement agencies may share or delegate crime scene search responsibilities mutually agreed upon with local authorities.

(2) It should be noted, however, that any such mutual agreement must ensure that the crime scene search is properly conducted and, if appropriate, all evidence recovered by local authorities is available to your office for transmittal to the FBI Laboratory Division for examination.

(3) In those 91 violations in which FBI investigation is instituted and local authorities do not have the capabilities to conduct a proper crime scene search, the crime scene search should be conducted by or under the direction of the FBI.

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91-10 FBI SURVEILLANCE OF SUBJECTS AND/OR BANKS INVOLVING A
CONTEMPLATED 91 VIOLATION

(1) It is the responsibility of the SAC to formulate a course of action and to decide if Special Agents will conduct a surveillance of a subject and/or a bank when information is developed indicating that a 91 violation will be committed involving a known subject and bank, a known subject and unknown bank, or an unknown subject and known bank.

(2) In making the above decision, the SAC must consider all the available facts, including the source's reliability and the FBI's responsibility to avoid unnecessarily endangering human lives.

(3) Because of the danger factor and potential local violations involved, appropriate local law enforcement agencies and bank officials must be notified of contemplated violations unless a valid reason exists for not making such notification.

(4) If a surveillance will be instituted in a case involving more than one subject, the SAC's plan of operation should include the objective of apprehending the subjects on conspiracy charges before they enter the bank in order to minimize the danger to bank employees and other innocent bystanders.

(5) Where appropriate, investigative efforts should be made to develop conspiracy charges and the facts should be promptly presented to the USA to determine if he/she will authorize the apprehension of the subjects for conspiracy. If not, determine from him/her what further actions by the subjects are necessary in order for him/her to make said authorization. Arrangements should be made with the USA to ensure that he/she can be immediately contacted, if necessary, and advised of pertinent developments.

(6) Due to the high potential for physical violence occurring, if the SAC makes the decision to institute a surveillance of the subject, subjects, and/or bank, the SAC or, in his/her absence from the territory, the ASAC and/or 91 Supervisor must afford personal on-the-scene supervision of the surveillance, and every detail of the operation must be thoroughly planned.

(7) Prior FBIHQ authority is not required to conduct surveillances of subjects and/or banks in contemplated 91 violations.

(8) FBIHQ should be notified beforehand of the surveillance by telephone and/or teletype only if unusual

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circumstances exist or if it appears that the case will receive widespread publicity.

(9) In instances where FBIHQ is not notified beforehand of the surveillance, for reasons set forth above, and the subject or subjects are subsequently arrested, FBIHQ should be notified by telephone and/or teletype depending on the circumstances of the arrest, publicity received, or other unusual factors involved.

(10) As noted in number (3) above, in the absence of a valid reason, local law enforcement agencies must be notified of contemplated violations. In regard to the actual FBI surveillance of the subject and/or bank, consideration should be given to having an appropriate number of local law enforcement representatives, if willing, participate in the surveillance to ensure appropriate liaison and responsibility for any local violations that may occur.

EFFECTIVE: 10/26/87

91-11 EXTORTIONATE DEMANDS RECEIVED BY BANK OFFICIALS FOR BANK FUNDS

EFFECTIVE: 10/26/87

91-11.1 Potential FBI Violations

(1) |On November 10, 1986, The President signed into law the "Criminal Law and Procedure Technical Amendments Act of 1986," which amended Title 18, USC, Section 2113(a), to explicitly include bank robberies committed by extortion. The term "extortion" as used in Title 18, USC, Section 2113(a), means obtaining or attempting to obtain property from another person without the other person's consent, induced by the wrongful use of actual or threatened force, violence, or fear. This means that the FBI will have jurisdiction in extortion matters when a bank official receives a threat of physical injury to himself/herself or a member of his/her family through United States mail, by telephone, note, or in person, and is instructed to take bank funds and physically deliver them to an individual off the bank premises or leave them at a designated drop-site. |

(2) In addition, it is a Federal extortion violation if the demand for bank funds is made through the United States mail or by

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interstate telephone call and a Federal kidnaping violation if the bank official or a member of the bank official's family is taken hostage and transported interstate.

(3) It is a bank extortion violation even if the bank official makes no effort to comply with the subject's extortionate threat and demand to physically deliver bank funds to him/her in person, or leave them at a designated drop-site.

(4) It is a bank extortion violation when the bank official attempts to comply with the subject's demand, and the subject does not meet the bank official to take, or attempt to take, the bank funds from his/her person or presence, or does not take the bank funds which were placed at the designated drop-site.

(5)



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(6)



EFFECTIVE: 10/26/87

91-11.2 Decisions to Make the Payoff and to Cover the Payoff

(1) In some cases the victim bank official will comply with the subject's demand for bank funds without first notifying his/her bank or the FBI; therefore, the decision whether to make or cover the payoff cannot be made and the FBI will not be able to promptly institute its investigation beforehand.

(2) In the above situation, especially when a hostage was not taken, the possibility that the bank official stole the bank funds rather than the subjects should not be overlooked.

(3) In those instances where the victim bank and the FBI are notified beforehand by the bank official of the subject's demand for bank funds, certain factors will have to be closely considered before a decision can be made regarding whether the subject's demand should be complied with by the bank and whether the payoff should be

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covered by the FBI.

(4) The most important consideration regarding the above decisions is the safety of the victim bank official and/or family member. The degree of danger will vary from case to case and must be assessed accordingly in reaching a decision. For example, in a case where the subject is actually holding the bank official's spouse hostage and threatens to kill the hostage unless subject's demands are met, it is obvious that the danger factor is far more real and imminent than in a nonhostage case where the subject threatens to kill the bank official and/or spouse if official fails to comply with subject's demands.

(5)

[REDACTED]

(6) The decision whether or not to pay the subject's demand is the bank's decision to make and will be influenced by the danger factor

[REDACTED]

(7)

[REDACTED]

(8)

[REDACTED]

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[REDACTED]
(9) [REDACTED]

EFFECTIVE: 10/26/87

91-11.3 Extortion Matters - Investigative Techniques

EFFECTIVE: 10/26/87

91-11.3.1 [REDACTED]

(1) [REDACTED]

(2) [REDACTED]

EFFECTIVE: 10/26/87

91-11.3.2 [REDACTED]

(1) [REDACTED]

(2) [REDACTED]

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[REDACTED]

EFFECTIVE: 10/26/87

91-11.3.3 [REDACTED]

[REDACTED]

EFFECTIVE: 10/26/87

91-12 OFFICE OF ORIGIN (OO) NOTIFICATION TO FBIHQ, SURROUNDING
OFFICES, AND OTHER OFFICES OF 91 AND 192C VIOLATIONS
BY FD-430 AND TELETYPE

EFFECTIVE: 10/26/87

91-12.1 Notification to FBIHQ (See MIOG, Part I, 15-4(9),
87-5.3.2, & 192-11.1; MAOP, Part II, 9-6.)

(1) FBIHQ shall be notified of every bank robbery, bank
burglary, bank larceny and bank extortion violation within 30 working
days of the offense by FD-430 with available bank surveillance camera
photographs attached.

(2) The above notification to FBIHQ should not be delayed
beyond the 30-day working period awaiting processing of the
photographs, which may be forwarded afterward by a separate
communication or by routing slip.

(3) In addition, FBIHQ should be promptly notified by
telephone and/or teletype in 91 cases of unusual interest such as

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those in which a shooting occurs, a hostage is taken, a large loss is sustained, or where good judgment dictates. FBIHQ should also be advised of all subsequent major developments in these cases by summary teletype. The initial teletype notification to FBIHQ does not eliminate the necessity of the FD-430 submission to FBIHQ within 30 working days.

(4) The FD-430 must contain the OO file number.

(5) After the initial FD-430 submission to FBIHQ, if it is determined that no FBI violation actually occurred, the OO should submit a supplemental FD-430 in order to delete the violation from the bank crime statistics maintained at FBIHQ.

(6) Title changes may be made by supplemental FD-430 as long as the basis for the change is set forth thereon. When an unidentified subject who is included in the National Bank Robbery Album (NABRA) is identified, cancellation of the NABRA circular can be made by checking the appropriate box located on Form FD-430 and by including a request for FBIHQ to cancel the NABRA in an administrative page attached to the supplemental FD-430 (see 91-19 for further details regarding the issuance and cancellation of NABRA circulars).

(7) Cases may be opened and closed upon the submission of the FD-430 to FBIHQ under certain appropriate circumstances such as when a strong local interest is dominant and the USA declines prosecution at the outset of the investigation. This closing procedure does not eliminate the necessity to comply with the FBI's investigative response policy in 91 matters (see 91-5.1), and those investigative results obtained are to be recorded by FD-302 or investigative insert and maintained in the field office file for possible future needs. (See MAOP, Part II, 2-5.2.4.)

(8) An FD-430 with the solution portion completed must be submitted before solution credit can be recorded at FBIHQ. Solution credit may be claimed only in those cases in which all subjects involved have been identified. When a case is solved after the initial FD-430 submission, submit a supplemental FD-430 with only the solution portion completed. Violation and solution data submitted by this form will be furnished to each field office at the close of the fiscal year for verification of this information recorded at FBIHQ.

(9) It is imperative that all FD-430 entries are correct since FBIHQ disseminates pertinent data from these forms to the Federal financial regulatory agencies, the American Bankers Association, and other qualified recipients who are concerned with

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crimes against financial institutions.

(10) In all Hobbs Act - Armored Carrier cases, an FD-430 must be submitted within 30 working days of the offense. See Part I, Section 192-11.1 of this manual for details.

EFFECTIVE: 11/30/93

91-12.2 Notification to Surrounding Offices and Other Offices

(1) In addition to notifying FBIHQ of all 91 violations, the OO shall determine if regional or other field office notification is necessary. Absent photographs of value, distinguishing physical characteristics or a distinguishable MO, there should be no regional distribution of FD-430's. Additionally, there should be no regional distribution of FD-430's, the purposes of which are to change titles or reflect other administrative changes. Such administrative FD-430's should be submitted to FBIHQ only. (See MIOG, Part I, 15-4(9) & 192-11.2.)

(2) Depending on the urgency of the case and the need for specific and immediate investigation, initial notification to the above offices may be made by telephone, teletype, or FD-430.

(3) If initial notification is made to surrounding and other appropriate offices by telephone and/or teletype, these offices should also receive copies of the FD-430 which must be prepared by the OO for transmittal to FBIHQ within 30 working days of the offense.

(4) Teletype notification should include a succinct summary of the offense, the modus operandi (MO) utilized, a description of the subject, specific investigative leads, and any required caution statement. Bank camera surveillance photographs and bank burglary crime scene photographs should be forwarded by FD-430, a separate cover communication, or by routing slip. (See MIOG, Part I, 91-16(4)(b).)

(5) Initial notification by FD-430 should not be delayed beyond 30 working days awaiting processing of the photographs which may be forwarded afterward by a separate cover communication or by routing slip.

(6) Appropriate general leads, such as comparing instant

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MO for similar bank robberies or contacting informants and local law enforcement agencies for information of value, may be set forth in the FD-430.

(7) The FD-430 should contain a statement that only positive information need be reported to the OO by receiving offices.

(8) The FBIHQ and field FD-430 copies should have a second page attached setting forth a detailed narrative summary of the offense in LHM format suitable for dissemination. The decision to disseminate the narrative page to other law enforcement agencies and other authorized institutions or individuals is left to the discretion of the receiving offices.

(9) Since FD-430s do not contain specific investigative leads for auxiliary offices, and the leads set forth, if any, are general in nature as set forth above, they should be filed in the pertinent administrative control files by the receiving offices. It is suggested that the serials be filed by date of bank robbery, state and city in that order. It is not necessary to serialize this mail if filed in a logical, consistent order nor is it necessary to index the title of the communication unless the field office firmly believes it is necessary. This is an exception to the mandatory indexing case title guidelines. The exception is justified due to the informational nature of the FD-430 and the automated availability of the Field Office Information Management System Alternate Office Index Search capability in all FBI offices. (See MAOP, Part II, 2-3.3.1(1).)

EFFECTIVE: 11/30/93

91-13 BANK ROBBERY, BANK BURGLARY, BANK LARCENY AND BANK
EXTORTION LOOT

EFFECTIVE: 04/19/91

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91-13.1 Establish Loss By Bank Officer

The bank officer, who is competent to testify regarding the bank's ownership, possession, custody, or control of the stolen property, should be interviewed in order to establish the loss by a bank audit and obtain a complete list and description of the stolen property.

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91-13.2

[REDACTED]

(1)

[REDACTED]

(a)

[REDACTED]

(b)

[REDACTED]

(2)

[REDACTED]

(a)

[REDACTED]

(b)

[REDACTED]

(c)

[REDACTED]

XXXXXX
XXXXXX
XXXXXX

FEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

2 Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

Deletions were made pursuant to the exemptions indicated below with no segregable material available for release to you.

Section 552

Section 552a

(b)(1)

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(j)(2)

(b)(3)

(b)(7)(C)

(k)(1)

(b)(7)(D)

(k)(2)

(b)(7)(E)

(k)(3)

(b)(7)(F)

(k)(4)

(b)(4)

(b)(8)

(k)(5)

(b)(5)

(b)(9)

(k)(6)

(b)(6)

(k)(7)

Information pertained only to a third party with no reference to the subject of your request or the subject of your request is listed in the title only.

Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

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MI06, pages 91-31, and 91-32

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X No Duplication Fee X
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(4)

(5) For complete details regarding stop notices and their administrative handling, see Part II, 10-7, of this manual.

EFFECTIVE: 07/23/90

91-13.6

(1)

(2)

(3)

EFFECTIVE: 08/27/90

91-13.7

(1)

(2)

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[REDACTED]

(4) [REDACTED]

(5) In all instances, the circular letter must include the following:

(a) [REDACTED]

(b) [REDACTED]

(c) [REDACTED]

(d) A caution statement, if appropriate, regarding the subject and a statement that no action should be taken which would endanger anyone's safety.

(e) A statement that if any positive information is developed, immediately contact the nearest office of the FBI, the telephone number of which may be found on the first page of your telephone directory.

(f) For complete details regarding circular letters, see Part II, 21-24, of this manual.

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91-13.8 Counting and Reporting Recovered Bank Loot Currency

(1) The exact circumstances surrounding the recovery of known or suspected bank loot must be accurately recorded by the recovering Agent or Agents on an FD-302.

(2) In regard to the recovery of currency, it must be counted separately and independently by two Special Agents to assure the accuracy of the total and recorded on an FD-302. The fact that the currency was counted separately and independently by two Special Agents should be set forth in the body of the FD-302.

(3) The above recovery and tabulation may be recorded on one FD-302, provided that the same two Agents made the recovery and tabulation. If the recovering and tabulating Agents are not identical, two separate FD-302s should be utilized to record these events.

(4) The FD-302 setting forth the tabulation of the currency should be set up in column fashion with headings for denominations, serial numbers, series year, and bank of issue and reported according to the denomination sums in descending order.

(5) Any adding machine tapes utilized to tabulate the currency should be initialed and dated by the counting Agents and retained in the 1-A section of the case file.

(6) 

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(8) For additional information regarding recovered bank

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loot involving its custody, storage, turning over to the U.S. Marshal, obtaining receipts, etc., see MAOP, Part II, 2-4.4.14, entitled "Handling of Evidence and Property by the U.S. Marshal"; 2-4.4.8, entitled "Valuable Evidence," and 2-4.4.12, entitled "Charge-Out Procedures - Evidentiary Property."

EFFECTIVE: 10/16/96

91-14 NEWS MEDIA INQUIRIES POLICY

- (1) The FBI's news media inquiries policy is in strict compliance with instructions issued by DOJ concerning the release of information in criminal and civil matters. These instructions are contained in Title 28, Section 50.2, of the Code of Federal Regulations (CFR).
- (2) This 91 citation is not intended to be all inclusive. For complete details regarding this topic, including a restatement of the above CFR instructions, see MAOP, Part II, 5-1, entitled "Policy and Guidelines for Relations with News Media," and 5-2, entitled "Contacts with News Media."
- (3) Routine 91 press inquiries received at the field office regarding the investigation should be referred to and answered by either the SAC, ASAC, or media representative within permissible guidelines.
- (4) If an investigation has been instituted, the news media inquiries should be answered by advising the FBI is investigating the case with appropriate resources and would appreciate it if they will refer any person with pertinent information directly to the FBI or to the local police.
- (5) In accordance with departmental policy, no information should be volunteered at any time to the news media concerning the amount of loot obtained. Specific questions by the news media concerning the amount of loot taken may be answered following the arrest or indictment of a subject or subjects for violation of the BRICS.
- (6) Subject to specific limitations imposed by law or court rule or order, under Title 28, Section 50.2, CFR, it is permissible to disclose the following information:

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"A. The Defendant's name, age, residence, employment, marital status, and similar background information.

"B. The substance of the text of the charge contained in the complaint, indictment, or information.

"C. The identity of the investigating and/or arresting agency and the length or scope of the investigation.

"D. The circumstances immediately surrounding an arrest, including the time and place of arrest, resistance, pursuit, possession and use of weapons, and a description of items seized at the time of arrest.

"E. Disclosures should include only incontrovertible, factual matters, and should not include subjective observations. In addition, where background information or facts relating to the circumstances of an arrest or investigation would be highly prejudicial or where the release thereof would serve no law enforcement function, such information should not be made public."

(7) The release of certain types of information generally tends to create dangers of prejudice without serving a significant law enforcement function; therefore, under Title 28, Section 50.2, CFR, the following information should not be disclosed:

"A. Observations about a subject's character.

"B. Statements, admissions, confessions, or alibis attributed to a subject or his refusal or failure to make a statement.

"C. Reference to investigative procedures such as fingerprints, polygraph examinations, ballistic tests, or laboratory tests, or the refusal by the defendant to submit to such tests or examinations.

"D. Statements concerning the identity, testimony, or credibility of prospective witnesses.

"E. Statements concerning evidence or legal arguments in the case, whether or not it is anticipated that such evidence or arguments will be used at trial.

"F. Any opinion as to the subject's guilt, the possibility of a plea of guilty to the offense charged, or the

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possibility of a plea to a lesser offense."

(8) Only SACs, ASACs, and media representatives should participate in question-and-answer interviews with representatives of any news media at the scenes of 91 violations and apprehensions.

(9) Frequently, press inquiries will be received by Special Agents at the scene of a 91 violation or arrest. Those Special Agents, who are so approached, may make the following responses:

(a) Identify themselves as a Special Agent of the FBI.

(b) Furnish the name of the field office to which they are assigned.

(c) State the general nature of the investigative operation, such as, "We are here to investigate the bank robbery."

(d) Except in emergency situations, requests for additional information should be handled by courteously referring the news media to the field office for response by the SAC, ASAC, or media representative.

(e) In an emergency situation, a Special Agent may relay a reporter's questions to the SAC by telephone or radio, and the SAC's response thereto can be furnished to the reporter in the SAC's name by a Special Agent.

(10) The instructions contained in this 91 citation apply solely to contacts with members of the news media and in no way affect circularization of facts concerning a given violation to the law enforcement community, banks, or to other business establishments should this course of action be deemed necessary.

EFFECTIVE: 10/26/87

91-15

BANK ROBBERY - BANK BURGLARY SUSPECTS PROGRAM (BRBBSP)

EFFECTIVE: 10/26/87

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91-15.1 Purpose and Objective

(1) The BRBBSP was instituted on 8/27/63 for the purpose of identifying and developing information on potential bank robbers and bank burglars. The objective of this program is to maintain this information in a current status, thereby enabling a field office to immediately consider these individuals as potential suspects when an unknown subject bank robbery or bank burglary is committed.

(2) While not mandatory, all offices are encouraged to maintain a BRBBSP. This program should be instituted by any office which is experiencing difficulty with unsolved bank robberies and bank burglaries since experience has shown that such offices have benefitted from utilizing this program.

EFFECTIVE: 10/26/87

91-15.2 Effect of the Attorney General's Guidelines on Criminal Investigations of Individuals and Organizations on the BRBBP

(1) Prior to the passage of the above guidelines on 12/22/80, the two sources for opening BRBBSP cases were the identification of a potential bank robbery or bank burglary suspect through routine independent investigation and maintaining liaison with the Bureau of Prisons (BOP), through which BRBBSP cases were opened on inmates who were released from custody after being convicted of bank robbery or bank burglary.

(2) The current Attorney General's guidelines do not prohibit the above first source of BRBBSP cases since the routine independent FBI investigation provides the "reasonable indication" basis for conducting a general criminal investigation (GCI) or the lesser basis for conducting a preliminary inquiry (PI) under this program. However, the above Attorney General's guidelines will prohibit opening a BRBBSP case and conducting either a GCI or PI on a BOP releasee since the mere fact that he/she has been previously convicted of bank robbery or bank burglary does not provide the "reasonable indication" or the lesser basis necessary for conducting a GCI or a PI.

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EFFECTIVE: 10/26/87

91-15.3 Opening BRBBSP Cases

(1) After identifying a bank robbery, bank burglary or larceny suspect through routine independent investigation, an individual 91D case file should be opened and, depending on the circumstances, either a GCI or PI should be conducted.

(2) The objective of the GCI or PI, in addition to further identifying, developing, and maintaining information on a potential bank robber or bank burglar, is to determine if he/she is, in fact, involved in a prior unsolved bank robbery or bank burglary or is planning to commit such an offense.

(3) If deemed appropriate, a bank robbery, bank burglary or larceny suspect in this program may be interviewed during the course of the GCI or PI.

(4) The 91D case file should be utilized to record the suspect's complete description, employment, residence, associates, hangouts, modus operandi, cars, recent photographs, identification record, interview results, and other pertinent data.

(5) During the investigations of these suspects, the possibility of developing informants able to provide information regarding 91 cases should be pursued.

(6) During these investigations, efforts should be made to obtain the suspect's major case prints through logical sources in order that they may be transmitted to the Latent Fingerprint Laboratory Division for inclusion in the suspect's identification files.

(7) For purposes of correctly reporting and maintaining investigative results and recording TURK and MAR data, if the above GCI or PI identifies the bank robbery, bank burglary or larceny suspect as being involved in a prior unsolved bank robbery, bank burglary or larceny, the 91D suspect case file should be closed and the remainder of the investigation should be reported in the existing 91A*, 91B*, or 91C case file. If the above GCI and PI determines the bank robbery, bank burglary or larceny suspect is planning or conspiring to commit an identifiable bank robbery, bank burglary or larceny, the 91D suspect case file should be closed and

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all further investigation should be reported in the new 91A*, 91B*, or 91C case file.

EFFECTIVE: 09/24/93

refer
BOP

[REDACTED]

[REDACTED]

[REDACTED]

(3) This method of operation will ensure that the FBI continues to receive the above information for possible future lead value; and upon commission of a bank robbery or bank burglary within your territory, said individuals may be considered as possible suspects, if appropriate.

(4) If subsequent information is received indicating [REDACTED] an individual 91A*, 91B*, or 91C case file should be opened and, depending on the circumstances, either a GCI or PI should be conducted.

EFFECTIVE: 08/27/90

91-15.5 | Bank Robbery - Bank Burglary Album

(1) Each office should maintain an office bank robbery - bank burglary album to be utilized as an investigative aid whenever deemed appropriate.

(2) This album should contain photographs, descriptions, and background data of known or suspected bank robbers and bank burglars who reside within or travel into an office's territory. This album should be divided into two sections in order to separate the

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bank robbers from the bank burglars.

(3) Periodic reviews of this album should be made in order that individuals no longer believed to be logically included may be removed under authority of the SAC or his/her designated representative.

EFFECTIVE: 08/27/90

91-15.6 | Notifying FBIHQ of BRBBSP Accomplishments

In order for FBIHQ to fully evaluate the fieldwide results of this program, all participating offices shall furnish the following information by airtel as part of the annual Violent Crimes Subprogram Resource Management and Allocation submission.

(1) The number of bank robbery and bank burglary suspects currently under GCI and PI investigation.

(2) A brief summary of cases solved or other accomplishments achieved as a result of this program since the previous FBIHQ notification.

(3) The number of informants developed as a result of this program since the last FBIHQ notification.

(4) The above informants' accomplishments in 91 cases and other FBI, Federal, or local violations.

EFFECTIVE: 08/27/90

91-16 | BANK SURVEILLANCE CAMERA PHOTOGRAPHS

(1) The Bank Protection Act of 1968 does not require financial institutions covered under the BRICS to install surveillance cameras and said installations are discretionary on their part.

(2) 

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[REDACTED]

(3) Bank surveillance camera photographs of the bank robber are important investigative tools since they can be utilized to assist in the subject's identification. In addition, these photographs will record the type of weapon used and the clothing worn by the subject and if recovered from his/her possession may assist in his/her identification. In the case of clothing, if certain unique patterns or defects are recorded in the photographs, the recovery of the clothing and its examination by the FBI Laboratory may result in a positive identification.

[REDACTED]

(4) In an effort to identify the subject, consideration should be given to wide dissemination of the bank surveillance camera photographs by:

- (a) local or regional news media sources;
- (b) FD-430, see 91-12.2;
- (c) NABRA circulars, see 91-19; and
- (d) circular letters, see Part II, 21-24, of this

manual.

(5) [REDACTED]

(a) Interested offices should transmit 35 copies of the unknown subject's photograph to the Albany Office, Attention: Bank Robbery Coordinator, setting forth the above lead. The back of the photographs should list the case title, field office file number, and a physical description of the unknown subject. One copy of the photograph will be retained by the Albany Office.

[REDACTED]

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(b) Any identification or leads developed will be forwarded to the Albany Office. [REDACTED]
The Albany Office will forward any results received to the OO who will have the responsibility of reviewing the information furnished and setting out any leads deemed appropriate.

EFFECTIVE: 08/27/90

| 91-17 | SCIENTIFIC EXAMINATION OF DEMAND NOTES |

EFFECTIVE: 10/26/87

| 91-17.1 | Bank Robbery Note File |

EFFECTIVE: 10/26/87

91-17.1.1 Background

(1) The BRNF is maintained in the Investigative Operations and Support Section of the FBI Laboratory. It is comprised of a computerized/microfiche file as well as a visual file made up of photographs of handwritten, hand printed, typewritten, and miscellaneous notes which have been used in bank robbery cases throughout the country.

(2) Statistics maintained by FBIHQ have established that demand note bank robberies (DNBRs) constitute a significant percentage of all bank robberies committed each year. [REDACTED]

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||91-17.1.2| Purpose

(1) The purpose of the BRNF is to identify or possibly associate a demand note used in one bank robbery with demand notes used in other bank robberies thereby identifying or associating the subject.

(2) In addition, handwriting samples obtained from subjects or suspects known or suspected of committing DNBRs may be submitted to FBIHQ, Attention: FBI Laboratory, BRNF, by FD-598, entitled "Request for Bank Robbery Note File Examination," for a search through the BRNF in an effort to effect an identification or possible association.

EFFECTIVE: 10/26/87

||91-17.1.3| Policy

The effectiveness of the BRNF is dependent upon all field offices submitting all bank robbery demand notes (BRDNs) recovered by the FBI or local authorities to FBIHQ for searching and comparison purposes. To ensure that the FBI will obtain maximum investigative benefit from the BRNF, the following policy should be strictly complied with:

(1) The originals of all BRDNs that are recovered by the FBI shall be promptly submitted to FBIHQ, Attention: FBI Laboratory, BRNF, by FD-598 for a search through the BRNF with a request for a latent fingerprint examination.

(2) If local authorities have evidentiary custody of the demand note and will conduct their own latent fingerprint examination, the following submission procedure should be followed. Since their latent fingerprint examination will obliterate the demand note, a photographic copy with scale included or a legible Xerox copy, as a last resort, should be obtained prior to their latent fingerprint examination being conducted and promptly submitted by FD-598 to FBIHQ, Attention: FBI Laboratory, BRNF, for a search through the BRNF.

(3) The FD-430, used by the OO to report all 91 violations to FBIHQ, contains information blocks to indicate if a demand note was used in a bank robbery, if it was recovered by the FBI or local authorities and, if recovered, whether it was submitted to FBIHQ for a search through the BRNF. If the FD-430 reflects that a

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recovered demand note was not submitted to FBIHQ, the OO will be requested to submit the original demand note, if recovered by the FBI, or a photographic or Xerox copy, if recovered and retained by local authorities, for examination.

(4) FBIHQ will maintain a record of nonsubmission of recovered BRDNs in order to ascertain individual field office compliance with this policy.

(5) BRDNs, either originals or copies, should not be submitted by FD-430 for search through the BRNF since the FD-598 has been expressly designed for this purpose. Information copies of BRDNs may be attached to FBIHQ and field copies of the FD-430 to assist in assessing the subject's 91 activity.

EFFECTIVE: 10/26/87

91-17.1.4 Submission of BRDNs

(1) In order to prevent intermingling of evidence and to facilitate the BRNF search and a latent fingerprint examination, if requested, a separate transmitting FD-598 should be used for each demand note rather than submitting several demand notes by one communication with multiple case titles.

(2) The submitted demand note will be searched through the BRNF in an effort to effect an identification or possible association. Original demand notes will be returned to the contributing office; however, a photographic copy will be retained in the BRNF for future comparison purposes. Photographic and Xerox copies of demand notes submitted, unless advised to the contrary by the submitting office, will be retained by the FBI Laboratory.

(3) If an office desires a comparison of a demand note being submitted with a demand note or notes used in other specific bank robbery cases, it should make said request and identify the demand notes by case title in the body of the transmitting FD-598.

(4) If, based on the above request, the FBI Laboratory determines that the submitted BRDN was prepared by the writer of the above-suggested BRDNs on file in the BRNF, the search will be terminated. However, if the above search proves negative, the submitted demand note will be searched through the appropriate remainder of the BRNF in an effort to effect an identification or

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possible association.

(5) For additional instructions regarding demand note submissions, refer to the instructions section appearing on the reverse side of the FD-598.

EFFECTIVE: 10/26/87

||91-17.1.5| Submission of Handwriting Samples Obtained from Subjects or Suspects Known or Suspected of Committing Demand Note Bank Robberies (DNBRs)

(1) In the above-captioned situation, complete samples should be obtained in accordance with existing instructions (see Part II, 13-17.2.3, and Part I, 87-5.2, of this manual).

(2) If the submitting office is able to identify the DNBRs known or suspected to have been committed by the handwriting contributor, the body of the transmitting FD-598 should specifically set forth this information by case title for comparison purposes.

(3) If the submitting office is unable to identify the specific DNBRs known or suspected to have been committed by the handwriting contributor, this fact should be set forth in the body of the transmitting FD-598. In these instances, a portion of the submitted handwriting samples should contain examples of demand notes with the type of language commonly utilized by these subjects. The submitted handwriting samples will be searched through the entire BRNF, where feasible, in an effort to effect an identification or possible association.

(4) In regard to the situation set forth in number (2) above, if the FBI Laboratory determines that the specified BRDNs on file in the BRNF were in fact prepared by the handwriting contributor, the search will be terminated. However, if the above search proves

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negative, the submitted handwriting samples will be searched through the appropriate remainder of the BRNF in an effort to effect an identification or possible association.

EFFECTIVE: 10/26/87

91-17.1.6

[REDACTED]

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EFFECTIVE: 05/26/89

91-17.2 Anonymous Letter File (ALF)

All bank extortion letters should be searched through the ALF. For details regarding the ALF, refer to Part II, Section 13-17.6(2) of this manual, entitled "Anonymous Letter File."

EFFECTIVE: 05/26/89

91-17.3 Extortionate Notes or Letters Received by Bank Officials and/or Family Members

(1) The original extortion note or letter is to be promptly forwarded by airtel to FBIHQ, Attention: Laboratory Division, Investigative Operations and Support Section and Latent Fingerprint Section, for examination. A copy of the note or letter should also be designated for the Violent Crimes/Fugitive Unit, Criminal Investigative Division (CID). The cover airtel should briefly set forth the facts of the case, describe any enclosures, and specifically request the types of Laboratory Division examinations desired. Refer to Part II, Section 13, of this manual, entitled "Laboratory Division Aids to Investigations," and Part II, Section 15, of this manual, entitled "Latent Fingerprint Identification," for the

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| types of analyses available.

(2) Identification of those who have handled the extortion note or letter is necessary so that elimination fingerprints can be obtained for later reference. The unavoidable handling of the letter or document before it comes into the possession of the field office should not preclude the requesting of latent fingerprint examinations. However, appropriate handling instructions should be given to those who may receive subsequent letters from the extortionist so that minimal handling of the evidence occurs.

(3) |Deleted|

(4) The medium by which an extortionate message is conveyed to the victim may include telephone calls, tape recordings and videotapes. Analyses can be conducted by the |Information Resources| Division on these types of evidence. Refer to Part II, 16-8, of this manual, for details of examination which can be conducted on this evidence.

EFFECTIVE: 03/21/95

| 91-18 AUTOMATED LATENT|FINGERPRINT SEARCH|

This 91 citation regarding the Automated Latent|Fingerprint Search (ALFS), |the National Unidentified Latent File (NULF), and Major Case Prints (MCP) is directed toward bank robbery (BR), bank burglary (BB), bank larceny (BL) and bank extortion (BE) violations and is not intended to be all inclusive. For further details regarding these matters, see Part II, Section 15, of this manual.

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91-18.1 Automated Latent Fingerprint Search (See MIOG, Part II,
15-2.1.)

(1) The Automated Latent Fingerprint Search (ALFS) which replaces the Automated Latent Search of Automated Identification System - Phase III (ALSA3, accesses the Criminal Justice Information Services Division's automated criminal fingerprint file consisting of fingerprints for over 28 million individuals.

(2) Latent prints previously considered for a search in the ALSA3 system will be given the same consideration in conducting an ALFS.

(3) Not all latent fingerprints are suitable for automated searching. The ability to conduct an ALFS relies on determining the approximate fingerprint classification and finger position of the latent fingerprints and the availability of a physical description of the unknown subject (UNSUB). The physical descriptors which can be utilized in an ALFS include sex, race, age, height, weight, eye color, hair color, place of birth, scars, marks and tattoos. All of these physical descriptors are not necessary to conduct an ALFS, but as much of this information as known should be included in your correspondence. The ALFS may also be restricted to specific geographic regions on a state level and any criminal arrest category for which an arrest offense numeric (AON) is assigned.

(4) It is not necessary to request an ALFS. Each case submitted for a latent fingerprint examination is evaluated by LFPS to determine if it meets the criteria for initiating an ALFS.

(5) The results of the ALFS will be incorporated in the LFPS report submitted to the office requesting fingerprint information.

EFFECTIVE: 07/21/95

91-18.1.1 Moved to 91-18.1

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EFFECTIVE: 07/21/95

| 91-18.1.2 | Deleted |

EFFECTIVE: 07/21/95

| 91-18.2 National Unidentified Latent File (NULF) | (See MIOG, Part II, 15-2.2.) |

(1) The NULF is maintained in the LFPS and is broken down into 17 separate federal crime categories, four of which are BR, BB, BL, and all extortions.

(2) The BR, BB, BL and extortion categories contain photographs of the unidentified latent prints submitted by the field to the LFPS for examination or developed by the LFPS from evidence submitted in 91 cases having at least one unknown subject. They are automatically filed in the appropriate crime category of the NULF and do not require a specific request by the field for inclusion. Once a latent print is identified, it is removed from the NULF. In keeping with the Statute of Limitations, they are also removed from the NULF five years after the offense; however, photographs of these latent prints are retained in the evidence section of the Bureau case file.

(3) Classifiable prints in BR, BB, BL and extortion matters are filed by violation and date. The BR and BB categories are further grouped geographically by state. The BR category is grouped by race, sex and geographically by state; however, in some high-volume violation areas, the BR category may be further grouped by field office city.

(4) All classifiable, unidentified latent fingerprints submitted or developed in 91 matters are filed in the NULF under the appropriate crime category.

(5) The field, when submitting unidentified latent prints and/or evidence for examination for latent prints in unknown subject 91 cases, must also enclose MCPs of logical bank employees and

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witnesses for elimination purposes. The LFPS will first compare any latent impressions of value submitted or developed with the elimination MCPs prior to initiating an ALFS. The transmitting communication must contain a description of the unknown subject to assist the LFPS in conducting an ALFS.

(6) Deleted

EFFECTIVE: 07/21/95

91-18.3 Major Case Prints (MCPs)

(1) MCPs consist of recording all friction ridge detail present on the palmar surfaces of the hands and the inner surfaces of the fingers, which includes the extreme sides of the palms and the extreme tips, sides, and lower joints of the fingers. In addition, MCPs must include a fully rolled set of fingerprints recorded on a fingerprint card (FD-249). The MCPs must be identified, dated, and bear the signature of the individual recording them.

(2) All BR, BB, BL and BE subjects should be major case printed when apprehended by the FBI. If apprehended and/or fingerprinted by another law enforcement agency, arrangements should be made to have the subject major case printed and the original or extra copy of his/her MCPs made available to the FBI.

(3) The fingerprint card portion of a subject's MCPs, in addition to all the necessary descriptive data, should set forth the substantive charge--BR, BB, BL or BE--and not merely the United States Code, title, and section reference.

(4) If a subject's MCPs were actually recorded by another law enforcement agency for the FBI, the fingerprint card should contain the FBI office file number and the "Contributor - ORI" block should reflect the FBI as the contributor.

(5) MCPs must be submitted to the Latent Fingerprint Section, Laboratory Division, by a transmitting communication bearing the appropriate case title and the Bureau file number and latent case number, if known. This communication should set forth the purpose for submitting the MCPs and the specific comparisons desired. MCPs should not be submitted to Criminal Justice Information Services Division by a fingerprint card envelope or a routing slip as is normally done with

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single fingerprint cards in other arrest situations.

(6) If the subject of a 91 case is also a suspect in other 91 violations and a comparison of his/her submitted MCPs with latent prints previously developed in these suspect cases is desired, a specific request with the identities of these cases must be set forth in the transmitting communication by case titles and the Bureau file numbers and latent case numbers, if known.

(7) In addition to the comparison of the subject's MCPs with the unidentified latent impressions submitted in 91 cases in which he/she is carried as a subject and those cases in which he/she is considered a suspect, the LFPS will compare his/her MCPs with the corresponding crime category of the NULF on a geographical basis, where applicable. See 91-18.3(9) for an explanation of a geographical search.

(8) A field request for a search of the subject's MCPs being submitted or his/her fingerprints on file in the main fingerprint file of the Laboratory Division through the NULF should be limited to the subject's specific crime category rather than the combined BR, BB, BL and BE categories since it is highly unlikely that the subject will have committed all four types of violations. If a specific reason exists for requesting a search of the subject's submitted MCPs or his/her fingerprints on file through more than one 91 crime category of the NULF, it must be set forth in the transmitting communication in order to justify said request.

(9) Comparison of a subject's submitted MCPs or fingerprints on file through the NULF on a geographical basis consists of the location where the 91 offense occurred, the location of the subject's arrest and those locations reflected on the subject's FBI record within the last five years. If the field desires the geographical search through the corresponding crime category of the NULF be expanded, it must specifically set forth the locations where the subject has traveled or resided and is suspected of having committed additional unknown 91 violations. (See (7).)

(10) It should be noted that only the MCPs or fingerprints of an individual who is carried as a subject in the title of at least one 91 case will be automatically searched through the corresponding BR, BB, BL or extortion categories of the NULF. The BR and BB categories will be searched further on a geographical basis. The MCPs or fingerprints of an individual who is a 91 suspect only will not be compared with the corresponding crime category or categories of the NULF unless this request is specifically set forth in the

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communication.

EFFECTIVE: 04/08/96

91-19 NATIONAL BANK ROBBERY ALBUM (NABRA) CIRCULARS | (See MIOG,
Part I, 91-12.1(6) & 91-16(4)(c).) |

(1) | When an unsolved FBI 91 matter involves violence, substantial monetary loss, unknown subject(s) that are believed responsible for multiple robberies, and if an identifiable bank surveillance photograph is available, the OO may request FBIHQ to issue a NABRA circular. It is the responsibility of the OO to evaluate the benefits of a NABRA circular. If the OO determines that the issuance of a NABRA circular would not be beneficial, no justification to FBIHQ is necessary. A request for a NABRA circular may be made at any time during the investigation. |

(2) In cases involving highly unusual or aggravated circumstances and where no bank surveillance camera photographs are available, the OO may request FBIHQ to consider utilizing artist's conception drawings of the unidentified subject for inclusion in the NABRA program.

(3) A request for a NABRA circular by the OO should be transmitted by airtel to FBIHQ marked Attention: Violent Crimes Unit (VCU), Criminal Investigative Division (CID). The requesting airtel should follow the format of an existing NABRA circular and set forth a brief narrative of the offense, any words spoken by the unknown subject, the text of the demand note, if utilized, the best available description of the unknown subject, and enclose the bank surveillance camera photograph(s) or artist's conception drawing of the unknown subject. In a multiple unknown subjects case, clearly identify the bank surveillance camera photographs and corresponding descriptions as unknown subject number one, unknown subject number two, etc.

(4) | Deleted |

(5) Upon approval of a NABRA circular request, FBIHQ will assign the unknown subject a NABRA circular number, prepare and print the circular, and distribute same to all offices.

(6) Upon receipt of a NABRA circular, receiving auxiliary

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offices should include it in the NABRA. Do not index the victim bank in the office indices or open an individual substantive case in the absence of specific leads.

(7) In order for this program to be effective, it is essential that all Special Agents working 91 cases have copies of NABRA circulars available for display to witnesses and informants.

(8) The designation "NABRA" and its corresponding number should be carried in the case title in all communications as long as the NABRA circular is outstanding.

(9) The VCU, CID, FBIHQ, should be advised by airtel of any positive results or accomplishments obtained through utilization of NABRA circulars.

(10) When a NABRA subject is identified, his/her circular will be deleted from the NABRA. It is the responsibility of the OO to notify the VCU, CID, FBIHQ, when a NABRA unknown subject is identified and request the NABRA circular be canceled. Upon receipt of said request, the NABRA circular will be canceled and all offices notified by FBIHQ. Form FD-430 may be used to cancel a NABRA circular by checking the appropriate box located on the form and by attaching an administrative page requesting FBIHQ to cancel the circular. Ensure the NABRA circular number is identified and full subject description given. Also advise if NABRA aided in identification of subject. If cancellation of NABRA circular coincides with solution of case, ensure solution portion of Form FD-430 is properly completed.

(11) When a NABRA circular request is pending approval at FBIHQ and the unknown subject is identified, it is the responsibility of the OO to immediately notify the VCU, CID, FBIHQ, to discontinue consideration.

(12) In those instances where the Statute of Limitations has expired for a NABRA subject, FBIHQ will cancel his/her NABRA circular and notify all offices of the cancellation by letter.

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91-20 FUGITIVE BANK ROBBERY (FUBANK) CIRCULARS

(1) When a 91 subject is in a fugitive status for 15 days and an identifiable photograph is available, the OO shall request FBIHQ to issue a FUBANK circular.

(2) A request for a FUBANK circular by the OO should be transmitted by airtel to FBIHQ marked Attention: |Violent|Crimes Unit, Criminal Investigative Division. The requesting airtel should follow the format of an existing FUBANK circular and set forth a brief narrative of the offense, a description of the subject, details regarding Federal process and enclose the subject's photograph(s).

(3) If special circumstances indicate the desirability of requesting a FUBANK circular prior to the subject being in a fugitive status for 15 days, or if the OO is of the opinion that a qualifying subject should not be included in the FUBANK circular program, advise the |VCU, |CID, FBIHQ, accordingly by airtel setting forth specific reasons.

(4) Upon approval of a FUBANK circular request, FBIHQ will assign the subject a FUBANK circular number, prepare and print the circular, and distribute same to all offices.

(5) Upon receipt of a FUBANK circular, receiving auxiliary offices should index it to the office indices and maintain a copy in a control file established for that purpose rather than opening an individual substantive case in the absence of specific leads.

(6) In order for this program to be effective, it is essential that all Special Agents working 91 cases have copies of FUBANK circulars available for display to witnesses and informants.

(7) The designation "FUBANK" and its designated number should be carried in the case title in all communications as long as the FUBANK circular is outstanding.

(8) The |VCU, |CID, FBIHQ, should be advised by airtel of any positive results or accomplishments obtained through utilization of FUBANK circulars.

(9) When a FUBANK circular fugitive is apprehended or located, the apprehending or locating office, when notifying FBIHQ of the arrest or locate by teletype, should include a request for the ||VCU, |CID, to cancel the FUBANK circular. Upon receipt of said

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request, the FUBANK circular will be canceled and all offices notified by FBIHQ.

(10) If the apprehending or locating office of the 91 fugitive has not been previously notified by the OO of a pending FUBANK circular request to FBIHQ for the subject, it is the responsibility of the OO to immediately notify the VCU, CID, to discontinue consideration.

EFFECTIVE: 02/16/89

| 91-21 | DELETED |

EFFECTIVE: 08/27/90

91-22 OBTAIN FEDERAL 91 PROCESS PROMPTLY

Obtain Federal BR, BB, BL or BE process as soon as possible after the subject is identified and it is determined that he/she will be prosecuted federally.

EFFECTIVE: 08/27/90

91-23 UNLAWFUL FLIGHT PROCESS ON 91 SUBJECTS

Do not obtain unlawful flight process on BR, BB, BL or BE subjects without first obtaining clearance from FBIHQ.

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91-24 NOTIFICATION TO LOGICAL OFFICES REGARDING THE APPREHENSION
OF 91 SUBJECTS

(1) Upon apprehension of a BR, BB, BL or BE subject, in addition to the routine required FBIHQ and field notification, the OO, if appropriate, should subsequently advise all logical offices of the subject's arrest with a suggestion that he/she be considered as a possible suspect in connection with their appropriate unsolved 91 violations.

(2) The above communication should include a detailed physical description of the subject, MO utilized, his/her photograph, FBI Identification Record and data regarding his/her employments, residences, and travel itineraries.

(3) If FBIHQ has been previously advised of the subject's apprehension, a copy of the above subsequent communication to logical offices need not be furnished to FBIHQ.

EFFECTIVE: 08/27/90

91-25 NOTIFYING FBIHQ OF UNIQUE MODUS OPERANDI AND UNIQUE
INVESTIGATIVE TECHNIQUES

(1) The details of unique MOs utilized by BR, BB, BL or BE subjects or unique and successful investigative techniques used by Special Agents in BR, BB, BL or BE investigations should be brought to the attention of the Violent Crimes Unit, Criminal Investigative Division, FBIHQ.

(2) The above details should be conveyed to FBIHQ by airtel bearing a dual caption, the substantive 91 case caption followed by the caption "Unique MO and/or Unique Investigative Technique," in order to flag its purpose.

(3) If appropriate, the VCU will incorporate the above MO or investigative technique in the 91 section of this manual and/or notify all offices of the above information by a separate communication for consideration in their 91 investigations.

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91-26 BANK ROBBERY, BANK BURGLARY, BANK LARCENY AND BANK
EXTORTION REPORTS

This citation is directed toward specific problem areas noted by FBIHQ in 91 reports and is not intended to be all inclusive. For complete details regarding report writing, see MAOP, Part II, 10-14, entitled "Types of Reports"; 10-15, entitled "Prosecutive Report"; 10-17, entitled "Investigative Report (FD-204)"; 10-20, entitled "Nonprosecutive Summary"; and SAC Memorandum 3-78, dated 1/18/78, entitled "Reporting of Investigative Activities."

EFFECTIVE: 02/16/89

91-26.1 Prosecutive Reports

As a practical matter, the vast majority of reports prepared in 91 violations will consist of prosecutive reports. If assistance is needed in assembling a BR, BB; BL or BE prosecutive report, the writer should refer to the above SAC Memorandum and MAOP, Part II, 10-15.2, entitled "Organizing the Prosecutive Report."

EFFECTIVE: 02/16/89

91-26.2 Copies of Prosecutive Reports to FBIHQ

(1) Normally, only one copy of a 91 prosecutive report should be designated for FBIHQ. If for any reason the writer determines it is necessary for FBIHQ to disseminate a copy or copies of the prosecutive report outside the Bureau on a headquarters level, sufficient copies should be designated for the Bureau in order to accomplish said dissemination.

(2) The desired dissemination should be specifically identified for FBIHQ in the "Copies made:" section of the cover page, FD-272, and should also be set forth in the "Copy to:" section of the FD-517.

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91-26.3 Narrative of Offense Section, FD-518

(1) The purpose of the "Narrative of Offense:" section of the FD-518 in a prosecutive report is merely to set forth the jurisdictional basis for the 91 investigation and the facts surrounding the 91 violation in narrative form.

(2) Based on the above specific purpose, the "Narrative of Offense:" section should include the basis for the FBI's jurisdiction and Federal prosecution under the Bank Robbery and Incidental Crimes Statute, a detailed narrative of the subject's modus operandi, and the facts surrounding the offense.

(3) Any caution statement, if appropriate, should be included at the conclusion of this section.

(4) As noted above, other aspects of the 91 investigation, such as prosecutive status, witnesses, and evidence, are not to be included in this section and should be set forth in the appropriate sections of the prosecutive report.

EFFECTIVE: 08/27/90

91-26.4 Basis of FBI Jurisdiction and Evidence for Federal
Prosecution in 91 Violation

In essence, the FBI's jurisdiction and the basis for Federal prosecution in BR, BB, BL and BE violations are based on the fact that the victim bank, credit union, or savings and loan association is federally chartered and/or federally insured. In order to establish the FBI's jurisdiction and evidence for subsequent Federal prosecution under the BRICS, the following details should be obtained from the appropriate banking official. This official will be subpoenaed in order to produce this documentary evidence in court for trial purposes.

(1) National Banks. The national bank charter number and the date issued. The FDIC certificate of insurance number and the date issued.

(2) State chartered banks not a member of the FRS but insured by the FDIC. The FDIC certificate of insurance number and the date issued.

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(3) State chartered banks that are members of the FRS and insured by the FDIC. The FDIC certificate of insurance number and the date issued.

(4) Federal credit unions. The Federal credit union charter number and the date of issue and the National Credit Union Administration certificate of insurance number and the date issued.

(5) Federally insured state credit unions. The National Credit Union Administration certificate of insurance number and the date issued.

(6) Federal savings and loan associations (FSLA). The FSLA charter number and date issued and the FDIC certificate of insurance number and the date issued.

(7) State savings and loan associations insured by the FDIC. The FDIC certificate of insurance number and the date issued.

(8) Federal mutual savings banks (FMSB). The FMSB charter number and date issued and the FDIC certificate of insurance number and the date issued.

EFFECTIVE: 08/27/90

91-26.5 Enclosure and Evidence Sections of Prosecutive Reports

It should be noted that a distinction exists between the above two sections, and for purposes of uniformity, the following guidelines should be followed when preparing a 91 prosecutive report.

EFFECTIVE: 08/27/90

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91-26.6 Enclosure Section

The purpose of the enclosure section is to forward enclosures to recipients outside the Bureau by the prosecutive report. This section must set forth a brief narrative describing the enclosures and identify the intended recipient. In most instances, this section will forward evidentiary enclosures to the appropriate USA for prosecutive purposes. Examples of such enclosures are bank camera surveillance photographs, demand notes, and bank burglary crime scene photographs.

EFFECTIVE: 08/27/90

91-26.7 Evidence Section

(1) The evidence section of the prosecutive report merely lists all items of evidence available to the USA which is critical to successful prosecution of the 91 violation. In addition to a brief description of the evidence, this section should identify who obtained it, its physical location and the pages in the prosecutive report where the full details regarding the evidence are set forth.

(2) The evidence section should not be utilized to enclose evidentiary items to the USA or other recipients outside the Bureau since this is the function of the enclosure section.

EFFECTIVE: 08/27/90

91-27 NOTIFICATION TO FBIHQ OF THE FINAL OUTCOME IN 91 CASES

(1) FBIHQ should be advised by closing letter of the final outcome of known subject cases.

(2) Unsolved cases shall be closed under SAC authority by letter to FBIHQ rather than by memorandum to the SAC. This letter should be brief and contain a concise narrative of the offense, any suspects developed, their descriptions, a summary of investigation conducted, and the basis for closing the case.

(3) In those cases where Federal prosecution is declined, a copy of the FBI Case Status Form, FD-320, to the USA confirming his/her declination should be designated for FBIHQ.

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EFFECTIVE: 08/27/90

91-28 CLAIMING LOCAL CONVICTIONS IN 91 VIOLATIONS BY THE
ACCOMPLISHMENT REPORT, FD-515

(1) Prior to 10/1/81, the FBI had conducted investigations involving federal violations under its jurisdiction and had failed to receive conviction credit because in many instances these cases were referred to local authorities for prosecution.

(2) Effective 10/1/81, the Accomplishment Report, FD-515, permitted the field to claim a local conviction in the above instances if the FBI's investigative efforts significantly contributed to successful local prosecution.

(3) A succinct statement setting forth the basis for claiming a local conviction can accompany the FD-515 and be entered in the narrative screen in the Integrated Statistical Reporting and Analysis Application (ISRAA); however, supporting documentation must be included in the case file.

(4) The above justification narrative will be reviewed by the appropriate substantive Supervisory Special Agent, of the submitting field office, for their approval before the local conviction will be recorded in ISRAA.

(5) Local conviction statistics approved and submitted by the field will be identified as a local conviction and will be recorded and reported separately and distinctly from federal convictions by both the field and FBIHQ.

(6) The appropriate substantive field office Supervisory Special Agent will ensure that the proper investigative program and FBI violation is credited when a local conviction is approved by the field and submitted to the ISRAA.

(7) It should be noted, in regard to judging an office's performance in the Violent Crimes Subprogram in general and 91 violations, specifically, a local conviction resulting from a BR, BB, BL or BE violation, which was obtained as a result of a significant FBI investigative contribution, will be considered a positive factor.

(8) For complete details regarding the preparation of an

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Accomplishment Report, FD-515, and claiming local convictions, see the instructions in MAOP, Part II, 3-5.1 and 3-5.2.11.

EFFECTIVE: 07/07/97

91-29 BANK CRIME STATISTICS (BCS) REPORT

(1) The BCS report deals with Bank Robbery, Bank Burglary, Bank Larceny, Bank Extortion, Financial Institution Fraud, and Hobbs Act - Armored Carrier violations. (See 192-17.)

(2) In regard to BR, BB, BL and BE violations, the BCS report provides a wealth of specific information such as, but not limited to, number of violations, MOs utilized, loot taken, loot recovered, violence employed, injuries suffered, deaths incurred, and hostages taken.

(3) Three copies of the BCS report are provided to the field by FBIHQ by cover airtel on an annual basis for the period covering January through December.

(4) The BCS report is also made available by FBIHQ to the DOJ, Federal financial regulatory agencies, bank associations, and other interested and qualified individuals and/or organizations.

(5) The cover airtel and BCS report, when received by the field, should be brought to the attention of all appropriate headquarters city and resident agency supervisory and Agent personnel and media representatives.

(6) In order to achieve the above notification, the cover airtel and BCS report may be reproduced as necessary.

(7) Since the BCS report is a public source document, the field may reproduce and disseminate copies to interested and qualified individuals and/or organizations as good judgment dictates.

(8) In addition, the BCS report may also be used as source material in press releases, speeches, bank conferences, clinics, and seminars.

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EFFECTIVE: 06/26/91

91-30 BANK CONFERENCES, CLINICS, AND SEMINARS (BCCS)

EFFECTIVE: 10/26/87

91-30.1 Purpose and Policy

(1) BCCS are an important part of the FBI's training program to educate employees of banking institutions regarding both internal and external crimes committed against them.

(2) BCCS promote security awareness among banking employees and provide opportunities for planning coordinated investigative efforts between field offices and local law enforcement agencies.

(3) Traditionally, the FBI has maintained a "low profile" regarding suggestions concerning appropriate bank security devices and their use by banking institutions. In view of the continued increase in 91 violations, FBIHQ believes that it has become necessary for the FBI to be more aggressive and positive regarding bank security in their contacts with bank officials.

(4) Offices should stress internal bank security with banking officials contacted during BCCS bringing to their attention the vulnerability of their institutions where previously noted.

(5) Agents conducting BCCS may, if requested, examine the overall security program of a banking institution, comment on the practicality and necessity of security methods being used, and volunteer information as to what, if any, additional security devices or procedures may be necessary.

(6) Agents must be careful during the above contacts and examinations not to identify or endorse a particular item of security-related equipment by name or manufacturer as being the most desirable. This does not preclude Agents from describing a specific device which, through experience, has proven to be beneficial to banking institutions or law enforcement agencies.

(7) By airtel dated 11/18/77, captioned "BCCS," all

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offices were provided a copy of the American Bankers Association (ABA) booklet entitled "The Bankers Guide To Security Training." This booklet was prepared by the ABA to help bank security officers in planning and organizing security training programs for their employees. Agents conducting BCCS should familiarize themselves with this booklet.

EFFECTIVE: 10/26/87

91-31 CHARACTER - BANK ROBBERY (BR), BANK BURGLARY (BB), BANK LARCENY (BL), BANK EXTORTION (BE); BR - RECEIVING, BB - RECEIVING, BL - RECEIVING, BE - RECEIVING

EFFECTIVE: 10/26/87

91-31.1 General

Any 91 violation during which a hoax bomb device was utilized will also carry the character HOAX BOMB in the caption of the case.

EFFECTIVE: 04/29/93

91-32 CLASSIFICATION - 91

EFFECTIVE: 10/26/87

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91-33 91 SUBCLASSIFICATIONS | (See MIOG, Introduction, 2-1.6.4;
MAOP, Part II, 3-1.1, 3-1.2.) |

The criteria for these subclassifications, which are all part of the Violent Crimes Subprogram, are as follows:

91A - Bank Robbery

91B - Bank Burglary, Larceny, \$10,000 or more

91C - Bank Burglary, Larceny, under \$10,000

91D - Bank Robbery, Burglary, Larceny Suspect Program

91E - Bank Robbery Clinics, Conferences and Seminars

91F - Bank Extortion

EFFECTIVE: 10/18/95

91-34 VENUE

(1) In BR, BB, BL and BE violations, venue lies in the jurisdiction where the bank is located.

(2) In receiving violations involving proceeds from a BR, BB, BL or BE case, venue lies in the jurisdictional district where the receiving occurred.

EFFECTIVE: 07/23/90

91-35 OFFICE OF ORIGIN

(1) In BR, BB, BL and BE cases, the OO shall be the office in whose territory the violation occurred.

(2) In BR, BB, BL and BE receiving violations, the OO shall be the office in whose territory the receiving violation occurred.

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EFFECTIVE: 07/23/90

91-36 CASE TITLE

All BR, BB, BL and BE case titles should include subject's name and aliases or unknown subject designation, the name of the institution, its location and the date of the violation. In the case of an extortion, use the date the threat was received.

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SECTION 92. RACKETEERING ENTERPRISE INVESTIGATIONS (REI)

92-1 INTRODUCTION (See MIOG, Part II, 21-28.6(1).)

(1) A Racketeering Enterprise Investigation (REI) is a criminal intelligence investigation which has as its goal the obtaining of information concerning the composition, structure, and activities of a criminal enterprise engaging in crimes which constitute racketeering activities as defined by statute and the Attorney General Guidelines (AGG).

(2) Authority for the FBI to conduct REI investigations is promulgated by the AGG. The AGG set forth background, definitions, scope, general procedures, and considerations regarding REIs. Agents and supervisors involved with REIs must familiarize themselves with the AGG.

(3) REIs may be conducted on racketeering enterprises engaged in criminal violations enumerated in the Racketeer Influenced and Corrupt Organizations (RICO) Act (Title 18, USC, Section 1961). However, necessary authority for REI initiation is dependent upon the violation under investigation. Refer to General Authority, Part I, 92-5.

EFFECTIVE: 03/25/96

92-2 DEFINITIONS

(1) "Racketeering" is defined in the AGG as any offense including the violation of state law, encompassed by the RICO Act.

(2) "Enterprise" is defined by the RICO Statute as "any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity." Although the RICO statute definition includes an individual, the AGG specifically authorizes the investigation of "two or more persons engaged in ... racketeering activity." The AGG clearly intend for the FBI to target "... entire enterprises, rather than individual participants in specific criminal acts ..." when utilizing the REI.

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(3) | "Racketeering investigation" is defined by the RICO Act as "any inquiry conducted ... for the purpose of ascertaining ... any violation of this chapter." |

EFFECTIVE: 03/25/96

| 92-3 SCOPE OF INVESTIGATION | (See MIOG, Part I, 92-8.) |

| concerning: | An REI properly initiated may collect information

(1) | The members of the enterprise and other persons likely to be knowingly acting in the furtherance of racketeering activity, provided that the information concerns such persons' activities on behalf of or in furtherance of the enterprise; |

(2) | The finances of the enterprise;

(3) The geographical dimensions of the enterprise; and

(4) The past and future activities and goals of the enterprise. |

EFFECTIVE: 03/25/96

| 92-3.1 | Deleted |

EFFECTIVE: 03/25/96

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92-4 | RELATED SUBSTANTIVE INVESTIGATIONS |

(1) | Subsequent to the initiation of an REI, information may be developed which serves as the basis for opening a substantive criminal investigation. While any lawful investigative technique may be utilized during an REI, investigations which have progressed from intelligence gathering to evidence gathering should result in the initiation of a substantive case. Any investigation that can reasonably be expected to result in enforcement activity or any court proceedings (e.g., arrests, discovery hearings) should be conducted as a substantive criminal investigation. |

(2) | Upon opening a substantive criminal investigation, an REI may continue to gather intelligence on additional members or other criminal activity of the targeted organization, as the scope of the substantive case may be limited to a relatively small portion of the total criminal activity. The REI may also be closed if deemed appropriate. |

(3) | Case Agents and supervisors are responsible for assuring full compliance with the above-mentioned guidelines and Legal Guidelines as referenced in Part I, Section 92-8 of this manual. |

EFFECTIVE: 03/25/96

92-5 | GENERAL AUTHORITY (See MIOG, Part I, 92-1.) |

(1) | General authority to initiate an REI of a Racketeering Enterprise, the activities of which involve violence, extortion, narcotics, or systemic public corruption, lies with the SAC. There is no provision in the AGG which allows for the delegation of this authority. The SAC's approval must be based upon a written recommendation setting forth facts and circumstances reasonably indicating the existence of a Racketeering Enterprise, and must be followed by notification, in proper format, to the Intelligence Development Unit (IDU), Intelligence Section (IS), Criminal Investigative Division (CID), FBIHQ. The Section Chief, Intelligence Section, shall conduct a programmatic review of the REI. If the REI approved by the SAC is deemed deficient pursuant to the review at FBIHQ, field offices will be instructed either to close the REI or to cease active investigation pending submission of additional

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information. Otherwise, the IDU shall notify the Attorney General of the initiation of the REI as required by the AGG.

(2) Per the AGG, REIs NOT involving violence, extortion, narcotics, or systemic public corruption "may be investigated under this authority only upon a written determination by the Director, concurred in by the Attorney General, that such investigation is justified by exceptional circumstances."

EFFECTIVE: 03/25/96

92-6

INITIATION, RENEWAL, AND REOPENING

(1) Upon SAC approval of an REI, the field office shall submit to FBIHQ, Attention: IDU, IS, CID the following:

(a) Cover electronic communication (EC), in appropriate format, containing the date of SAC approval, basis for the investigation, budget requirements (if necessary), and other administrative matters.

(b) The REI profile and Letterhead Memorandum (LHM) in the proper format. Appropriate format for the cover EC, profile and LHM, is delineated in all SAC airtels dated 1/29/92, entitled "RACKETEERING ENTERPRISE INVESTIGATIONS (REIs), DRUG PROGRAM;" and 8/30/93, entitled "STREET GANG INITIATIVE, RACKETEERING ENTERPRISE INVESTIGATIONS - VCMO." This format applies to all REIs, regardless of the criminal offense or organization under investigation.

(c) The REI profile(s) should be properly captured and indexed into a database. Offices with on-line access to the Criminal Intelligence Support Program (CISP) shall enter the profiles into CISP. Field offices without access to CISP are to forward the REI profiles on a disk to FBIHQ, IS, CID for entry into CISP.

(2) Notification to FBIHQ of an REI initiation, renewal or reopening with all supporting documents (e.g., profiles, LHM) will be submitted within 14 calendar days of receiving SAC authority.

(3) The LHM and/or organizational profile should be suitable for dissemination and must include any available information relating to the group's racketeering activities.

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(4) REIs are approved for periods not to exceed 180 days. Authority for renewal is to be obtained 30 days PRIOR to expiration of the REI. REIs that do not receive SAC authority for renewal prior to the date of expiration must be reopened. Reopening follows the same procedure as initiation. When reopening, the dates of the previous investigation must be reported to FBIHQ on the cover EC.

(5) The 180-day investigative period commences upon the date of SAC approval for initiations or reopenings. Properly authorized renewals commence on the day immediately following the date of expiration.

(6) For REIs requiring the approval of the Director, FBIHQ will notify the field office of the effective date of commencement.

(7) SAC authority does not obviate the requirement of the field office to submit all initiations, renewals, reopenings, and closures to FBIHQ for review and/or Attorney General notification.

(8) The field office shall receive a copy of FBIHQ's notification to DOJ of an REI initiation or reopening. There will be NO notice to the field upon FBIHQ approval of a renewal.

EFFECTIVE: 03/25/96

92-7

TERMINATION OF THE REI

Termination of the REI will be accomplished by notifying FBIHQ, by EC, within 30 days of the closure. The REI may be closed at or prior to the expiration of the 180 day authorization period. The REI may be closed in favor of a substantive investigation or due to lack of intelligence being developed. The EC should contain the reason for closure and a brief summary of the field office's investigative efforts. New information developed since the last reporting period should be reported by a profile. There will be no notification to the field upon FBIHQ receipt of a closure.

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EFFECTIVE: 03/25/96

92-8 | LEGAL GUIDELINES

(1) An REI case may be opened only when facts and circumstances "reasonably indicate" that individuals have been, are currently or will be involved in a "racketeering enterprise." This standard of "reasonable indication" is substantially lower than "probable cause," but does require specific facts and circumstances; a mere "hunch" is insufficient. The above facts should be included in the LHM to FBIHQ setting forth the basis for the REI.

(2) REIs are to be conducted with minimal intrusion consistent with the need to collect information in a timely and effective manner. The seriousness of the alleged criminal activity and the quality of the information indicating the existence of the activity should be among the factors considered in determining the investigation's proper scope and intrusiveness.

(3) The AGG allow for the use of any lawful investigative technique in accordance with Part IV of the AGG. While a particular investigative technique may be lawful, its appropriateness should be scrutinized by the approving supervisor in view of Part IV of the AGG and Part I, 92-3 and 92-4 of MIOG.

(4) The field supervisor has the responsibility of ensuring that the REI is conducted in a manner consistent with Bureau policy and legal and investigative guidelines established in "The Attorney General Guidelines on General Crimes, Racketeering Enterprise and Domestic Security/Terrorism Investigations," set out in its entirety in MIOG, Introduction, 1-3.

EFFECTIVE: 03/25/96

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92-9 CHARACTER AND CLASSIFICATION (See MAOP, Part II, 3-1.1 and 3.1.2; MIOG, Part I, 245-4, 281-3.)

(1) Racketeering Enterprise Investigations shall be the character carried in the title of all REI matters. All REIs shall carry the 92 classification. The alpha designators shall be assigned as follows:

- A - LCN AND ITALIAN ORGANIZATIONS
- B - CENTRAL/SOUTH AMERICAN ORGANIZATIONS
- C - MEXICAN ORGANIZATIONS
- D - GANGS
- E - ASIAN ORGANIZATIONS
- F - OTHER MAJOR CRIMINAL ORGANIZATIONS
- G - AFRICAN ORGANIZATIONS
- H - EURASIAN, EASTERN EUROPEAN and RUSSIAN ORGANIZATIONS
- I - CARIBBEAN ORGANIZATIONS
- || J - ALIEN SMUGGLING ORGANIZATIONS |

(2) The following case files shall be opened:

92-(field office designator)-0: REI CONTROL FILE

92-(field office designator)-00: REI ADMINISTRATIVE MATTERS

Appropriate subfiles may be opened to address specific needs of the field office. The subfile letter should reflect the appropriate alpha designator for that program.

Example: 92-HQ-0 REI CONTROL FILE
 Sub G African Organizations
 G1 Unaddressed work
 G2 AO Leads

In this example, the office (HQ) REI control file has subfiles to address different control file matters. Sub G is consistent with the G alpha designator for African Organizations. Sub G1 contains

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unaddressed work relating to African Organizations. Sub G2 would contain leads from other offices regarding African Organizations.

(3) This subfile structure is set forth for the 92-0 and 92-00 files, and is not intended to replace the subfile structure of active 92 cases.

(4) There are to be no other 92 cases which are not active REIs.

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SECTION 93. ASCERTAINING FINANCIAL ABILITY

93-1 PURPOSE

To ascertain a person's ability to pay a claim, fine, or judgment obtained against him/her by U.S. Government.

EFFECTIVE: 07/27/81

93-2 POLICY

(1) The FBI investigates to determine the financial position of individuals in cases referred by USAs when the Government has secured a judgment or a court has imposed a fine or order of restitution, if the amount of the debt exceeds \$2,500.00, provided the USA has previously taken all action at his/her disposal to collect the debt without success. Requests for investigation of cases in which the debt is smaller may be undertaken when it appears that a fraudulent transfer of assets or other special situation is known to be involved.

(2) It is the USA's responsibility to negotiate settlements with debtors. The FBI does not collect debts and, therefore, should not participate in any discussion meetings with or on behalf of the USA conducted for collection of debt or settlement of the debt from which an appearance of participation could be drawn.

(3) USAs should be asked to obtain or request an updated submission from the debtor a "Personal Financial Statement" form #OBD500. Agents should not in any way participate in aiding the debtor in the preparation of the form.

(4) As a final activity, prior to closing of investigation, the USA should be asked to notify the Case Agent or his/her supervisor of the collection of the debt, should collection occur. The investigative file is to reflect this contact.

(5) Cases should be closed upon completion of investigation without regard for the collection of all or part of the debt.

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(6) If after a case is closed the USA's Office does notify the Case Agent or supervisor of collection, a memorandum to the closed file reflecting the contact should be made and Form FD-515 entered into the Integrated Statistical Reporting and Analysis Application (ISRAA).

(7) No attempt should be made by any field office to survey collections made by the USA's Office, as had been the policy in the past.

(8) The FBI does not investigate the financial position of any individual indebted to the Government by virtue of action of the Internal Revenue Service.

(9) Any unusual developments or novel techniques that arise in cases under investigation should be brought to the attention of FBIHQ.

EFFECTIVE: 11/12/93

93-3

INVESTIGATIVE PROCEDURE

(1) Review records of USA and Clerk of the U.S. District Court to ascertain the amount, date, and manner in which the obligation arose, as well as to determine action taken by USA to collect obligation prior to referring case to FBI.

(2) Glean from the USA's file the identity, position, and location of all persons that may have knowledge of the debtor's financial position.

(3) Photocopy all "Personal Financial Statements" contained in the USA's files.

(4) Conduct interviews of the employees of the Federal agency from whose action the delinquent debt occurred. Obtain all background information concerning the debtor, persons that may have knowledge of the debtor's financial position, and opinions of those interviewed as to the debtor's assets and liabilities. All financial statements, credit bureau reports, and [REDACTED] contained in their files should be photocopied. b7D

(5) If necessary and desirable, interview the debtor

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concerning his/her financial status.

(6) Attempt to obtain from the debtor executed releases that would permit examination of bank records, credit bureau files, credit card issuing companies, brokerage firms, etc., maintained in the debtor's name or under his/her control.

(7) To the extent possible, verify through interview and record reviews all of the data contained on the personal financial statement, credit bureau reports, and/or [REDACTED] b7D

(8) Verify the ownership of any real or personal property in which the debtor is believed to have a financial interest, lives or, if applicable, works. Be alert to the possibility of transfer of assets from the debtor to spouse, relatives, or nominee for the purpose of defeating the collection of debt to the Government.

(9) Review public source documents contained in the County Registry of Deeds, County Prothonotary, County Tax Collector, Clerk of Common Court, Registry of Motor Vehicles, in the debtor's name, to locate assets, liens or judgments.

(10) In report format submit the results of investigation to the USA and close case.

EFFECTIVE: 07/27/81

93-4 PRIVACY ACT, TITLE 5, USC, SECTION 552a - RESTRICTIONS

(1) When interviewing anyone in the above classification, in order to solicit information about himself/herself or his/her own activities, the interviewing Agent must follow the procedures described in MIOG, Part I, Section 190-5, (2) and (3).

(2) When interviewing an individual to solicit information concerning someone other than the interviewee (thereby classifying that individual as a source of information) the interviewing Agent must follow the procedure relating to promises of confidentiality as described in MIOG, Part I, Section 190-7.

EFFECTIVE: 07/27/81

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93-5 THE RIGHT TO FINANCIAL PRIVACY ACT, TITLE 12, USC, SECTION
3401- RESTRICTIONS

The RFFA prohibits access to financial records maintained by financial institutions (banks, etc.) in AFA matters unless:

(1) the debtor has authorized disclosures by the financial institution to the Government under the provisions of Section 3404 of the Act; or

(2) the Government has sought access under Section 3408 and complied with all its provisions including the provision permitting the debtor to challenge the Government's request; or

(3) the Government under Section 3413(e) seeks access to the records under the Discovery provisions of the Federal Rules of Civil Procedure. (In order for this provision to apply the USA would have to have instituted a civil proceeding apart from that which gave rise to the debt.)

EFFECTIVE: 07/27/81

93-6 CONSUMER CREDIT PROTECTION ACT, TITLE 15, USC, SECTION
1601 - RESTRICTIONS

The CCPA prohibits access to credit records maintained by credit reporting agencies (credit bureaus, etc.) in AFA matters unless:

(1) the debtor has authorized disclosure by the credit reporting institution to the Government under provisions of Section 1681(b) 3(a) of the Act, or

(2) the Government under Section 1681(b) (1) seeking access to the records has obtained a court order. (Federal Grand Jury subpoenas do not apply. In order to obtain a court order the USA would have to have instituted a civil proceeding apart from that which gave rise to the debt.)

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| 93-7 CHARACTER - ASCERTAINING FINANCIAL ABILITY |

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SECTION 94. RESEARCH MATTERS AND GENERAL CORRESPONDENCE

94-1 RESEARCH MATTERS AND GENERAL CORRESPONDENCE

This classification deals with all general correspondence of the FBI with private individuals which does not involve any substantive violation. Most of this type of correspondence concerns general inquiries made by the public relative to the FBI's operations, such as general law enforcement conditions, fingerprinting, FBI Laboratory functions, and information concerning the training of Special Agents and support personnel. This type of general correspondence is also frequently received at FBIHQ from students requesting FBI publications to assist them in different types of school projects. Some letters in this category are sent by private individuals to the Director of the FBI requesting his photograph or commenting on some speech he has given.

This classification also pertains to correspondence received by field offices and at FBIHQ concerning research matters such as law enforcement technology and other matters of a general research nature.

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SECTION 95. LABORATORY|INVESTIGATIVE SERVICES (LIS)|

| 95-1 |LABORATORY INVESTIGATIVE SERVICES|POLICY

| (1) |This classification is normally assigned by FBIHQ to non-Bureau cases where a duly constituted state, county, or municipal law enforcement agency in a criminal matter or another Federal agency in a criminal or civil matter has requested an examination of evidence by the FBI Laboratory|Division. |

| (2) |The following categories of the 95 classification reflect the general crime classifications of the Uniform Crime Report Incident Based System. (See also MAOP, Part II, 3-1.1 and 3-1.2.)

95A - LIS - Crimes Against Persons
95B - LIS - Crimes Against Property
95C - LIS - Crimes Against Society
95D - LIS - Civil Cases|

EFFECTIVE: 06/03/94

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SECTION 97. REGISTRATION ACT

97-1 REGISTRATION ACT

Information concerning the 97 classification is set forth
in a separate FBI manual, the NATIONAL FOREIGN INTELLIGENCE PROGRAM
MANUAL (NFIPM).

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SECTION 98. SABOTAGE

98-1 STATUTES

Title 18, USC, Sections 2151 - 2156

Title 50, USC, Section 797

EFFECTIVE: 01/31/78

98-1.1 Section 2151 - Definitions

"The words 'war material' include arms, armament, ammunition, livestock, forage, forest products and standing timber, stores of clothing, air, water, food, foodstuffs, fuel, supplies, munitions, and all articles, parts or ingredients, intended for, adapted to, or suitable for the use of the United States or any associate nation, in connection with the conduct of war or defense activities.

"The words 'war premises' include all buildings, grounds, mines, or other places wherein such war material is being produced, manufactured, repaired, stored, mined, extracted, distributed, loaded, unloaded, or transported, together with all machinery and appliances therein contained; and all forts, arsenals, navy yards, camps, prisons, or other installations of the Armed Forces of the United States, or any associate nation.

"The words 'war utilities' include all railroads, railways, electric lines, roads of whatever description, any railroad or railway fixture, canal, lock, dam, wharf, pier, dock, bridge, building, structure, engine, machine, mechanical contrivance, car, vehicle, boat, aircraft, airfields, air lanes, and fixtures or appurtenances, thereof, or any other means of transportation whatsoever, whereon or whereby such war material or any troops of the United States, or of any associate nation, are being or may be transported either within the limits of the United States or upon the high seas or elsewhere; and all air-conditioning systems, dams, reservoirs, aqueducts, water and gas mains and pipes, structures and buildings, whereby or in connection with which air, water or gas is being furnished, or may be furnished, to any war premises or to the

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Armed Forces of the United States, or any associate nation, and all electric light and power, steam or pneumatic power, telephone and telegraph plants, poles, wires, and fixtures, and wireless stations, and the buildings connected with the maintenance and operation thereof used to supply air, water, light, heat, power, or facilities of communication to any war premises or to the Armed Forces of the United States, or any associate nation.

"The words 'associate nation' mean any nation at war with any nation with which the United States is at war.

"The words 'national-defense material' include arms, armament, ammunition, livestock, forage, forest products and standing timber, stores of clothing, air, water, food, foodstuffs, fuel, supplies, munitions, and all other articles of whatever description and any part or ingredient thereof, intended for, adapted to, or suitable for the use of the United States in connection with the national defense or for use in or in connection with the producing, manufacturing, repairing, storing, mining, extracting, distributing, loading, unloading, or transporting of any of the materials or other articles hereinbefore mentioned or any part or ingredient thereof.

"The words 'national-defense premises' include all buildings, grounds, mines, or other places wherein such national-defense material is being produced, manufactured, repaired, stored, mined, extracted, distributed, loaded, unloaded, or transported, together with all machinery and appliances therein contained; and all forts, arsenals, navy yards, camps, prisons, or other installations of the Armed Forces of the United States.

"The words 'national-defense utilities' include all railroads, railways, electric lines, roads of whatever description, railroad or railway fixture, canal, lock, dam, wharf, pier, dock, bridge, building, structure, engine, machine, mechanical contrivance, car, vehicle, boat, aircraft, airfields, air lanes, and fixtures or appurtenances thereof, or any other means of transportation whatsoever, whereon or whereby such national-defense material, or any troops of the United States, are being or may be transported either within the limits of the United States or upon the high seas or elsewhere; and all air-conditioning systems, dams, reservoirs, aqueducts, water and gas mains and pipes, structures and buildings, whereby or in connection with which air, water or gas may be furnished to any national-defense premises or to the Armed Forces of the United States, and all electric light and power, steam or pneumatic power, telephone and telegraph plants, poles, wires, and fixtures and wireless stations, and the buildings connected with the maintenance

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and operation thereof used to supply air, water, light, heat, power or facilities of communication to any national-defense premises or to the Armed Forces of the United States."

EFFECTIVE: 01/31/78

98-1.2 Section 2152 - Fortifications, Harbor Defenses, or
Defensive Sea Areas

"Whoever willfully trespasses upon, injures, or destroys any of the works or property or material of any submarine mine or torpedo or fortification or harbor-defense system owned or constructed or in process of construction by the United States; or

"Whoever willfully interferes with the operation or use of any of the above or

"Whoever knowingly, willfully, or wantonly violates any duly authorized and promulgated order or regulation of the President governing persons or vessels within the limits of defensive sea areas, which the President, for purposes of national defense, may from time to time establish by executive order---

"Shall be fined not more than \$5,000 or imprisoned not more than five years, or both."

EFFECTIVE: 01/31/78

98-1.3 Section 2153 - Destruction of War Material, War Premises,
or War Utilities

"(a) Whoever, when the United States is at war, or in times of national emergency as declared by the President or by the Congress, with intent to injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war or defense activities, or, with reason to believe that his act may injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war or defense activities, willfully injures, destroys, contaminates or infects, or attempts to so injure, destroy, contaminate or infect any war material, war premises, or war utilities, shall be fined not more than \$10,000 or imprisoned not more than thirty years, or both.

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"(b) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in subsection (a) of this section."

National emergency was proclaimed by President, December 16, 1950

EFFECTIVE: 01/31/78

98-1.4 Section 2154 - Production of Defective War Material, War Premises, or War Utilities

"(a) Whoever, when the United States is at war, or in times of national emergency as declared by the President or by the Congress, with intent to injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war or defense activities, or, with reason to believe that his act may injure, interfere with, or obstruct the carrying on the war or defense activities, willfully makes, constructs, or causes to be made or constructed in a defective manner, or attempts to make, construct, or cause to be made or constructed in a defective manner any war material, war premises receptacle used or employed in making, producing, manufacturing, or repairing any such war material, war premises or war utilities, shall be fined not more than \$10,000 or imprisoned not more than thirty years, or both.

"(b) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in subsection (a) of this section."

National emergency was proclaimed by President, December 16, 1950.

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98-1.5 Section 2155 - Destruction of National-Defense Materials,
National-Defense Premises, or National-Defense Utilities

"(a) Whoever, with intent to injure, interfere with or obstruct the national defense of the United States, willfully injures, destroys, contaminates or infects, or attempts to so injure, destroy, contaminate or infect any national-defense material, national-defense premises, or national-defense utilities, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

"(b) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in subsection (a) of this section."

EFFECTIVE: 01/31/78

98-1.6 Section 2156 - Production of Defective National-Defense
Material, National-Defense Premises, or National-Defense
Utilities

"(a) Whoever, with intent to injure, interfere with, or obstruct the national defense of the United States, willfully makes, constructs, or attempts to make or construct in a defective manner, any national-defense material, national-defense premises or national-defense utilities, or any tool, implement, machine, utensil, or receptacle used or employed in making, producing, manufacturing, or repairing any such national-defense material, national-defense premises or national-defense utilities, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

"(b) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in subsection (a) of this section."

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98-1.7 Peacetime Statutes

Sections 2155 and 2156 are applicable in peacetime, as well as during a proclaimed national emergency or war.

EFFECTIVE: 01/31/78

98-1.8 Title 50, USC, Section 797 (Public Law 831, Section 21)

"(a) Whoever willfully shall violate any such regulation or order as, pursuant to lawful authority, shall be or has been promulgated or approved by the Secretary of Defense, or by any military commander designated by the Secretary of Defense, or by the Director of the National Advisory Committee for Aeronautics, for the protection or security of military or naval aircraft, airports, airport facilities, vessels, harbors, ports, piers, waterfront facilities, bases, forts, posts, laboratories, stations, vehicles, equipment, explosives, or other property or places subject to the jurisdiction, administration, or in the custody of the Department of Defense, any Department or agency of which said Department consists, or any officer or employee of said Department or agency, or by the National Advisory Committee for Aeronautics or any officer or employee thereof, relating to fire hazards, fire protection, lighting, machinery, guard service, disrepair, disuse or other unsatisfactory conditions thereon, or the ingress thereto or egress or removal of persons therefrom, or otherwise providing for safeguarding the same against destruction, loss or injury by accident or by enemy action, sabotage or other subversive actions, shall be guilty of a misdemeanor and upon conviction thereof shall be liable to a fine of not to exceed \$5,000 or to imprisonment for not more than one year, or both.

"(b) Every such regulation or order shall be posted in conspicuous and appropriate places."

National Advisory Committee for Aeronautics ceased to exist September 30, 1958, but Section 797 was not changed.

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98-2 VENUE

- (1) In judicial district where illegal act committed.
- (2) Venue in conspiracy violations in any judicial district where the conspiracy was entered into or overt act occurs.

EFFECTIVE: 01/31/78

98-3 POLICY

EFFECTIVE: 01/31/78

98-3.1 Cases to be Investigated

- (1) Specific complaint with prima facie evidence that act of sabotage has been committed.
- (2) Information that actual or potential saboteurs are at large in the U. S.
- (3) Specific request from one of the military services for FBI investigation of a definite allegation of sabotage even though the case is within the investigative jurisdiction of Air Force, Army, or Navy under the Delimitations Agreement. The intelligence agency with investigative jurisdiction under the Delimitations Agreement must be agreeable to the FBI conducting the investigation and the request must be made promptly after the incident occurs and without prior investigation by another agency.
- (4) If inquiry through local officials or other informed sources reveals cause of incident and eliminates possibility of sabotage, no investigation is necessary. Keep in mind in this connection that a saboteur may be expected to attempt to disguise his work as an accident where feasible.
- (5) Instances of willful damage to or destruction of aircraft in interstate, overseas, or foreign air commerce are investigated under destruction of aircraft or motor vehicles statutes, but bear in mind sabotage violation could be involved.

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EFFECTIVE: 01/31/78

98-3.2 Alleged Plots of Sabotage

(1) Information is frequently received indicating an act of sabotage will be committed. It is often impossible to check the source or accuracy of such information. Take the following action immediately:

(a) Advise FBIHQ by teletype.

(b) Advise local representatives of Air Force, Army, and Navy intelligence agencies; local police; and officials of plant, facility, or utility involved.

(c) Conduct any logical investigation to ascertain basis for report.

(2) In disseminating information regarding an alleged plot of sabotage, the circumstances surrounding the receipt of the report should be outlined and the facts allowed to speak for themselves. Do not attempt to evaluate the information for other agencies and specifically advise them no evaluation has been made.

(3) Protection of lives and property in connection with an alleged plot of sabotage is responsibility of company or military establishment involved and local authorities. Decision regarding action to be taken or searching for alleged bombs will not be made by FBI. Agents are not to participate in searches for suspected bombs or assume responsibility for handling bomb devices.

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98-3.3 Reporting Acts of Sabotage or Industrial Catastrophes

(1) Advise FBIHQ by telephone, teletype, or airtel of:

(a) Any specific complaint of sabotage or any allegation regarding which investigation conducted.

(b) Catastrophes of national interest.

(2) Also advise local representatives of interested intelligence agencies.

(3) Keep FBIHQ advised of pertinent developments.

(4) Information to furnish FBIHQ, if applicable:

(a) Name and location of plant, facility, or utility involved.

(b) Date and time of occurrence.

(c) Available details.

(d) Government contracts involved.

(e) Identity of agency with security responsibility and any interested agencies.

(f) Estimated damage or production loss.

(g) Any hazardous conditions or carelessness involved.

(h) Salvage or repair work under way.

(i) Any information indicating the act resulted from labor union activity, labor dispute, or strike - including identity of union; extent and duration of dispute or strike; names of union representatives and any subversive tendencies; any evidence of subversive influence; and names of, identifying data regarding, and information from office files regarding any logical suspects.

(j) Statement as to whether investigation being conducted. If no investigation being conducted, facts must be complete to justify this course of action.

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(k) If no report being submitted, specific statement to that effect.

(5) When airtel is used to advise FBIHQ of a reported act of sabotage, it must be accompanied by a letterhead memorandum, suitable for dissemination, containing all pertinent information relative to the alleged act of sabotage.

(6) If damage reported as sabotage is definitely attributable to labor union activity, labor dispute, or strike, conduct discreet inquiry if necessary to round out facts, advise FBIHQ and await FBIHQ instructions.

EFFECTIVE: 01/31/78

98-3.4 Slowdown of Production

(1) Slowdown occurs when employees intentionally reduce rate of production. This might be sabotage during period of national emergency as a deliberate plan by subversive forces.

(2) If allegation of sabotage through slowdown received, make discreet inquiry to develop facts but conduct no investigation.

(3) Advise FBIHQ of complaint. Teletype normally not necessary.

(4) Submit closing report under character of sabotage.

Include:

- (a) Identity of company.
- (b) Contracts or production involved.
- (c) Extent and cause of slowdown.
- (d) Effect on production.
- (e) Details of union activity.
- (f) Any indication of subversive activity.

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EFFECTIVE: 01/31/78

98-3.5 Biological Warfare

(1) Sections 2153 and 2155 include the words "contaminates or infects." This specifically covers sabotage by bacteriological, chemical, or radiological means.

(2) Such sabotage could be used against personnel in defense industries, military personnel and establishments, foodstuffs and other material to be used for national defense or the armed forces.

(3) Such sabotage could be accomplished by the introduction of bacteria, chemical agents, or radiological agents in ventilating systems, water supplies, food supplies, livestock, and food or forage crops.

(4) Advise FBIHQ immediately of any allegation concerning bacteriological, chemical, or radiological sabotage.

(5) As preliminary investigative procedure, determine from appropriate authorities, such as plant physicians, public health services, or agriculture departments, whether cause of any epidemic or unusual outbreak of disease has been determined.

(6) Title 50, USC, Sections 851-857, requires the registration of any person who has knowledge of or has received instruction or assignment in espionage, counterespionage, or sabotage service or tactics of a government of a foreign country or a foreign political party. In investigating any reported act of biological, chemical, or radiological sabotage, determine if there has been a violation of this statute in addition to a violation of the sabotage statutes.

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98-3.6 Presentation of Cases to Department

Sabotage cases are not to be discussed with the U.S. Attorney. All questions of law and jurisdiction and requests for prosecutive opinions are to be submitted to FBIHQ for presentation to the Department.

EFFECTIVE: 01/31/78

98-4 INVESTIGATIVE PROCEDURE

EFFECTIVE: 01/31/78

98-4.1 General

(1) Procedure will depend on circumstances of particular case. All cases must be approached thoughtfully and aggressively. Investigations must be logical and complete.

(2) The investigation of an actual instance of sabotage is not complete until the cause is established and the identity of the subject determined. In a case of actual planned sabotage with intent to injure the national defense, consideration must be given to determining if there are any associates or accomplices through thorough investigation and surveillance prior to apprehension.

EFFECTIVE: 01/31/78

98-4.2 Arson

- (1) One of the most effective potential means.
- (2) Determine if fire protection devices tampered with to make fire more effective.
- (3) Make arrangements with local authorities if necessary to protect scene.
- (4) Give early consideration to establishing Bureau's jurisdiction prior to extensive investigative effort.

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(5) Important step in arson investigation is determining point in building at which fire originated. Interview any witnesses immediately and ascertain:

- (a) Where was witness when fire occurred.
 - (b) What attracted his attention.
 - (c) Exact point where fire burning when first observed.
 - (d) Exact time and general weather conditions.
 - (e) Technical information of value to Laboratory, such as: color, intensity, and progress of flame, whether fast or slow; color and volume of smoke; unusual odors; and, whether fire at more than one place.
 - (f) Were any explosions heard during fire.
 - (g) General observations, identity of other witnesses, or suspicious circumstances.
 - (h) Action taken by witness after discovering fire.
- (6) If fire occurred in manufacturing plant, witness should be questioned with regard to employment and activities and also questioned as to physical conditions in plant, manufacturing processes, type of raw material, and other information to determine if fire hazards were present which could have caused accidental or spontaneous combustion. Question witness concerning smoking habits of employees and experience concerning any previous fires.
- (7) Check records of local fire department; interview fire department official at scene for leads.
- (8) Make intensive search at point of origin to determine method of incendiaryism. Pay particular attention to obtaining suspect devices or material to send to Laboratory.
- (9) Important that materials submitted to Laboratory be accurately described as to place, position, and location where found.
- (10) Consider value of obtaining photographs.

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(11) Search adjacent terrain for evidence, such as footprints, fingerprints, containers which may have contained accelerant used, etc.

(12) Investigate all suspects fully, not only with regard to evidence pointing to them, but to background indicating motive or intent.

(13) Set out below are some suggested sources for background investigations of suspects:

- (a) Associates
- (b) Credit and arrest records
- (c) Bank accounts
- (d) State income tax returns
- (e) Character and reputation, including discreet neighborhood inquiry
- (f) Records of Government agencies, INS, Armed Forces intelligence agencies, etc.
- (g) Employment
- (h) Fellow employees
- (i) Telephone toll calls
- (j) Telegrams
- (k) Surveillance, if warranted
- (l) Develop reliable informants in position to observe subject's activities.
- (m) Obtain complete physical description, including nationality and identification record.

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98-4.3 Sabotage by Explosives

(1) Investigation follows general outline as for arson cases.

(2) Careful examination of scene should be made for bomb fragments, dynamite fuse, detonators, blasting caps, and dynamite wrappers. This type of evidence should be submitted to FBI Laboratory for examination. Also look for footprints, fingerprints, and other types of evidence.

(3) Obtain complete photographs of scene.

(4) Assume no responsibility for handling suspected bombs.

(5) Investigate suspects along lines as indicated in previous section regarding arson.

EFFECTIVE: 01/31/78

98-4.4 Mechanical Sabotage

(1) These cases in majority and cover wide variety of destructive acts.

(2) Obtain all details from original complainant so that investigation may be intelligently planned and approached.

(3) Establish jurisdiction early in investigation.

(4) Where foreign material caused damage, obtain in order to trace to source. Submit material to Laboratory where proper.

(5) When damage occurs from foreign substance in lubricants or fuel, important to obtain sufficient quantity for FBI Laboratory examination. It is suggested one gallon be obtained if possible. Where large amount involved, the sludge which has settled to bottom should also be obtained and transmitted for laboratory examination. Samples of unused stock of oil or fuel involved should also be forwarded to Laboratory for comparison.

(6) Where tools, cutting implements, etc., involved, obtain damaged part for FBI Laboratory comparison with suspect tools

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when available.

(7) All suspects should be fully investigated. See previous section on arson.

(8) Where incident is of recurring type, give consideration to utilizing dyestuffs.

(9) Where board of inquiry held by another Government agency, records should be examined for possible leads. Bureau will consider granting authority for Agent to attend such hearings as interested spectator in appropriate cases.

EFFECTIVE: 01/31/78

98-4.5 Defective Manufacture of War or National Defense
Materials, Premises, or Utilities

(1) In addition to establishing the elements required by the statute, establish whether the defectively manufactured material will or did malfunction when put to its intended use and what damage will or did result from this malfunction. In order to establish this, the following suggestions are made:

(a) Determine the exact function of the defectively manufactured material.

(b) Determine the nature of the defect.

(c) Determine how this defect will affect the intended function of the material.

(2) The following investigative procedures have been found to be of assistance:

(a) Establish requirements or specifications for material by: government specifications; provisions of contract; established trade practices.

(b) Establish existence of any deviation from requirements by interview of government or plant officials; examination by FBI Laboratory.

(c) Specimens of defective material to be submitted

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to Laboratory whenever practicable.

(d) To establish possibility of injury or damage from use of such material when put to intended use, consider testimony from one of following sources: FBI Laboratory; Army, Navy, Air Force, or other Government expert; expert in private industry; officials of company involved; subjects of the investigation.

(e) Establish that subjects deliberately manufacturing defective materials by review of correspondence between manufacturer and purchaser; determine if manufacturing done surreptitiously; establish purchase and use of equipment not ordinarily used in this manufacturing process; establish whether contracting parties or Government agencies have objected to defective material or improper processes.

(f) Establish motive on the part of subjects as to foreign sympathies; desire to increase profit; desire to maintain production.

(g) If material manufactured for military, advise local representatives of Air Force, Army, and Navy intelligence agencies. Request their assistance in determining where material being used and in arranging for examination of material.

EFFECTIVE: 01/31/78

98-4.6 Aircraft Crashes

(1) The following instructions pertain to deliberately caused crashes of aircraft connected with the national defense which are not covered by the destruction of aircraft or motor vehicles statutes.

(2) Majority of crashes of such aircraft result from causes other than sabotage. To determine cause requires technical knowledge. Cases will normally be referred to FBI after cause of crash established.

(3) Make sure that all evidence which was developed to establish cause of crash has been properly identified and protected and that adequate expert testimony is available to establish cause of crash in any subsequent prosecution.

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(4) Under special circumstances, FBI may conduct investigation to establish cause of crash or take charge of investigation before exact cause of crash determined. Specific FBIHQ authority must be obtained in such instances. Some suggested investigation to establish cause of crash follows:

(a) Careful systematic examination of wreckage

(b) Photographs or sketches showing entire crash scene from various angles; close-up views from various angles; photographs of parts torn loose; photographs of instruments and levers in cockpit; photographs of marks made by airplane on ground.

(c) Persons to be interviewed for information are crew members or other survivors; persons who heard the plane before the crash; eyewitnesses; radio operators in contact with the plane; ground crew members and mechanics who serviced plane.

(d) Witnesses should be interviewed to obtain information as to the maneuvers of plane prior to crash; did plane appear to be out of control; did plane dive into ground or was landing attempted; were all engines operating; was plane on fire; did plane come apart in flight; did engines sound normal; was pilot lost or over unfamiliar territory; was plane on scheduled course; was landing attempt in accordance with normal procedure; was plane in radio contact; did plane's crew experience any mechanical difficulty; was log maintained while plane in flight; were any defects noted during previous flights; weather conditions at time of flight.

(e) In determining condition of airplane or manner in which functioning at time of crash, it is important to observe and carefully note exact position of all instruments in cockpit, such as fuel tank selectors, switches, throttles, etc. The condition of all control surfaces should also be carefully noted. From observation of all these items and discussion with persons experienced in handling aircraft, the condition of the plane and action being taken by pilot can often be determined.

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98-4.7 Reserve Officers' Training Corps (ROTC) Cases

(1) Department has determined that ROTC facilities constitute national-defense or war premises within meaning of Title 18, USC, Section 2151, and a deliberate attack by arson, bombing, fire bombing, or other means would possibly be a violation of Title 18, USC, Sections 2153 and 2155.

(2) Following additional procedures are to be followed in this particular type of case in order to provide information desired by Department for an opinion:

(a) For a complete investigation all pertinent individuals must be interviewed, including members of college or university community unless compelling reasons to the contrary exist.

(b) Develop existence of any plans for protest demonstrations or other acts designed to dramatize opposition to ROTC training.

(c) Submit any leaflets and/or other publicity afforded anti-ROTC protest demonstrations as enclosures to communications to FBIHQ.

(d) Identify specific property belonging to ROTC unit which was damaged or destroyed; obtain a complete inventory of all property maintained by ROTC unit.

(e) Obtain an estimate of actual cost in damage to ROTC facility and any ROTC property damaged or destroyed.

(f) Obtain details as to ownership of ROTC facility, including information as to funding and control of space of the facility utilized for ROTC training.

(g) Determine specific manner by which ROTC unit is identified on exterior of building.

(h) Determine whether ROTC training is compulsory or voluntary. If a subject is developed, determine whether he was denied, previously afforded, or is currently engaged in ROTC training.

(i) Through investigation determine whether subject made any pre-act or post-act statements which would aid in establishing his specific intent to commit sabotage.

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EFFECTIVE: 01/31/78

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SUBMISSION OF REPORTS

- (1) Initial report in two weeks after complaint received.
- (2) Subsequent reports to be submitted in accordance with Bureau reporting procedures.

EFFECTIVE: 01/31/78

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CHARACTER - SABOTAGE

EFFECTIVE: 01/31/78

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SECTION 100. DOMESTIC SECURITY/TERRORISM INVESTIGATIONS;
(100A);
SPECIAL EVENTS MANAGEMENT (100B);
INFRASTRUCTURE VULNERABILITY/KEY ASSET
PROTECTION SUBPROGRAM (100C)

100-1 GENERAL PROVISIONS

EFFECTIVE: 12/10/91

100-1.1 Investigative Jurisdiction

Investigations by the FBI under this section are based on the Attorney General's Guidelines on General Crimes, Racketeering Enterprise, and Domestic Security/Terrorism Investigations (AGG). These Guidelines, which became effective March 21, 1983, and were revised April 4, 1989, rescind all previous versions of those Attorney General Guidelines. The full text of these Guidelines is set forth in the Introduction, 1-3, of this manual. Some sections of the Guidelines, such as the "General Principles," the rules governing the "Investigative Techniques," and "Dissemination of Information" have general applicability to all investigations and should be consulted when appropriate. Section III, Part B, governing Domestic Security/Terrorism investigations, together with a commentary on key provisions relating to them, is set forth below in 100-1.2 and 100-1.2.1:

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100-1.2 Domestic Security/Terrorism Investigations (See MIOG, Introduction, 1-3, and Part I, 100-1.1.)

"This section focuses on investigations of enterprises, other than those involved in international terrorism, whose goals are to achieve political or social change through activities that involve force or violence. Like racketeering enterprise investigations, it is concerned with the investigation of entire enterprises, rather than individual participants and specific criminal acts, and authorizes investigations to determine the structure and scope of the enterprise, as well as the relationship of the members." (AGG III.B.)

EFFECTIVE: 06/23/97

100-1.2.1 Commentary (See MIOG, Part I, 100-1.1.)

(1) The Guidelines emphasize the need for criminal intelligence in Domestic Security/Terrorism investigations, and treat these investigations as an integral part of the FBI's law enforcement responsibilities.

(2) The rules governing Domestic Security/Terrorism investigations employ the "criminal enterprise" concept so successfully used in organized crime cases. This allows the FBI to cross organizational lines in Domestic Security/Terrorism investigations without regard to what a particular group or element of an organization might call itself. It should enable the Bureau to deal more effectively with groups who knowingly act in furtherance of the criminal objectives of the enterprise. Thus, persons who provide safehouses, money, weapons, or otherwise knowingly support the criminal activities of the terrorist enterprise can be investigated as part of the same criminal enterprise. It will no longer be necessary to open a separate investigation of such groups with a separate justification.

(3) The enterprise concept will also permit the FBI to focus its investigation upon violent factions of a larger group, without investigating the entire group. The new approach recognizes that terrorist groups today have a fluid membership and often lack organizational structure, yet function as a single enterprise directed toward a common goal.

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100-1.2.2 General Authority (See MIOG, Introduction, 1-3.)

"a. A domestic security/terrorism investigation may be initiated when the facts or circumstances reasonably indicate that two or more persons are engaged in an enterprise for the purpose of furthering political or social goals, wholly or in part, through activities that involve force or violence and a violation of the criminal laws of the United States. The standard of 'reasonable indication' is identical to that governing the initiation of a general crimes investigation under Part II. In determining whether a full investigation should be conducted, the FBI shall consider all of the circumstances including: (1) the magnitude of the threatened harm, (2) the likelihood it will occur, (3) the immediacy of the threat, and (4) the danger to privacy and free expression posed by an investigation." (AGG III.B.1.a)

"b. Authority to conduct domestic security/terrorism investigations is separate from, and in addition to, general crimes investigative authority under Part II, racketeering enterprise investigations under Part III A, and international terrorism investigations under the Attorney General's Guidelines for Foreign Intelligence Collection and Foreign Counterintelligence Investigations. Information warranting initiation of an investigation under this section may be obtained through the course of a general crimes inquiry or investigation, a racketeering enterprise investigation, or an investigation of international terrorism. Conversely, a domestic security/terrorism investigation may yield information warranting a general crimes inquiry or investigation, a racketeering enterprise investigation, or an investigation of international terrorism." (AGG III.B.1.b)

"c. In the absence of any information indicating planned violence by a group or enterprise, mere speculation that force or demonstration might occur during the course of an otherwise peaceable investigation under this section. For alternative authorities, see Part II relating to General Crimes Investigations and the Attorney General's Guidelines on 'Reporting on Civil Disorders and Demonstrations Involving a Federal Interest.' This does not preclude

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the collection of information about public demonstrations by enterprises that are under active investigation pursuant to paragraph B 1(a) above." (AGG III.B.1.c)

EFFECTIVE: 06/23/97

100-1.2.3 Commentary (See MIOG, Introduction, 1-3.)

(1) Domestic Security/Terrorism Investigations

(a) The enterprise approach authorizes a single level of investigation for Domestic Security/Terrorism investigations, i.e., a criminal intelligence investigation. This permits techniques, such as the development of new informants and the infiltration of organizations when an investigation is begun. Preliminary inquiries involving individual members of an organization or enterprise can be conducted under General Crimes authority as an "Act of Terrorism" (AOT) investigation (266 classification) when facts or circumstances fall short of the "reasonable indication" threshold, but allege some form of specific criminal activity. These preliminary inquiries should be reported under an Act of Terrorism caption and thereafter identify the specific predicate offense (refer to MIOG, Part I, Section 266). The AOT investigation may be used to determine whether leads indicating the specific criminal activity warrant a Domestic Security/Terrorism investigation. This approach draws a sharper distinction between inquiries related to specific criminal conduct and intelligence investigations focused on an entire enterprise.

(b) A Domestic Security/Terrorism investigation may be initiated when "facts or circumstances reasonably indicate that two or more persons are engaged in an enterprise for the purpose of furthering political or social goals, wholly or in part, through activities that involve force or violence and a violation of the criminal laws of the United States." This parallels the standard now followed in Racketeering Enterprise Investigations, and should eliminate any perception that actual or imminent commission of a violent crime is a prerequisite to investigation. It is not necessary to show that a crime is about to be committed, or that persons are planning or preparing to engage in a specific crime. It is sufficient if the facts or circumstances indicate that the enterprise seeks to accomplish its political or social objectives through violence. The standard requires a valid factual predicate and law enforcement

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purpose, but it is substantially lower than the "probable cause" threshold required for arrest.

(c) The Attorney General Guidelines also make clear that there are circumstances in which advocacy of criminal activity may trigger an investigation. (See Part I, General Principles.) They recognize the limitations imposed by the First Amendment and by the Privacy Act of 1974. At the same time they take note of the fact that words can indicate an intent to take action and that the role of intelligence investigations is preventive as well as prosecutorial. The Guidelines call attention to the fact that advocacy should be viewed in the context in which it is made. Some radical statements may be recognized as harmless puffery or rhetoric, whereas others, in the context in which they are made, may be a clear warning of illegal activity to follow. In those latter circumstances, an investigation should be authorized.

(d) The Guidelines make it clear that statements which advocate criminal activity or indicate an apparent intent to engage in crime, particularly crimes of violence, are not immune from investigation. Advocacy of unpopular ideas or lawful political dissent alone is not an adequate basis for investigation, but statements which, taken in context, present a credible threat of crime should not be ignored. The mere fact that one "goes public" with statements indicating an intent to engage in crime or urging others to do so does not convey some special protection under the Constitution. Indeed, some statements such as those threatening the President or a foreign official are themselves crimes; others may constitute evidence of a crime or of an intent to commit a crime.

1. It is important to understand, however, that the advocacy provision in this section does not itself provide any special authority with respect to such matters. It must be implemented in accordance with the other substantive provisions of the Guidelines and only when the threshold standards for an investigation are satisfied. Advocacy of crime may result in the initiation of a full general crimes investigation (266 classification) when the facts or circumstances reasonably indicate that a federal crime has been, is being, or will be committed. It could also lead to the opening of a Domestic Security/Terrorism investigation when the facts or circumstances reasonably indicate that two or more persons are engaged in an enterprise that seeks to accomplish political or social change through force or violence in violation of federal law.

2. In view of these requirements, it is unlikely that a full investigation would be initiated without some

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additional facts or circumstances beyond the statements themselves. As a practical matter, we are seldom confronted with words alone; there is often some additional information available about the persons involved or the circumstances in which the statement was made. That is implicit in the requirement that the statements advocating criminal activity must be viewed in context before further inquiry will be authorized. Furthermore, you should attempt to resolve simple "advocacy" statements in Domestic Security/Terrorism matters through Act of Terrorism (266 classification) preliminary inquiries whenever possible.

3. Nonetheless, the Guidelines do not foreclose the possibility of a full investigation based on advocacy alone, particularly where the statement suggests a serious and immediate prospect of harm. This should not be confused with the standards required by the courts for the imposition of a criminal penalty for the making of certain statements. The Guidelines do not deal with prosecution, but rather with investigation conducted prior to prosecution. Unless the statements themselves are crimes, the Bureau's primary interest here is in determining what those statements tell us about the intent of the individuals involved. It is often difficult to separate "rhetoric" from "intent" and to make an informed judgment about the likelihood of harm without inquiring into the context or circumstances in which the statements were made. It should be sufficient if, on the face of it, the statement qualifies for an AOT preliminary inquiry or full investigation, or a full Domestic Security/Terrorism investigation under the standards required by the Guidelines.

(2) Preliminary Inquiries

(a) All preliminary inquiries will be conducted pursuant to the General Crimes Guidelines. There is no separate provision for a preliminary inquiry in the Racketeering Enterprise or Domestic Security/Terrorism Sections of the Guidelines. You must rely on the authority in the General Crimes Preliminary Inquiries Section to follow up on information or allegations that do not warrant a Domestic Security/Terrorism investigation. (See Part II B of the AGG.) Therefore, preliminary inquiries regarding domestic terrorism matters may not be initiated in Domestic Security/Terrorism investigations (100 classification), but may be initiated in AOT investigations (266 classifications).

(b) Deleted

(c) Deleted

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(d) Deleted

(e) Deleted

EFFECTIVE: 06/23/97

100-2 DOMESTIC SECURITY/TERRORISM INVESTIGATIONS

EFFECTIVE: 12/10/91

100-2.1 Purpose (See MIOG, Introduction, 1-3.)

"The immediate purpose of a domestic security/terrorism investigation is to obtain information concerning the nature and structure of the enterprise, as specifically delineated in paragraph (3) below, with a view to the longer range objectives of detection, prevention, and prosecution of the criminal activities of the enterprise." (AGG III.B.2) (Also see 100-2.2.)

EFFECTIVE: 06/23/97

100-2.2 Scope (See MIOG, Part I, 100-2.1.)

"a. A domestic security/terrorism investigation initiated under these guidelines may collect such information as:

"(i) the members of the enterprise and other persons likely to be knowingly acting in furtherance of its criminal objectives provided that the information concerns such persons' activities on behalf or in furtherance of the enterprise;

"(ii) the finances of the enterprise;

"(iii) the geographical dimensions of the enterprise; and

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"(iv) past and future activities and goals of the enterprise.

"b. In obtaining the foregoing information, any lawful investigative technique may be used in accordance with requirements of Part IV." | (AGG III.B.3) |

EFFECTIVE: 06/23/97

100-2.3 Authorization and Renewal (See MIOG, Introduction, 1-3.)

"a. A domestic security/terrorism investigation may be authorized by the Director or designated Assistant Director upon a written recommendation setting forth the facts or circumstances reasonably indicating the existence of an enterprise, as described in this subsection. In such cases, the FBI shall notify the Terrorism and Violent Crimes Section, Criminal Division, Department of Justice, of the opening of the investigation. In all investigations the Attorney General may, as he deems necessary, request the FBI to provide a report on the status of the investigation." | (AGG III.B.4.a) |

"b. A domestic security/terrorism investigation may be initially authorized for a period of up to 180 days. An investigation may be continued upon renewed authorization for additional periods each not to exceed 180 days. Renewal authorization shall be obtained from the Director or designated Assistant Director." | (AGG III.B.4.b) |

"c. Investigations shall be reviewed by the Director or designated senior headquarters official on or before the expiration period for which the investigation and each renewal thereof is authorized." | (AGG III.B.4.c) |

"d. Each investigation should be reviewed at least annually to ensure that the threshold standard is satisfied and that continued allocation of investigative resources is warranted. In some cases, the enterprise may meet the threshold standard, but be temporarily inactive in the sense that it has not engaged in recent acts of violence, nor is there any immediate threat of harm--yet the composition, goals and prior history of the group suggests the need for continuing Federal interest. Under those circumstances, the

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investigation may be continued, but reasonable efforts should be made to limit the coverage to information which might indicate a change in the status or criminal objectives of the enterprise." | (AGG III.B.4.d) |

"e. An investigation which has been terminated may be reopened upon a showing of the same standard and pursuant to the same procedures, as required for initiation of an investigation." | (AGG III.B.4.e) |

"f. The FBI shall report the progress of a domestic security/terrorism investigation to the Terrorism and Violent Crimes Section not later than 180 days after the initiation thereof, and the results at the end of each year the investigation continues. The Terrorism and Violent Crimes Section shall review the results of each investigation at least annually." | (AGG III.B.4.f) |

EFFECTIVE: 06/23/97

100-2.3.1 Commentary

There has been a tendency in the past to close domestic security investigations and terminate informant coverage when the violent activity of the group has been dormant for a period of time. If the organization became active again, it was often a difficult and time-consuming process to redevelop informant coverage. | The AGG (Part III.B.4.d) | permits the FBI to monitor organizations that may be temporarily inactive, but whose prior record or stated objectives indicate a need for continuing federal interest, so long as the threshold standard for investigation is satisfied. Under those circumstances, the investigation may remain in a pending status, and informant coverage can be maintained to the extent necessary to determine whether there is any change in the criminal objectives of the enterprise. | The ability to continue an investigation, despite temporary inactivity of acts of violence or lack of immediate threat, is often referred to as the "dormancy provision" of the AGG and is a significant advantage that Domestic Security/Terrorism (100) investigations afford over AOT (266) cases. |

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100-3 RESULTS OF INVESTIGATION

EFFECTIVE: 12/10/91

100-3.1 Reporting

(1) The contents of communications which report the results of Domestic Security/Terrorism investigations should be limited to information about the criminal enterprise under investigation. Recommendations, opinions, and conclusions of the FBI should be included in the administrative portion of the communication, or in the case of letterhead memoranda (LHM), in the cover electronic communication. In preparing LHMs which are disseminated to the Terrorism and Violent Crimes Section, Department of Justice, and to other agencies on a need-to-know basis, emphasis should be placed on factual accuracy.

(2) In all communications submitted under a Domestic Security/Terrorism caption, a statement indicating the authorized period of investigation should be set forth. This statement should be placed after the case caption and after referencing previous communications. For example:

"XYZ ORGANIZATION;
DOMESTIC SECURITY/TERRORISM;
OO: NEW YORK";

"Reference New York teletype to Director, 5/1/86;

"Domestic Security/Terrorism investigation authorized
5/18/86 to expire 11/14/86."

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100-3.1.1 Deadlines (See MAOP, Part II, 10-9(23).)

(1) When a Domestic Security/Terrorism investigation is completed or nearing expiration, the results of the investigation are to be furnished to FBIHQ in an LHM with a cover electronic communication (EC) recommending an extension or closing of the matter. This report is due no later than 180 days after the initiation of the investigation. A second report is due at the end of the first year of investigation. These reports should be presented in a summary, narrative form, containing specific and articulable facts adequate to meet the "reasonable indication" standard of the Attorney General's Guidelines for renewal, or sufficient information which warrants the investigation being placed in a closed status. Any recommendations, opinions or conclusions of the FBI should be included in the cover EC, but not in the LHM. The cover EC should also include a paragraph which sets forth future investigative and prosecutive goals and a paragraph which sets forth the investigative strategy to be implemented in order to attain these goals. The investigative goals paragraph may include objectives which relate to the improvement of the intelligence base, use of technical or undercover techniques, or any other vulnerability which can be exploited. The investigative strategy paragraph(s) should describe how these goals and objectives will be reached during the next 180 days. The LHM and cover EC (hard copy) should be submitted to arrive at FBIHQ at least ten working days prior to the expiration of the current authorization period and should be organized as follows:

(a) Predication - This should include a paragraph(s) relating the circumstances which caused a full DS/T investigation of the captioned group or individuals to be initiated.

(b) Background Information on Group - In addition to a description of the group under investigation, this section should include, but not be limited to, the following:

1. Specific criminal acts the group has committed, or is advocating, to achieve its political or social goals.
2. Key leaders and members of the group.
3. Finances of the group.
4. Geographical dimensions of the group.
5. Planned activities and goals of the group.

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6. Association with other organizations/groups which are subjects of an FBI DS/T investigation.

(c) Activities during the last 180 days - This section should include a summary of investigative results of the office of origin and all auxiliary offices.

(d) Justification for Continuation of Investigation - This segment should set forth in succinct detail how the facts of this investigation conform with the Attorney General's Guidelines for DS/T investigations. It should contain a paragraph(s) which reasonably indicates that two or more persons are continuing to engage in an enterprise for the purpose of furthering political or social goals, wholly or in part, through activities which involve force or violence and a violation of the criminal laws of the United States.

(2) The due date of this report is calculated from the date the Domestic Security/Terrorism investigation was approved by FBIHQ. After the first year, the office of origin should continue to submit reports in ongoing Domestic Security/Terrorism investigations each 180 days. These reporting deadlines allow for compliance with the requirements of the Attorney General Guidelines and do not preclude, nor should they discourage, the reporting of results of investigation by teletype, EC, telephone, or other form of communication to FBIHQ and pertinent field offices during the course of the investigation. Significant data developed during the period between 180-day reports, which requires notification to FBIHQ or dissemination to other agencies, should be submitted by EC, LHM, teletype, or telephone, depending on the exigencies of the situation. Communications containing information of interest for other agencies should be prepared in a form suitable for dissemination. Significant information furnished on an interim basis should also be included in the next regularly scheduled report.

(3) Communications (hard copies) recommending an extension of Domestic Security/Terrorism investigations should be received at FBIHQ no later than ten working days prior to the expiration of such matters.

(4) Deleted

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100-3.1.2 Predications

In Domestic Security/Terrorism investigations, the basis for the investigation shall be set forth as the first paragraph in the details of the initial LHM. Formal predications are no longer required. A statement including pertinent portions of the Attorney General Guidelines is sufficient.

EFFECTIVE: 12/10/91

100-3.1.3 Documentation of Information

All communications should be limited to documented information relevant to the scope of the investigation. No information should be reported concerning an individual's social or personal habits or other background data which is not relevant to an assessment of his/her activities or affiliation with the enterprise under investigation.

EFFECTIVE: 12/10/91

100-3.1.4 Undisclosed Sources

(1) Where the identity of the source of information is not disclosed in a Domestic Security/Terrorism report, an assessment of the reliability of the source shall be provided.

(2) In all communications, the source of the information should be identified by symbol number or name in either the cover pages or administrative section of the communication.

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100-3.1.5 Characterizations

(1) A characterization of the group should be included as part of the initial LHM submitted. Characterizations should be outlined as the first paragraph of the LHM or as an appendix to the LHM.

(2) This instruction eliminates the previous reporting requirement of providing characterizations of subversive organizations. All characterizations should include a statement regarding the political or social goals which the group hopes to achieve through violence, its geographic area of operation, and a summary of the violence or criminal activity it either has been involved in or is advocating in the future. In instances where only advocacy of violence is present, a statement should also be included regarding the ability of group members to carry it out and the likelihood of the harm intended. (For further instructions on the preparation of characterizations, see Part II, 10-17.13, of the Manual of Administrative Operations and Procedures.)

EFFECTIVE: 12/10/91

100-3.1.6 Character

The designation "Domestic Security/Terrorism" should be used in all cases, e.g., "(Name of Organization); Domestic Security/Terrorism." If a subsidiary or front group is involved, include the name or abbreviation of the parent organization, e.g., "(Name of Organization); Domestic Security/ Terrorism - (Name of Subsidiary Organization)."

EFFECTIVE: 12/10/91

100-3.1.7 Copies - 180-Day Reports and LHMs

Five copies of 180-day reports in LHM form should be submitted to FBIHQ, unless instructed otherwise in specific cases. The office of origin should also provide information copies of these reports to involved field offices.

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100-3.1.8 Informant Coverage

Cover|electronic communications|should include a brief summary of informant coverage available with respect to a group or enterprise, identifying informants who report on the group's activities by symbol number, and showing specifically which informants are members of the group.

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100-3.1.9 Office of Origin

The field office wherein the criminal enterprise is headquartered, or whose Domestic Security/Terrorism activities largely occur in, or impact upon, should be designated as origin. In unusual circumstances where there is doubt which office should be origin, a request should be made to FBIHQ to designate an office of origin. In cases where the office of origin receives information that a criminal enterprise has changed its area of operation to the territory of another division, and justification to investigate exists based on the criminal enterprise's current activities, the office of origin should request verification of this information to be completed within 30 days. If the new area of operation is confirmed, the office of origin will be transferred. The level of investigation being conducted by the previous office of origin should be continued by the new office of origin unless facts, in addition to the criminal enterprise's relocation, indicate that another form of investigation is more appropriate. Reporting deadlines applicable to the former office of origin are to be followed by the new office of origin.

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100-3.2 Additional Reporting Requirements

The following reporting requirements are separate from, and in addition to, the 180-day reports requesting renewal authorization or recommending the closing of a Domestic Security/Terrorism investigation outlined above:

(1) BASIS FOR ADDITIONAL REPORTING - Past investigation of domestic terrorist organizations has demonstrated that in order to achieve success in these cases the primary thrust must be prosecutive; however, experience has also shown that a successful prosecution against a terrorist enterprise does not necessarily mean its demise.

(a) During the course of a DS/T criminal intelligence investigation, specific articulable criminal violations may be identified which would reasonably indicate enforcement activity or court proceedings (e.g., arrest, discovery hearings, etc.) will occur. At that time, a general criminal investigation (266 case) should be opened to focus upon the specific criminal activity. The criminal intelligence investigation (100 case) would continue to focus on the entire enterprise, as the scope of the AOT case may be limited to a relatively small portion of the total activity of that enterprise.

(b) While it may be appropriate for all investigative results generated from an AOT (266) case to be placed in the corresponding 100 file, the converse is not true. Only those details in the 100 case which specifically pertain to the subjects of the AOT case should be placed in the 266 file.

(2) ADDITIONAL REPORTING PROCEDURES - In order to mandate the essential analysis of these groups and to provide for a more adequate and efficient intelligence base in Domestic Security/Terrorism investigations, the following reporting procedures shall be followed.

(a) In addition to the submission of a 180-day LHM requesting renewal authorization or closing of a Domestic Security/Terrorism investigation, the office of origin will also submit separate investigative inserts on individual members of the enterprise, and other persons likely to be knowingly acting in furtherance of its criminal objectives, using the following format:

1. Name and known aliases of subject;
2. Biographical data to include: date of

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birth, place of birth, height, weight, eye and hair color, social security account number, distinguishing marks or characteristics, build, past and current addresses, past and current phone numbers, educational background, employment (past and present), and criminal record to include dates, offense, location, disposition, and FBI, state and local agency identifying numbers. Also include Henry and NCIC fingerprint classifications.

3. Short narrative explaining the role or position of the subject in the group or enterprise, including any known or suspected criminal activity in which the subject is or has been involved.

4. Summary of subject's travel, domestic and foreign, including dates and points of travel. Also, detail nature of contacts that subject has had with other groups or enterprises under investigation.

5. Statement of subject's source of finances, if known.

6. Glossy 3 by 5 inch photograph of member, if available. If not available, efforts should be made to obtain one.

(b) In cases where a subject(s) resides within an auxiliary office territory, the auxiliary office will prepare inserts as above, and forward them to the office of origin 30 days prior to the expiration of the current authorization. This will be incorporated into the office of origin's submission to FBIHQ.

(c) Following the initial submission of these inserts, follow-up inserts should contain only information which has changed since the last reporting. Photographs of subjects should be updated at least annually.

(d) To facilitate the preparation of these inserts, subfiles for each subject should be created which will provide appropriate documentation and retrieval capability.

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PUBLICATIONS OF DOMESTIC SECURITY/TERRORISM ORGANIZATIONS;
COLLECTION OF PUBLICLY AVAILABLE INFORMATION

(1) The Attorney General Guidelines on General Crimes, Racketeering Enterprise, and Domestic Security/Terrorism Investigations allow the FBI to collect publicly available information subject to the constraints of the federal Privacy Act of 1974. This Act prohibits the collection, maintenance and dissemination of any record describing how an individual exercises First Amendment Rights, except when authorized by statute, or when pertinent to and within the scope of an authorized law enforcement activity.

(2) The FBI, in this regard, is authorized to collect general information which is available to every citizen even though there is no active investigation. Examples of information we may collect is that which is obtainable through the printed news media data banks, e.g., The NEW YORK TIMES Data Bank, public libraries, newspapers, and magazines. This type of material is collected as library material, and should not be indexed as to particular individuals or placed in FBI files.

(3) Publications issued by a group which is the subject of a Domestic Security/Terrorism investigation can be collected. This type of material can be indexed as to particular individuals and can be made a part of the investigative file.

(4) All information received or made available to the FBI during the course of an investigation should be evaluated for its pertinence to the investigation. This is particularly true when the information concerns the exercise of an individual's or group's First Amendment rights. In such cases, the information concerning the exercise of First Amendment rights should be made a matter of record only if it is pertinent to and within the scope of an authorized law enforcement activity. (See MIOG, Introduction, 1-4; Part I, 190-5.1; MAOP, Part II, 9-4.4.2(2).)

(5) When public-source printed material concerning the exercise of First Amendment rights is obtained and a decision made to retain such material, a notation must be placed on the material describing the reason(s) it was collected and retained. The notation must clearly indicate the specific investigative interest(s) which led to the decision to retain the item.

(6) Certain printed public source material may contain a characterization of a group, individual or activity. When such information is disseminated to FBIHQ, FBI field offices or outside the

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FBI, the transmitting communication should state that the characterization has not been made by the FBI, but by a third party. However, if the characterization comports in whole or in part with the results of independent FBI investigation, the transmitting communication may so state.

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100-5 INFRASTRUCTURE VULNERABILITY/KEY ASSET PROTECTION
SUBPROGRAM; COUNTERTERRORISM PROGRAM

(1) Background - With the increase of terrorism in the latter half of this century, there has been a developing awareness of the possibility of a terrorist attack against key assets of this nation's infrastructure. This vulnerability was underscored in 1985, by the Vice President's Task Force on Terrorism which concluded that key industrial and governmental assets within this nation's infrastructure could pose attractive terrorist targets with potentially disastrous consequences. As an executive level participant to the task force on terrorism and lead agency for counterterrorism within the United States, the FBI developed and implemented an Infrastructure Vulnerability/Key Asset Protection Subprogram to facilitate protection against this threat.

On November 18, 1988, President Reagan signed Executive Order (EO) 12656, "Assignment of Emergency Preparedness Responsibilities." This EO assigned to 26 Federal agencies "lead" and "support" responsibilities for National Security Emergency Preparedness (NSEP). The Department of Justice (DOJ), was included in the order. Essentially, the EO addresses the need to protect this nation's critical facilities and services in anticipation of a national emergency.

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[REDACTED]

[REDACTED]

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(3) Subprogram Objective: The objective of the FBI's Infrastructure Vulnerability/Key Asset Protection Subprogram is to identify key assets, develop liaison, and assist in contingency planning where necessary and, by doing so, to facilitate the protection of the U.S. infrastructure.

[REDACTED]

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FOIPA
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Section 552

Section 552a

(b)(1)

(b)(7)(A)

(d)(5)

(b)(2)

(b)(7)(B)

(j)(2)

(b)(3)

(b)(7)(C)

(k)(1)

(b)(7)(D)

(k)(2)

(b)(7)(E)

(k)(3)

(b)(7)(F)

(k)(4)

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[REDACTED]

(6) Related Programs:

[REDACTED]

refer
FEMA

[REDACTED]

refer
DOD

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(10) TURK: Subclassification used in recording time spent on these matters is 100C.

(11) Character: Infrastructure Vulnerability/Key Asset Protection Subprogram

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